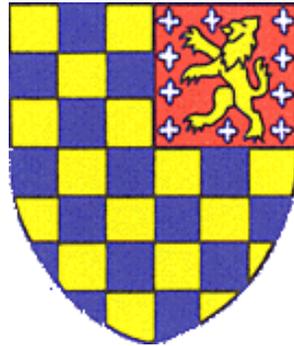


CITY OF LEWES

SUSSEX COUNTY, DELAWARE



CHAPTER 197—ZONING CODE OF THE CITY OF LEWES

Prepared by
Lewes Planning Commission

Approved for Mayor and Council
October 20, 2010

with assistance from



Institute for Public Administration
College of Human Services, Education & Public Policy
University of Delaware

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Stephanie A. Tsantes, Deputy Mayor
Theodore W. Becker, Councilperson
Victor Letonoff, Councilperson
Barbara W. Vaughan, Councilperson

Planning Commission

Commissioners

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Kay Carnahan, Vice-Chair
Jody Ware, Secretary
Nina Cannata, Commissioner
James Linnen, Commissioner
Maria Simoes, Commissioner
Mike Tyler, Commissioner
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REFERENCE MAPS

The following maps are for reference only. They are intended to provide approximate locations and boundaries. For official maps depicting these items, consult the governmental agency responsible for their preparation.

Map	Location
Zoning Map	Follows text of this Ordinance
Historic District	Map 12, <i>City of Lewes Comprehensive Plan</i> , adopted and certified October 2005
FEMA Floodplain	Map 5, <i>City of Lewes Comprehensive Plan</i> , adopted and certified October 2005
Statewide Wetlands	Map 13, <i>City of Lewes Comprehensive Plan</i> , adopted and certified October 2005
Excellent Recharge Areas	Map 13, <i>City of Lewes Comprehensive Plan</i> , adopted and certified October 2005
Wellhead Protection Areas	<i>Wellhead protection area delineations for the Lewes - Rehoboth Beach area, Delaware: Delaware Geological Survey Report of Investigations No.65</i> (2003, Andres, A.S., Duffy, C.A., and Costas, E.M.)

Article 1. General Provisions

§197-1. Title

This Ordinance shall be known as the Zoning Ordinance of the City of Lewes, Delaware.

§197-2. Authority

This Zoning Ordinance has been made in accordance with the grant of power in Title 22, Chapters 3 and 7 of the *Delaware Code*.

§197-3. Purposes

A. Principal

- (1) Pursuant to Title 22, Section 303 of the *Delaware Code*, this Zoning Ordinance has been made in accordance with a comprehensive plan and is designed to accomplish the following.
- (2) Lessen congestion in the streets
 - (a) Secure safety from fire, panic and other dangers
 - (b) Promote health and the general welfare
 - (c) Provide adequate light and air
 - (d) Prevent the overcrowding of land
 - (e) Avoid undue concentration of population
 - (f) Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements
- (3) Pursuant to Title 22, Section 303 of the *Delaware Code*, the regulations contained in this Zoning Ordinance have been made with reasonable consideration, among other things, of the following.
 - (a) The character of each district and its peculiar suitability for particular uses
 - (b) Conserving the value of buildings
 - (c) Encouraging the most appropriate use of land throughout the City of Lewes

B. Implementation of the Following Core Values of the City's Comprehensive Plan

- (1) Lewes has a special and historic relationship with the sea.
- (2) Lewes is a community of diversity.
- (3) Lewes values its humane town scale and sense of face-to-face intimacy that is characteristic of its quality of life.
- (4) Lewes is a town of busy days and quiet nights.
- (5) Lewes recognizes and maintains its internal communities.
- (6) Lewes has unique historical origins and strives to highlight its heritage through design and architectural preservation.

C. Maintenance of important characteristics that help to define "Lewes," including, but not limited to:

- (1) Enhancing and preserving the intrinsic qualities of its Scenic Byways. (Intrinsic qualities can be scenic, historic, cultural, natural, recreational and archeological.)
- (2) Maintaining Lewes' urban gateways and access corridors, including Savannah Road, Kings Highway and New Road.
- (3) Maintaining the historic character of the city.
- (4) Preserving Lewes' open space.

D. Where practicable and not in conflict with City Codes, adherence to the following:

- (1) The principles of smart growth, as listed in the EPA's "Essential Smart Growth Fixes for Urban and Suburban Zoning Codes." (EPA, November 2009)
- (2) Techniques to make use of green infrastructure for management of stormwater, as outlined in Chapter 9 of the EPA's "Essential Smart Growth Fixes for Urban and Suburban Zoning Codes." (EPA, November 2009)

§197-4. Applicability

- A. This Zoning Ordinance shall apply to all land within the incorporated boundaries of the City of Lewes. It is intended that the extent of its applicability be automatically changed in accordance with the provisions of this Zoning Ordinance or provisions of State law which may affect its applicability.
- B. To avoid undue hardship, nothing in this chapter shall be deemed to require changes in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of the adoption of this chapter or prior to the effective date of the adoption of any amendment thereto and upon which actual building construction has been diligently carried on. "Actual construction" is hereby defined to include the placing of construction materials in permanent position and fastening in a permanent manner, except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding the building, such demolition or removal shall be deemed to be actual construction, provided that the work shall be diligently carried on until completion of the building involved.

§197-5. Components

- A. Text and Map—This Zoning Ordinance consists of the regulations written herein and a map depicting zoning districts in the City.
- B. Tables—The tables contained herein are part of this Zoning Ordinance.
- C. Drawings and Graphics—The drawings and graphics herein are part of this Zoning Ordinance unless otherwise indicated.

§197-6. Compliance Required

- A. Partition, Combination, Land Development—Tracts, parcels, lots, or property shall be divided, partitioned, or combined, whether by metes and bounds, subdivision, or land development, in conformance with the provisions of this Zoning Ordinance. This provision also applies to land offered for sale or lease.
- B. Use—Buildings and land shall be used in conformance with the provisions of this Zoning Ordinance.
- C. Construction, Reconstruction, Alteration, Relocation—Buildings and parts of buildings shall be erected, reconstructed, converted, enlarged, moved, or structurally altered in conformance with the provisions of this Zoning Ordinance.
- D. Yards and Open Space
 - (1) No structure shall be located, no existing structure shall be altered, enlarged, moved or rebuilt, and no open space surrounding any structure shall be encroached upon or reduced in any manner that does not conform with the yard, lot, area, and building location regulations designated for the zoning district in which such building or open space is located unless otherwise permitted.
 - (2) A yard or other open space associated with a building on a lot shall not be considered as a required yard or open space for a building on any other lot.
 - (3) All required yards and courts shall be open and unobstructed to the sky unless otherwise permitted.
 - (4) All yards shall be maintained in good condition and, when required, landscaped.
- E. Height of Buildings and Structures
 - (1) General—No building shall be erected, reconstructed, or structurally altered to exceed the height limits designated for the zone in which such building is located, except as otherwise permitted.
 - (2) Sloping Lot—On any sloping lot, stories in addition to the number permitted in the zone in which such lot is situated shall be permitted on the downhill side of any building erected on such lot, but the building height limit shall not otherwise be increased above the maximum permitted height for the zoning district.

§197-7. Provisions are Minimum Requirements

The provisions of this Zoning Ordinance shall be the minimum requirements for the promotion of the public health, safety, morals, convenience, order, comfort, prosperity, or general welfare.

§197-8. References to Other Codes, Ordinances, and Regulations

- A. References to titles, sections, subsections, and other parts of the *Delaware Code*, *Administrative Code*, and *State Regulations* shall apply to the *Code/Regulations* as existing or amended subsequently.
- B. References to titles, sections, subsections, and other parts of the *Code of the City of Lewes* or the *Lewes City Charter* shall apply to the *Code/Charter* as existing or amended subsequently.
- C. References to titles, sections, subsections, and other parts of other codes, laws, regulations, or policies shall apply to the codes, laws, regulations, or policies as existing or amended subsequently.

§197-9. Interpretation of Language

- A. Certain words in the singular number shall include the plural number, and certain words in the plural number shall include the singular number, unless the obvious construction of the wording indicates otherwise.
- B. Words in the present tense shall include the past and future tenses, and words in the future tense shall include the present tense.
- C. The word "shall" is mandatory. The word "may" is permissive.
- D. The meaning of the word "used" shall include "designed" or "intended or arranged to be used."
- E. The meaning of the word "erected" shall include "constructed," "reconstructed," "altered," "placed," or "moved."
- F. The meaning of the terms "land use" and "use of land" shall include "building use" and "use of building."
- G. The meaning of the word "adjacent" shall include "abutting" and "adjoining."

§197-10. Interpretation of Zoning Map

- A. Zoning Districts—The incorporated area of the City is divided into the zoning districts shown on the Zoning Map. This map and its accompanying notations are adopted by reference and are declared to be a part of this Zoning Ordinance.
- B. Land Created by Changing Level of Water Bodies—Land hereafter created by the filling or changing of the level of water bodies shall assume the zoning district of the contiguous land.
- C. Uncertainty as to Boundaries—Where uncertainty exists as to the boundaries of zoning districts as shown on the Zoning Map, the following rules shall apply.
 - (1) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
 - (2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
 - (3) Boundaries indicated as approximately following City or County limits shall be construed as following City or County limits.
 - (4) Boundaries indicated as following railroad lines shall be construed to be midway between the main track(s).
 - (5) Boundaries indicated as following shorelines shall be construed to follow such shore lines. If the shore line changes, the boundary shall be construed as moving with the actual shore line.
 - (6) Boundaries indicated as approximately following the centerlines of streams, lakes, or other bodies of water shall be construed as following such centerlines.
 - (7) Boundaries indicated as parallel to, or extensions of, features described in this subsection shall be so construed. Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map.

- (8) Where physical or cultural features existing on the ground differ from those shown on the Zoning Map, or in other circumstances not covered by this Section, the Board of Adjustment shall interpret the zone boundaries.
- D. Errors or Omissions—If because of error or omission, the Zoning Map does not show a property as being in a zoning district, such property shall be classified in the least-intense Zoning District until changed by amendment.
- E. Parcels Split by Zoning Districts—Where a zoning district boundary divides a lot, tract, parcel, or property, the location of the district boundary, unless the Zoning Map indicates its dimensions, shall be determined by applying the map scale shown on the Zoning Map scaled to the nearest foot.

§197-11. Interpretation of Uses

- A. A use not specifically listed as permitted in a zoning district is prohibited unless determined to be comparable with, analogous with, akin to, or like a use permitted in that zoning district
- B. Standards for Interpretation
 - (1) The use closely resembles and contains the same characteristics as the uses in the zone to which it is to be added.
 - (2) The use does not create dangers to health and safety and does not create offensive noise, vibrations, dust, heat, smoke, odor, glare, or other objectionable influences to an extent greater than normally resulting from other uses listed in the classification to which it is to be added.
 - (3) The use does not create traffic to a greater extent than do other uses listed in the classification to which it is to be added.
- C. The determination of similar uses shall not apply to off-street parking or signs.

§197-12. Relationship to Subdivision and Land Development

It is intended that the provisions of this Zoning Ordinance be used in conjunction with Chapter 170, Subdivision and Land Development, of the *Code of the City of Lewes*.

§197-13. Relationship to Prior Zoning Ordinances

- A. Building Permits
 - (1) Where construction has begun in accordance with a building permit validly issued more than 6 months prior to the adoption of this Zoning Ordinance, such construction may be completed as long as it complies with the zoning or subdivision regulations in effect at the time the permit was issued.
 - (2) Where a building permit has been validly issued within 6 months prior to the adoption of this Zoning Ordinance, construction may be completed as long as it complies with the zoning or subdivision regulations in effect at the time the permit was issued and as long as construction begins within 6 months of the adoption of this Zoning Ordinance.
 - (3) Construction is begun when excavation and the piers or footings of at least 1 or more buildings covered by the permit have been completed.
- B. Lots
 - (1) Provision—Any lot, which was legally recorded and was a buildable lot under the zoning or subdivision regulations in effect immediately prior to the effective date of this Zoning Ordinance, is a buildable lot under this Zoning Ordinance and does not require a variance to construct a single-family dwelling.
 - (2) Applicability
 - (a) This provision applies to all zones.
 - (b) This provision permits construction of a single-family dwelling only if the owner of the substandard lot owned no adjoining vacant lot or parcel on the effective date of this Zoning Ordinance.
- C. Plats—Any final subdivision plat, approved by the Lewes Planning Commission during the 6 months immediately prior to the adoption of this Zoning Ordinance, may be recorded. Any lot, shown on such plat, shall be a buildable lot even though it may contain less than the minimum

required area for any residential zone. However, the plat containing such a lot must be recorded within 6 months following the adoption of this Zoning Ordinance.

§197-14. Relationship to Other Regulations

- A. In General—Where this Zoning Ordinance imposes a standard that differs from a standard imposed by other statutes, resolutions, ordinances, rules, regulations, easements, covenants, or agreements, the stricter standard shall govern.
- B. Conflict with Other Laws—Pursuant to Title 22, Section 307 of the *Delaware Code*,
 - (1) Wherever the regulations contained in this Zoning Ordinance require a greater width or size of yards or courts, or a lower height of building or less number of stories, or a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the regulations in this Zoning Ordinance shall govern.
 - (2) Wherever any other statute, local ordinance or regulation requires a greater width or size of yards or courts, or a lower height of building or a less number of stories, or a greater percentage of lot to be left unoccupied, or imposed other higher standards than are required by the regulations in this Zoning Ordinance, such statute, local ordinance or regulation shall govern.
- C. Compliance with Other Applicable Regulations—Compliance with the standards prescribed in this Zoning Ordinance does not relieve an applicant from compliance with other applicable statutes, resolutions, ordinances, rules, regulations, easements.

§197-15. Relationship to Private Agreements

It is not intended that this Zoning Ordinance invalidate or annul any easements, covenants, or other private written agreements between parties.

§197-16. Annexation

Land hereafter annexed to the City of Lewes shall be placed in an appropriate zone as a part of the annexation proceedings.

§197-17. Separability

- A. The Mayor and City Council hereby declares that the sections, paragraphs, sentences, clauses, and phrases of this Zoning Ordinance can be separated from one another.
- B. Should a court decide that any section or provision of this Zoning Ordinance is unconstitutional or invalid, such decision shall not affect the validity of this Zoning Ordinance as a whole or any part other than the part judged unconstitutional or invalid.

Article 2. Administrative Responsibilities

§197-18. Planning Commission

- A. Established—See *Code of the City of Lewes*, Chapter 33, Section 33-1.
- B. Composition, Qualifications, Appointments—See *Code of the City of Lewes*, Chapter 33, Sections 33-2 through 33-7.
- C. Responsibilities—See *Code of the City of Lewes*, Chapter 33, Section 33-8.

§197-19. Board of Adjustment

- A. Established
 - (1) A Board of Adjustment is hereby established pursuant to Title 22, Section 321 of the *Delaware Code*.
 - (2) It shall be known as the Lewes Board of Adjustment and shall be referred to as the Board of Adjustment in this Zoning Ordinance.
- B. Organization
 - (1) Qualifications—Pursuant to Title 22, Section 322(d)(1) of the *Delaware Code*,
 - (a) Members shall be residents of the City.
 - (b) At the time of appointment and throughout the term of office, a member shall not be a candidate for, a candidate-elect to, or incumbent in any elected political office or a City employee.
 - (c) Members shall have knowledge of and experience with the problems of rural and urban development.
 - (2) Term of Office—Pursuant to Title 22, Section 322(d)(2) of the *Delaware Code*,
 - (a) Each member of the Board of Adjustment shall serve a 3-year term or until a successor takes office.
 - (b) The terms shall be staggered so that generally no more than 2 members appointed or re-appointed each year.
 - (3) Appointments—Pursuant to Title 22, Section 322(d)(1) of the *Delaware Code*,
 - (a) The Mayor shall appoint members of the Board of Adjustment.
 - (b) The Mayor and City Council shall confirm the appointments by majority vote.
 - (4) Officers
 - (a) Pursuant to Title 22, Section 322(d)(2) of the *Delaware Code*, members shall elect a chairperson and a secretary from among themselves.
 - (b) Members shall elect a vice chairperson to assume the chairperson's duties when the chairperson is unable to serve.
 - (5) Vacancies—Pursuant to Title 22, Section 322(d)(2) of the *Delaware Code*,
 - (a) A vacancy occurring prior to the expiration of a term shall be filled for the remainder of the *unexpired term* in the same manner as a member appointed to a full term.
 - (b) The person appointed to complete an unexpired term shall have the same qualifications as members appointed to full terms.
 - (6) Removal—Pursuant to Title 22, Section 322(d)(3) of the *Delaware Code*, the Mayor and City Council may remove a member for cause after a hearing by majority vote.
 - (7) Staff Support—The Mayor and City Council may assign appropriate staff to the Board of Adjustment.
 - (8) Compensation—Members shall serve without compensation but may be reimbursed for expenses related to duties as members of the Board of Adjustment.
- C. Responsibilities
 - (1) Administrative Review—Hear and decide appeals where an error is alleged in any order, requirement, decision, determination, interpretation, or denial of an application by any administrative official in the administration or enforcement of this Ordinance as authorized in

Title 22, Section 327(a)(1) of the *Delaware Code* and in accordance with §197-91 of this Zoning Ordinance

- (2) Special Exceptions—Hear and decide special exceptions to the terms of the ordinance as authorized in Title 22, Section 327(a)(2) of the *Delaware Code* and in accordance with §197-93 of this Zoning Ordinance
- (3) Variances—Authorize variance from the strict application of the provisions of this Ordinance as authorized in Title 22, Section 327(a)(3) of the *Delaware Code* and in accordance with §197-92 of this Zoning Ordinance

D. Meetings and Hearings

- (1) Pursuant to Title 22, Section 323 of the *Delaware Code*, meetings and hearings of the Board of Adjustment shall be scheduled and conducted as follows.
 - (a) Schedule—The Board of Adjustment shall hold meetings and hearings at the call of the Chairperson and as the Board may determine.
 - (b) Meetings of the Board of Adjustment shall be open to the public.
 - (c) Conduct of Meetings
 - [1] The Board of Adjustment shall adopt rules for the transaction of business.
 - [2] The chairperson, or if the chairperson is absent, the acting chairperson
 - [a] May compel the attendance of witnesses
 - [b] May administer oaths
 - [c] Shall afford all parties an opportunity to be heard
 - (d) Minutes
 - [1] The Board of Adjustment shall keep minutes of its examinations and other official actions, including resolutions, transactions, findings, and determinations.
 - [2] The minutes shall record the vote of each member on each item considered by the Board of Adjustment. The minutes shall also record when a member is absent, or fails to vote on any item.
 - (e) Action
 - [1] A majority of those present and voting is required to take official action.
 - [2] All official actions of the Board of Adjustment shall be in writing.
 - (f) Pursuant to Title 22, Section 327(b) of the *Delaware Code*, the Board may, reverse or affirm, wholly or partly, or *may modify* the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.
 - (g) Records Maintenance—The Board’s examinations and official actions shall be
 - [1] A public record
 - [2] Filed immediately in the Office of the Board of Adjustment which shall be located in the same place as the City’s official office
- (2) The Board of Adjustment shall adopt any additional rules of procedure as deemed necessary.

§197-20. Historic Preservation Commission

- A. Established—See Article 6. §197-57.
- B. Composition, Qualifications, Appointments—See Article 6. §197-57.
- C. Responsibility— See Article 6. §197-57.

§197-21. Commercial Architectural Review Commission

- A. Established—See *Code of the City of Lewes*, Chapter 70, Section 70-58A.
- B. Composition, Qualifications, Appointments—See *Code of the City of Lewes*, Chapter 70, Section 70-58B and C.
- C. Responsibility—Approval of construction, alteration, reconstruction, moving, or demolition of commercial structures that would affect the exterior appearance of a structure visible or intended to

be visible from an adjacent public way pursuant to the *Code of the City of Lewes*, Chapter 70, Section 70-60

§197-22. Building Official

The Building Official, appointed pursuant to Chapter 70, Section 70-7 of the *Code of the City of Lewes*, shall be responsible for the administration of, interpretation of, and securing compliance with, the provisions of this Zoning Ordinance.

§197-23. Mayor and City Council

A. Administrative Responsibilities

- (1) Approval of conditional-use applications pursuant to Article 13.
- (2) Establishing fees and charges from time-to-time

B. Legislative Responsibilities

- (1) Adopting changes to the text and map of this Zoning Ordinance pursuant to Title 22, Sections 304 and 305 of the *Delaware Code*

Article 3. Zoning Districts (Zones)**§197-24. Open Space Zone**

- A. Symbol—OS
- B. Purposes
 - (1) Preserve the physical diversity and the harmonious relationship of the City with its natural environment by providing an opportunity to preserve lands from urban development
 - (2) Provide for open space lands, in recognition of the following
 - (a) Value for recreation and aesthetic pleasures
 - (b) Importance in maintaining green and open buffers along scenic waterways and views
 - (c) Need for preserving tidal wetlands in a natural state
 - (d) Desirability of open spaces in dense, built-up neighborhoods with small private yards
 - (e) Availability of dredge spoil disposal areas that are unsuitable for urban building development, but are suitable for park and outdoor recreation opportunities

§197-25. Suburban Zone

- A. Symbol – R-1
- B. Purposes
 - (1) Provide for residential development in the outer portion of the city at a lower density. This zoning designation is intended for annexed lands that are already developed at similar densities and for annexation of undeveloped lands.

§197-26. Residential Low-Density Zone

- A. Symbol—R-2
- B. Purposes
 - (1) Provide for residential development outside of the City's town center and beachfront area
 - (2) Maintain lots that will permit the efficient use of public water and sewer services
 - (3) Diversify the City's residential development pattern by providing an opportunity for lots larger than those found in or near the center of the City

§197-27. Residential Low-Density (Historic) Zone

- A. Symbol—R-2 (H)
- B. Purposes
 - (1) Provide for residential development outside of the City's town center and beachfront area
 - (2) Maintain lots that will permit the efficient use of public water and sewer services
 - (3) Diversify the City's residential development pattern by providing an opportunity for lots larger than those found in or near the center of the City
- C. Historic District
 - (1) All of the Residential Low-Density (Historic) Zone (R-2 (H)) is located within the Lewes Historic District
 - (2) All properties within the Residential Low-Density (Historic) Zone (R-2 (H)) shall be subject to the requirements of Article 6.

§197-28. Residential Beach Zone

- A. Symbol—R-3
- B. Purposes
 - (1) Provide for residential development in the City's beachfront area
 - (2) Preserve the distinctive residential character of the City's beachfront area
 - (3) Preserve physical and visual access to nearby beaches and marshes

§197-29. Residential Beach (Historic) Zone

- A. Symbol—R-3 (H)
- B. Purposes
 - (1) Provide for residential development in the City's beachfront area

- (2) Preserve the distinctive residential character of the City's beachfront area
- (3) Preserve physical and visual access to nearby beaches and marshes
- C. Historic District
 - (1) All of the Residential Beach (Historic) Zone (R-3 (H)) is located within the Lewes Historic District
 - (2) All properties within the Residential Beach (Historic) Zone (R-3 (H)) shall be subject to the requirements of Article 6.

§197-30. Residential Medium-Density Zone

- A. Symbol—R-4
- B. Purposes
 - (1) Provide for residential development adjacent to the City's Town Center
 - (2) Preserve face-to-face intimacy in an urban setting
 - (3) Preserve architecturally diverse but harmonious streetscapes
 - (4) Encourage a residential development pattern that is
 - (a) Appropriate for older, densely settled sections of the City and also provides for light, air, and private open space
 - (b) Compact and urban so that nearby commercial and public services are available to residents by walking or bicycling

§197-31. Residential Medium-Density (Historic) Zone

- A. Symbol—R-4 (H)
- B. Purposes
 - (1) Provide for residential development adjacent to the City's Town Center
 - (2) Preserve face-to-face intimacy in an urban setting
 - (3) Preserve architecturally diverse but harmonious streetscapes
 - (4) Encourage a residential development pattern that is
 - (a) Appropriate for older, densely settled sections of the City and also provides for light, air, and private open space
 - (b) Compact and urban so that nearby commercial and public services are available to residents by walking or bicycling
- C. Historic District
 - (1) All of the Residential Medium-Density (Historic) Zone (R-4 (H)) is located within the Lewes Historic District
 - (2) All properties within the Residential Medium-Density (Historic) Zone (R-2 (H)) shall be subject to the requirements of Article 6.

§197-32. Mixed Residential Zone

- A. Symbol – R-5
- B. Purposes
 - (1) Provide for a mix of housing types to include multi-family and affordable housing alternatives.

§197-33. Limited Commercial Zone

- A. Symbol—LC
- B. Purposes
 - (1) Provide an area appropriate for a mix of residential uses and a limited number and types of commercial uses
 - (2) Establish density standards that respect not only residential uses in the zone but also adjacent residential neighborhoods
 - (3) Restrict the size and intensity of non-residential uses to a scale that is compatible with adjacent and intervening residential uses
 - (4) Preserve residential character by requiring structures to maintain a residential appearance

§197-34. Limited Commercial (Historic) Zone

- A. Symbol—LC (H)
- B. Purposes
 - (1) Provide an area appropriate for a mix of residential uses and a limited number and types of commercial uses
 - (2) Establish density standards that respect not only residential uses in the zone but also adjacent residential neighborhoods
 - (3) Restrict the size and intensity of non-residential uses to a scale that is compatible with adjacent and intervening residential uses
 - (4) Preserve residential character by requiring structures to maintain a residential appearance
- C. Historic District
 - (1) All of the Limited Commercial (Historic) Zone (LC (H)) is located within the Lewes Historic District
 - (2) All properties within the Limited Commercial (Historic) Zone (LC (H)) shall be subject to the requirements of Article 6.

§197-35. Cultural/Historic Zone

- A. Symbol—C/H
- B. Purposes
 - (1) Provide for historic and cultural resources unique to Lewes as the “first town in the first state.”
 - (2) Recognize the characteristics and importance of historic and culturally significant properties.
- C. Special Considerations
 - (1) Properties within the Cultural/ Historic Zone may be used for minor commercial activities under the following conditions:
 - (a) Such activities shall be undertaken only by those public service organizations directly involved with that property.
 - (b) Such activities shall be non-profit in nature.
 - (c) Such activities shall be subject to all relevant city codes.

§197-36. Community Facilities Zone

- A. Symbol—CF
- B. Purposes
 - (1) Provide for community facilities and services which, although they generate high levels of traffic during the day, are compatible with one another and contribute to the recreation, safety, and functioning of the City

§197-37. Community Facilities (Educational) Zone

- A. Symbol—CF (E)
- B. Purposes
 - (1) Provide for educational institutions at all levels in the City of Lewes.
 - (2) Recognize the important role of public and private educational institutions in the life of the community.
 - (3) Recognize that university and college activities in Lewes
 - (a) Reinforce the City's relationship with the sea
 - (b) Create year-round employment opportunities
 - (c) Promote physical and cultural diversity within the community

§197-38. Community Facilities (Health Care) Zone

- A. Symbol—CF (HC)
- B. Purposes
 - (1) Provide for hospital, medical center, major nursing care and other health care institutions in the City of Lewes.
 - (2) Recognize the important role of health care institutions in

- (a) Providing acute care, therapeutic services and long-term care for the residents
- (b) Creating employment opportunities

§197-39. Town Center Zone

- A. Symbol—TC
- B. Purposes
 - (1) Sustain a centralized, commercial, residential, and cultural core in the center of the City
 - (2) Strengthen connections between the town center and the City’s residential districts
 - (3) Create a pedestrian corridor from the mainland to the bay
 - (4) Provide for establishments offering retail products and services, commercial entertainment, professional and financial services, and other businesses which are vital to a year-round working community
 - (5) Encourage a mix of retail, office, and residential uses, consistent with the existing scale and character of the area, in order to promote the economic stability of the area.
 - (6) Provide for apartment dwellings in conjunction with retail, office, and service uses, but only on the stories above street level
- C. Notes
 - (1) In this zone, 5% lot coverage must remain open with access from the road or sidewalk to that open area.

§197-40. Town Center (Historic) Zone

- A. Symbol—TC (H)
- B. Purposes
 - (1) Sustain a centralized, commercial, residential, and cultural core in the center of the City
 - (2) Strengthen connections between the town center and the City’s residential districts
 - (3) Create a pedestrian corridor from the mainland to the bay
 - (4) Provide for establishments offering retail products and services, commercial entertainment, professional and financial services, and other businesses which are vital to a year-round working community
 - (5) Encourage a mix of retail, office, and residential uses, consistent with the existing scale and character of the area, in order to promote the economic stability of the area.
 - (6) Provide for apartment dwellings in conjunction with retail, office, and service uses, but only on the stories above street level
- C. Notes
 - (1) In this zone, 5% lot coverage must remain open with access from the road or sidewalk to that open area.
- D. Historic District
 - (1) All of the Town Center (Historic) Zone (TC (H)) is located within the Lewes Historic District
 - (2) All properties within the Town Center (Historic) Zone (TC (H)) shall be subject to the requirements of Article 6.

§197-41. Marine Commercial Zone

- A. Symbol—MC
- B. Purposes—Preserve the City’s historic connection to the sea by
 - (1) Encouraging a mix of retail and residential uses that complement and support a marina
 - (2) Ensuring that the character and scale of development in the zone is compatible with a marina
 - (3) Prohibiting the establishment of and the continuation of industrial uses not compatible with the characteristics of a Marine Commercial Zone.
- C. Notes
 - (1) In this zone, 5% lot coverage must remain open with access from the road or sidewalk to that open area.

§197-42. General Commercial Zone

- A. Symbol—GC
- B. Purposes—Provide residents and visitors with a variety of commercial goods and services in locations convenient to the City’s residential areas
- C. Notes
 - (1) In this zone, 5% lot coverage must remain open with access from the road or sidewalk to that open area.

§197-43. Industrial Zone

- A. Symbol—I
- B. Purpose—Accommodate enterprises engaging in the manufacturing, processing, creating, repairing, renovating, cleaning or assembling of goods, merchandise or equipment.

Article 4. Use Regulations

§197-44. Permitted Uses and Structures

Uses and Structures	OS	R-1	R-2 & R-2 (H)	R-3 & R-3 (H)	R-4 & R-4 (H)	R-5	LC & LC (H)	TC & TC (H)	GC	MC	C/H	CF (E)	CF (HC)	CF	I
Blank Not Permitted P Permitted Use SE Special Exception required CU Conditional Use required	Open Space	Suburban	Residential Low Density & Residential Low Density (Historic)	Residential Beach & Residential Beach (Historic)	Residential Medium Density & Residential Medium Density (Historic)	Mixed Housing	Limited Commercial & Limited Commercial (Historic)	Town Center & Town Center (Historic)	General Commercial	Marine Commercial	Cultural /Historic	Community Facilities (Educational)	Community Facilities (Health Care)	Community Facilities	Industrial
Agriculture-Related															
Agriculture															P
Community Garden	P	P	P		P	P					P				P
Residential															
Bed and Breakfast			SE	SE	SE		SE	SE	SE	SE					
Dwelling, Attached					P	P	P	P							
Dwelling, Detached		P	P	P	P	P	P	P							
Dwelling, Multiple Family						P		P							
Dwelling, Townhouse						P	P								
Dwelling, 2-Family					P	P									
Dwelling, Single-Family Detached, including modular and manufactured		P	P	P	P	P	P	P							
Dwelling Unit, Apartment in conjunction with commercial use and only on floor above street level							P	P	P	P					
Home-Based Business		P	P	P	P	P	P	P		P					
Hotel or Motel								P	P	P					
Sales and Rental of Goods, Merchandise, and Equipment															
Restaurants								P	P	P					
Restaurants, above street level										P					
Retail Sales Establishments, 10,000 square feet or less	CU						P	P	P	P	CU			CU	P
Retail Sales Establishments, 10,001 square feet or more										P					
Shopping Center										P					
Wholesale Trade Establishments									P	P					
Office, Clerical, Research, and Services															
Bank								P	P	P					
Service Establishments, Business								P	P	P					
Offices, on street level	CU						P	P	P	P				CU	
Offices, on floors above street level	CU						P	P	P	P				CU	
Service Establishments, Personal							P	P	P	P					
Service Establishments, Retail								P	P	P					
Service Establishments, Social, street level	CU						P		P	P				CU	
Service Establishments, Social, on any floors above street level	CU						P	P	P					CU	
Manufacturing and Related Enterprises															
Manufacturing Activities, except as otherwise prohibited															SE
Research and Development														P	P

Uses and Structures	OS	R-1	R-2 & R-2 (H)	R-3 & R-3 (H)	R-4 & R-4 (H)	R-5	LC & LC (H)	TC & TC (H)	GC	MC	C/H	CF (E)	CF (HC)	CF	I
Blank Not Permitted P Permitted Use SE Special Exception required CU Conditional Use required	Open Space	Suburban	Residential Low Density & Residential Low Density (Historic)	Residential Beach & Residential Beach (Historic)	Residential Medium Density & Residential Medium Density (Historic)	Mixed Housing	Limited Commercial & Limited Commercial (Historic)	Town Center & Town Center (Historic)	General Commercial	Marine Commercial	Cultural /Historic	Community Facilities (Educational)	Community Facilities (Health Care)	Community Facilities	Industrial
Educational, Cultural, Religious, Philanthropic, Social, Fraternal															
Clubs and Fraternal and Social Organizations				SE			SE	P	P	P				CU	
Public Service Organizations	CU			SE			SE	P	P	P				CU	
Colleges and Universities												P			
Country Club				SE											
Library								P	P		P			P	
Museum								P	P	P	P			P	
Places of Worship			P	P	P		P			P	P			P	
Schools, Private				SE					SE			P		SE	
Schools, Public												P		P	
Recreation, Amusement, Entertainment															
Recreation Facility									P						
Theater									P						
Institutional Care, Confinement, Medical Facilities															
Day-Care Center, Adult													SE		
Day-Care Center, Child (7 or more)							CU		P						
Child Care Home, Family (1-6 children)		CU		CU	CU	CU	CU								
Hospital													P		
Medical Clinic							P		P						
Nursing and Care Facilities													P		
Surgical Center							P		P				P		
Storage, Parking, Vehicles															
Automobile Repair Services									SE						
Automobile Sales									SE						
Gasoline Station									SE						
Gasoline Station & Convenience Center									SE	SE					
Parking Facility								P	P	P			P		
Public, Semi-Public, Emergency, Homeland Security															
Community Center, Public									P		P			P	
Government Facilities and Services, Local	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Government Facilities and Services, Non-Local	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Parks and Open Space	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Public Safety Facilities		P	P	P	P	P	P	P	P	P	P	P	P	P	P
Public Utility Service Facilities		P	P	P	P	P	P	P	P	P	P	P	P	P	P
Public Utility Service Lines	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Recreation Facility, Public			P						P					P	
Not Listed Elsewhere															
Accessory Uses, see §197-46	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Cemeteries		SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE
Gazebo ¹	P														
Marina	P														

¹ Within the OS and OS (H) Zones along the Lewes Rehoboth Canal, a gazebo is permitted if located within 10 feet of the mean high water line.

§197-45. Home-Based Businesses

- A. Definition—Any business, occupation, or activity undertaken for gain and conducted entirely within a dwelling unit by the residents thereof which is clearly incidental and secondary to the use of the structure for dwelling purposes. The home-based business shall be conducted entirely within either the dwelling or an accessory building, but not both.
- B. Permitted Home-Based Businesses
- (1) Offices for professionals, including but not limited to architects, brokers, counselors, clergy, draftspersons and cartographers, engineers, insurance agents, lawyers, real estate agents, accountants, editors, publishers, journalists, psychologists, contract managers, graphic designers, construction contractors, landscape designers, surveyors, cleaning services personnel, salespersons, manufacturers' representatives, travel agents, and caterers
 - (2) Instructional services, including but not limited to music, dance, art and craft classes, and tutoring and not to exceed three students at a time
 - (3) Studios for artists, sculptors, musicians, photographers, and authors
 - (4) Workrooms for tailors, dressmakers, milliners, and craft persons, including but not limited to weaving, lapidary, jewelry making, cabinetry, and woodworking
 - (5) Repair services including watches and clocks, small appliances, computers, electronic devices
- C. Prohibited Home-Based Businesses
- (1) Day-care center, adult
 - (2) Day-care center, child
 - (3) Kennels, stables, veterinary clinics and hospitals
 - (4) Medical clinics, medical offices, dental clinics, dental offices, hospitals
 - (5) Restaurants, bars, and night clubs
 - (6) Funeral homes and undertaking establishments
 - (7) Adult uses
- D. Operational Standards
- (1) Operating Hours
 - (a) Customer and client visits to the home-based business shall be limited to the hours from 7:00 A.M. to 9:00 P.M.
 - (2) Exterior Environment
 - (a) Home-based businesses shall not generate volumes of vehicular or pedestrian traffic or parking demand that is inconsistent with the character of the neighborhood
 - (b) No alteration shall be made in either the external structural form or the external appearance of the residential building for purposes of any home occupation.
 - (c) No evidence of any home occupation shall be visible from off the lot where it is conducted.
 - (d) There shall be no displays of goods on the premises that are visible from a public street or adjacent properties.
 - (e) Any commercial vehicle used in conjunction with the occupation shall be subject to the provisions of this Ordinance governing commercial vehicles in residential zones.
 - (f) Equipment or materials used in a home-based business may be stored outside the principal residence in an enclosed accessory structure.
 - (3) Employees—Employees of a home occupation shall be limited to permanent residents of the dwelling unit.
 - (4) Equipment—The operation of the home-based business, including equipment used therein, shall not:
 - (a) Create any vibrations, heat, glare, dust, odors, or smoke discernible at the property lines
 - (b) Generate noise that violates any City ordinance or regulation pertaining to noise
 - (c) Use and/or store hazardous materials in excess of quantities otherwise permitted in residential structures
 - (5) Signs—See Article 8

§197-46. Accessory Uses

- A. Definition—A use is an accessory use if it meets all of the following criteria.
 - (1) It is incidental and subordinate to the principal use.
 - (2) It is customary to the principal use.
 - (3) It is operated and maintained under the same ownership and on the same lot as the principal use.
 - (4) It does not include structures or structural features inconsistent with the principal use.
- B. Where Permitted—Except as otherwise provided, accessory uses are permitted in all zones.
- C. Prohibited Activities and Facilities in Accessory Buildings and Structures
 - (1) Accessory buildings and structures shall not be used for human habitation.
 - (2) Cooking facilities, including stoves, ovens, ranges, wood, coal, microwave or any other type of appliance which is or could be used for the preparation of food
 - (3) Toilet rooms, including a toilet or commode, bidet, shower, tub unit or any other similar facility, except that any accessory building may have one sink with running water
 - (4) Sleeping facilities, including, but not limited to, beds, sleep sofas, hammocks or any other sleeping apparatus which is or could be used for sleeping purposes, stored in such a manner so as not to be available for sleeping purposes

§197-47. Temporary Uses

- A. Intent and Purpose
 - (1) Intent—Allow for the short-term placement of activities in temporary facilities or outside of buildings
 - (2) Purpose—Avoid incompatibility between temporary uses and surrounding areas
- B. Permitted Temporary Uses
 - (1) Real estate sales offices within approved development projects
 - (2) Christmas tree sale lots for a period not to exceed 30 consecutive calendar days; however, a permit shall not be required when a sale is in conjunction with an established commercial business
 - (3) Other seasonal activities, such as pumpkin sales, auto shows, garden tours, racing events
 - (4) Circuses and carnivals
 - (5) Temporary outdoor display/sales of merchandise in any zone under the following conditions
 - (a) No more than 8 such displays/sales are conducted in any calendar year.
 - (b) The sales/displays are not conducted for a period of more than 3 consecutive days.
 - (c) The premises are not utilized for a permanently established business.
 - (6) Fairs, festivals and concerts, when not held within premises designed to accommodate such events, such as auditoriums, stadiums or other public assembly facilities
 - (7) Farmers' markets and swap meets
 - (8) On- and off-site contractors' construction yards
 - (9) Large-scale promotional balloons (e.g., roof mounted hot air balloons) in any zone under the following conditions
 - (a) No more than 4 such promotions are conducted in any calendar year.
 - (b) The promotions are not conducted for a period of more than 7 consecutive days.
 - (c) The promotions are related to merchandise or services which are customarily available on the premises.
 - (d) The premises are utilized for a permanently established business.
 - (10) Similar temporary uses which, in the opinion of the Mayor and City Council, are compatible with the zoning district and surrounding land uses.
- C. Permit Required—See Article 14. §197-102

§197-48. Prohibited Uses in All Zoning Districts

- A. Animal rendering
- B. Asphalt refining
- C. Automobile/motor vehicle wrecking
- D. Blast furnace garbage or offal reduction or rendering or dumping
- E. Crude oil refining
- F. Houseboats
- G. Manufacture of asphalt, bleaching compounds, coal, coke, cork products, corrosive acid, fertilizer, gelatins, glue, industrial alcohol, linoleum, matches, oils, paint, rubber, soap, tar products, paper
- H. Ore smelting
- I. Rubber treatment
- J. Slaughterhouses
- K. Storage of toxic bulk chemicals, bulk gasoline above-ground, explosives, junk, oil
- L. Tanning or curing of hides
- M. Raising livestock, poultry or exotic animals

Article 5. Dimensional Regulations

§197-49. OS, R-1, R-2, R-2 (H), R-3, R-4 and R-4 (H) Zones

Zoning Code	OS & OS (H)	R-1	R-2 & R-2 (H)	R-3 & R-3 (H)	R-4 & R-4 (H)	
Zoning Description	Open Space	Suburban	Residential Low Density & Residential Low Density (Historic)	Residential Beach & Residential Beach (Historic)	Residential Medium Density & Residential Medium Density (Historic)	
Dwelling Unit Type	All Structures	All Structures	All Structures	All Structures	Dwelling, Detached	Dwelling, 2-Units
Tract Standards						
Tract Area (acres)	N/A	5	None	None	None	2.5
Street Frontage (feet)	N/A	100	75	50	Burton Sub -- 40 All Others -- 50	50
Lot Standards						
Lot Area (square feet)	N/A	20,000	10,000	5,000	Burton Sub -- 4,000 All Others -- 5,000	
Square Feet per Dwelling Unit	N/A	20,000	10,000	5,000	Burton Sub -- 4,000 All Others -- 5,000	3,000
Lot Width (feet)	Along Both Canal & Street Parallel to Canal – 75	100	75	50	Burton Sub -- 40 All Others -- 50	
Lot Depth (feet)	N/A	150	100	75	75	75
Setbacks (feet)						
Front Yard	N/A	35	30 or EBL	25 or EBL	Minimum -- EBL Maximum -- EBL+10 No EBL -- 15	20
Side Yard	N/A	15	8	8	8	10
Rear Yard	N/A	25	15	15	15	15
Maximum Building Height (feet)						
FEMA Flood Zones AE & VE	N/A	34	34 or EBH	34 or EBH	34 or EBH	34
All Other Locations	N/A	30.5	30.5 or EBH	34 or EBH	30.5 or EBH	30.5
Maximum Number of Stories	N/A	3	3	3	3	3
Maximum Lot Coverage	N/A	60%	65%	65%	65%	60%
Main Structure (up to)	N/A	50%	50%	50%	50%	50%

Notes

1. All dimensions are minimum standards unless specified otherwise.
2. N/A means not applicable.
3. EBL means Established Building Line. See Article 16, Definitions
4. Burton Sub means the Burton Subdivision which includes that area bounded by West Fourth Street, Park Avenue, Johnson Street, and Burton Avenue [being those lots on both sides of Burton Avenue, Paynter Avenue, Dupont Avenue, Park Avenue and Johnson Street lying and being on the south side of West Fourth Street between Park Avenue and Burton Avenue].
5. EBH means Established Building Height (for single family dwellings located within the Historic District only). See Article 16, Definitions
6. Stories shall be above the FEMA flood plain elevation in all flood zones.

§197-50. R-5, LC and LC (H) Zones

Zoning Code		R-5				LC & LC (H)
Zoning Description		Mixed Housing				Limited Commercial & Limited Commercial (Historic)
Dwelling Unit Type	Dwelling, Detached	Multiple Unit Structure	Town-house	Dwelling, 2-Units	All Structures	
Tract Standards						
Tract Area (acres)	None	2.5	2.5	2.5	None	
Street Frontage (feet)	75	N/A	20	50	50	
Lot Standards						
Lot Area (square feet)	10,000	N/A	1,500	5,000	5,000	
Square Feet per Dwelling Unit	10,000	1,250	1,250	3,000	5,000	
Lot Width (feet)	75	N/A	20	50	50	
Lot Depth (feet)	100	N/A	75	75	75	
Setbacks (feet)						
	Front Yard	30 or EBL	30	20	20	Minimum -- EBL Maximum -- EBL+10 No EBL -- 15
	Side Yard	8	20	8	10	8
	Rear Yard	15	30	15	15	15
Maximum Building Height (feet)						
	FEMA Flood Zones AE & VE	34	34	34	34	34
	All Other Locations	30.5	30.5	30.5	30.5	30.5
Maximum Number of Stories		3	3	3	3	3
Maximum Lot Coverage		65%	60%	60%	60%	70%
	Main Structure (up to)	50%	50%	50%	50%	

Notes

1. All dimensions are minimum standards unless specified otherwise.
2. N/A means not applicable.
3. EBL means Established Building Line. See Article 16. Definitions
4. In the LC and LC (H) Zones, buildings and structures shall be designed and arranged to be compatible with adjacent residential zones. Exterior features of structures shall be architecturally compatible with residential structures in adjacent residential zones.
5. Stories shall be above the FEMA flood plain elevation in all flood zones.

§197-51. Non-Residential Zones

Zoning Code	TC & TC (H)	MC	GC	I	C/H	CF (HC)	CF (E)	CF
Zoning Description	Town Center & Town Center (Historic)	Marine Commercial	General Commercial	Industrial	Cultural/ Historic/	Community Facilities (Health Care)	Community Facilities (Educational)	Community Facilities
Lot Area (square feet)	5,000	5,000	5,000	10,000	5,000	20,000	20,000	10,000
Lot Width (feet)	None	None	None	Same as adjacent zone	50	100	100	75
Lot Depth (feet)	None	None	None	Same as adjacent zone	100	100	100	100
Setbacks (feet)								
Front Yard	None	None	25	40	25 or EBL	40 or EBL	40 or EBL	40
Side Yard	None	None	None	20 or twice the required adjacent setback	8	15	10	10
Rear Yard	None	None	None	20 or twice the required adjacent setback	15	20	20	15
Maximum Building Height (Feet)								
FEMA Flood Zones AE & VE	40	34	34	40	34	40	40	40
All Other Locations	40	34	30.5	40	30.5	40	40	40
Maximum # of Stories	3	3	3 (Flood Zones AE & VE) 2 (Other)	3	3	4	3	3
Maximum Lot Coverage	95%	95%	95%	50%	60%	75%	50%	75%

Notes

1. All dimensions are minimum standards unless specified otherwise.
2. N/A means not applicable.
3. EBL means Established Building Line. See Article 16. Definitions
4. Stories shall be above the FEMA flood plain elevation in all flood zones.

§197-52. Accessory Buildings and Structures

- A. Accessory Buildings and Structures shall be defined as a building or structure customarily incidental or subordinate to and accessory to the principal building or structure and located on the same lot as the principal building or structure; provided, however, that any accessory building or structure shall not exceed 900 square feet for the first floor, shall adhere to the dimensional regulations found in §197-52 B, and shall not have any of the following facilities:
- (1) Cooking facilities, including stoves, ovens, ranges, wood, coal, microwave or any other type of appliance which is or could be used for the preparation of food are prohibited.
 - (2) Toilet rooms, including a toilet or commode, bidet, shower, tub unit or any other similar facility, are prohibited except that any accessory building may have one sink with running water.
 - (3) Sleeping facilities, including, but not limited to, beds, sleep sofas, hammocks or any other sleeping apparatus which is or could be used for sleeping purposes are prohibited unless stored in such a manner so as not to be available for sleeping purposes.
- B. Accessory Buildings and Structures shall adhere to the following dimensional regulations:

Standard		R-1, R-2 & R-2 (H) Zones	R-3, R-3 (H), R-4, R-4 (H), R-5 LC & LC (H) Zones	All Other Zones
Setbacks				
	Front	Behind front-most portion of main building or 50 feet from front lot line whichever is greater	Behind front-most portion of main building or 50 feet from front lot line whichever is greater	None
	Side	5 feet	3 feet	None
	Rear	5 feet	3 feet	None
Distance from main building		10 feet	10 feet	None
Distance from other accessory structures on same lot		10 feet	10 feet	None
Height				
	Maximum Stories	1.5	1.5	1.5
	Maximum height of first floor ceiling measured from grade, the average of the finished ground level adjoining the building	11 feet	11 feet	11 feet
	Total Maximum Height	24 feet	24 feet	24 feet

Note—All dimensions are minimum standards unless specified otherwise.

§197-53. Permitted Projections into Required Yards

Type of Projection	Front Yard	Side Yard	Rear Yard
Balconies	10 feet	Not Permitted	10 feet
Bay windows not extending through more than 1 story	5 feet	Not Permitted	5 feet
Chimneys	24 inches	24 inches	24 inches
Cornices, eaves, gutters, windowsills and other ornamental features	24 inches	24 inches	24 inches
Porches, screened, unscreened, and open	10 feet	Not Permitted	10 feet
Steps	10 feet	Not Permitted	10 feet

Note—All dimensions are minimum standards unless specified otherwise.

§197-54. Fences, Walls, Hedges, and Shrubbery

- A. Setback—The building line and yard requirements of this Ordinance shall not apply to fences, walls, hedges, or shrubbery.
- B. Residential Areas
 - (1) Applicability—Properties used for residential purposes
 - (2) All fences shall be “finished side out.”
 - (3) Maximum Height—8 feet
 - (4) 6 Feet or Less—The entire fence may be solid.
 - (5) Between 6 and 8 Feet—That portion of the fence or wall which exceeds 6 feet in height shall contain openings equal to at least 50% of the area that the fence or wall exceeds 6 feet.
- C. Non-Residential Areas
 - (1) Applicability—Properties used for other than residential purposes
 - (2) All fences shall be “finished side out.”
 - (3) Maximum Height—10 feet
 - (4) 6 Feet or Less—The entire fence may be solid.
 - (5) Between 6 and 10 Feet—That portion of the fence or wall which exceeds 6 feet in height shall contain openings equal to at least 50% of the area that the fence or wall exceeds 6 feet.

§197-55. Building Height

- A. In General
 - (1) Measurement—The vertical distance of a building measured from a point where the center line of a building to be erected intersects with the center line of the street on which the building will face to the highest point of the highest roof.
 - (2) Exception—Chimneys, spires, towers, elevators, tanks and other similar projections shall not be included in calculating the “height.”
- B. Prior to September 14, 1987
 - (1) Applicability
 - (a) All buildings for which a building permit was issued prior to September 14, 1987
 - (b) Subdivisions of more than 2 lots for which final approval was granted by the Planning Commission of the City prior to September 14, 1987,
 - (2) Measurement—The “height” of a building shall be defined as the vertical distance measured from grade, the average of the finished ground level adjoining the building at the side facing the nearest street to the highest point of the coping of a flat roof building or the highest point of the coping of the highest flat roof if the building has more than one flat roof level or to the highest point of a mansard, gable, hip or gambrel roof building.
 - (3) Exception—Chimneys, spires, towers, elevators, pent, tanks and other similar projections shall not be included in calculating the “height.”
- C. Flood-Prone Areas
 - (1) Applicability
 - (a) R-2 and R-2 (H) Zones (formerly LB-Lewes Beach District) located within the Coastal High Hazard Area
 - (b) Coastal Flood Plain Area and situate on the northeast side of the Lewes and Rehoboth Canal
 - (2) Measurement—The vertical distance of a building measured from a point where the center line of the building to be erected intersects with the centerline of the street on which the building will face to the highest point of the highest roof shall not exceed 34 feet for all lots created prior to and after September 14, 1987; provided, however, that any roof in the R-2 and R-2 (H) Zone (formerly LB-Lewes Beach District) northeast of the Lewes and Rehoboth Canal shall have a minimum pitch of five inches of vertical rise for each 12 inches of horizontal run to the ridge of the greatest height of the roof.

Article 6. Historic District Requirements

§197-56. Purposes; Definitions

- A. These regulations are applicable to structures used for residential purposes within the Residential Low-Density (Historic), Residential Beach (Historic), Residential Medium-Density (Historic), Limited Commercial and Town Center (Historic) zoning districts, hereafter referred to as “the Historic District.”
- B. The purpose of this article shall be to accomplish the following:
- (1) To assist in preserving the historic character and the historic fabric of The City of Lewes.
 - (2) To safeguard the heritage of the City by preserving the elements which reflect the cultural, social, economic, political or architectural history of the City.
 - (3) To promote the use and preservation of the values as established by the Lewes Comprehensive Plan.
 - (4) To recommend alteration or new construction in keeping with the Historic District.
 - (5) To recommend restoration rather than demolition of contributing structures or historic properties.
 - (6) To encourage the proper maintenance, preservation and, when necessary, alteration of structures in the Historic District.
- C. Definitions. In this article, the following definitions shall be applicable unless the context clearly indicates to the contrary:
- ALTERATION(S)** -- Any activity requiring a building permit, the approval of the Lewes Building Official, and/or any change in the exterior appearance (other than maintenance) or structural change, including but not limited to construction, reconstruction, renovation, modification, alteration, moving or demolition of a noncommercial structure within the Historic District of The City of Lewes.
- COMMERCIAL STRUCTURE/SITE** -- Any structure or site which is currently used primarily for commercial activities and not primarily for residential uses.
- CONTRIBUTING STRUCTURES** -- Structures that are judged to add to the Historic District's sense of time, place and historic development under criteria established by the HPC, including historical significance, integrity and context. Such structures are so designated because they meet an architectural test (i.e., compatible with surrounding buildings or represent an architectural style identified with Lewes' history) and a longevity test (built on or before December 31, 1940).
- DEMOLITION** -- Destruction, razing, commencement of the work or steps of total or partial destruction with the purpose of completing the same, includes any willful neglect in the maintenance and repair of a structure that threatens to result in substantial deterioration of the exterior features or the structural integrity of the building.
- HISTORIC DISTRICT** -- An area of the City of Lewes identified and designated as having historic importance. The Historic District is shown on the City of Lewes Zoning Map as a series of zoning districts characterized as “Historic.”
- HISTORIC PROPERTIES** -- Noncommercial structures and sites, public rights-of-way or areas designated by City Council as having importance in the history of The City of Lewes as listed in Appendix B.² These properties may be within or not within the designated “Historic” zoning districts .
- IN PUBLIC VIEW** -- That portion of a structure that is visible, or could be visible but for a fence or landscaping, from a public right-of-way or public or private street upon which the house faces. If the house is on the corner, then that portion that is visible, or could be visible but for a fence or landscaping, from both public rights-of-way or public or private streets is included.
- MAINTENANCE/REPAIR** -- Ordinary repairs and maintenance, including design, materials,

² Appendix B (List of Historic Structures) is on file in the City Offices.

features or finishes of a structure which do not alter the exterior appearance of the structure and have no material effect on the historical, archaeological or architectural significance of the structure. Paint color is included in this definition regardless of the effect on exterior appearance.

MAYOR AND CITY COUNCIL -- Hereinafter known as "City Council."

NONCONTRIBUTING STRUCTURE -- Structures that do not add to the Historic District's sense of time, place and historic development. Such structures are so designated because they are not listed or pending to become listed on the National Register of Historic Places or do not meet either an architectural test (i.e., compatible with surrounding buildings or represent an architectural style identified with Lewes' history) or longevity test (built on or before December 31, 1940).

OUTBUILDING -- A term used to refer to all nonresidential structures on a site, including any accessory structure.

RESIDENTIAL STRUCTURE -- Any structure or site currently used primarily for residential living.

RHYTHM -- The rhythm of a structure and its components is the spacing or repetition of architectural elements or details. The regularity, frequency and placement of doors, windows, porches and ramps and their placement within a facade is a type of rhythm. Rhythm between adjoining structures can exist when building types are repeated along a streetscape.

SCALE -- Scale is the relationship of the architectural mass of the structure in the context of the streetscape.

STREETSCAPE -- The visual appearance of a street formed by the location and size of buildings, walkways, and other facilities.

STRUCTURE -- A combination of materials to form a construction that is stable, including, but not limited to, residences, outbuildings listed in Appendix B,³ and fences.

§197-57. Historic Preservation Commission Composition, Qualifications, Appointment

- A. There is hereby established a commission to be called the "Historic Preservation Commission" (hereafter "HPC").
- B. The HPC shall consist of seven members to be appointed by the Mayor of the City of Lewes, subject to confirmation by a majority of the elected members of the City Council for a term of three years. Appointments shall be made with consideration of the diverse talents and communities represented in Lewes; consideration for appointments shall be given to residents who possess knowledge or experience in architectural design and historic preservation. At least four members shall be residents of and have legal or equitable title to property in the Historic District, and all members shall be residents of and have legal or equitable title to property in or be leaseholders of public lands within the City of Lewes.
- C. A member of City Council may and a City Building Official shall be ex officio members of the HPC. An ex officio member may exercise all the powers of the regular members of the HPC except that he/she shall not have a vote. No ex officio member shall hold an office on the HPC.
- D. The HPC shall elect annually a chairperson, vice-chairperson, and a secretary from among its own members and may utilize experts, clerks and such other assistance that its fiscal appropriations may permit. The HPC may also appoint, by and with the prior approval of the City Council, a custodian of its plans and records who may be the City Manager or his/her designee or a Building Official.
- E. The HPC shall establish its own rules and procedures and determine the times of its meetings. All meetings and actions of the HPC shall be open to the public except appropriate executive sessions. All records of the HPC shall be public except those otherwise required to be confidential.
- F. The HPC shall schedule semi-monthly meetings. If no agenda items are available or requested seven days prior to the time of the scheduled meeting, such meeting may be cancelled. An agenda item

³ Appendix B (List of Historic Structures) is on file in the City Offices.

may be withdrawn at any time up to and including the opening of a scheduled meeting; however, if such matter has been withdrawn prior to the meeting and it is the only matter for that agenda, the meeting may be cancelled.

- G. The HPC will hear all applications that meet the above criteria at its regularly scheduled meetings. The Chair will establish the meeting agenda for reviewing applications and has the right to modify the sequence when necessary.

§197-58. Procedures

- A. Before the construction, alteration, reconstruction, moving or demolition of any dwelling, residence or related structures on property within the Historic District or on historic properties not within the Historic District that would affect the exterior appearance of a structure visible or intended to be visible from an adjacent public way, the owner, agent or representative proposing to construct or change shall file with the Building Official of the City of Lewes an application for permission from the HPC to construct, build, alter, reconstruct, move, demolish or make the addition.
- B. Actions not requiring review by the HPC. Ordinary repairs, maintenance, and replacement that do not constitute a change to the appearance of the structure include:
- (1) Repair and/or replacement of existing windows and doors, using the same material, including the installation of storm windows that will not alter the exterior appearance of the structure.
 - (2) Maintenance, repair, and/or replacement of existing roof material, involving no change in the design, scale, material, or appearance of the structure.
 - (3) Repair and/or replacement of existing roof structures, such as cupolas, dormers and chimneys, using the same materials that will not alter the exterior appearance of the structure.
 - (4) Repair and/or replacement of existing shingles, clapboards, or other siding, using the same materials, and maintaining the exterior appearance of the structure.
 - (5) Replacement or repairs to existing shutters, fences, or retaining walls, using the same materials for those items being repaired or replaced.
 - (6) Change of paint color.
- C. Application and approval procedures.
- (1) The applicant shall apply for a building permit; if the proposed site is in the Historic District, the Building Official shall notify the applicant that his/her project must be approved by HPC (unless the project falls under Subsection B above) and shall give him/her a HPC application and a "user friendly" brochure describing the application process.
 - (2) For the initial application, the applicant shall fill out the application, attach five copies of plans that include a site plan along with all existing structures, changes, and elevation drawings, of the proposed change, construction, alteration, or modification, including a description of the type and texture of the materials to be used for the exterior; current photographs of the property in question and of adjacent and neighborhood properties, including the streetscape of both sides of the street on which the subject property is located. When the application is for demolition of all or part of a structure, a report from a licensed professional engineer is strongly recommended. An application is deemed complete when these items have been submitted. After the review process is completed, the Building Official will return three sets of plans to the applicant and retain two for City records.
 - (3) The HPC will meet at regular intervals to ensure timely consideration of all applications pending before the HPC. Completed applications submitted to the Building Official two weeks (10 working days) prior to a regular scheduled meeting will be heard at that next scheduled meeting. Applicants or their designee must attend HPC meeting at the time their application(s) is heard.
 - (4) The HPC shall endeavor to arrive at a decision at the first meeting at which the application is presented; however, if the HPC decides that it needs more information or time in which to make a decision, it shall either place the application on the agenda for the next meeting or schedule a special meeting. The HPC shall grant or deny the application as expeditiously as possible, but in

no event later than the second meeting at which the application is on the agenda and the applicant appears, except when the application is for demolition (see § 197-58 D); failure to act within said time frame shall be deemed to be approval of the application as submitted; however, an extension may be granted if agreed to by both the applicant and the Commission.

- (a) If an applicant or a member of the public has information, evidence or testimony that contradicts the current designation of contributing or noncontributing, or has information about the history or other information that could materially affect the decision-making process of Commission members, the HPC shall consider that information, evidence or testimony before addressing the application. Such information shall be presented to the HPC as a notarized statement, or a copy of official document(s), and shall be made available to the Building Official, HPC, and applicant at least five working days before the scheduled meeting.
 - (b) If the members of the Commission, by vote of the Commission, determine that additional time is needed to digest the new information, the decision will be postponed for one meeting and the requirement for a decision at the end of the second meeting at which the application is considered shall be suspended.
- (5) If, after review of the application by the Building Official, he/she determines that the proposed activity will require a variance, the Building Official shall notify the applicant and provide information on the process for application to the Board of Adjustment. If no application to the Board of Adjustment is made by the applicant within 30 days after notice has been given by the Building Official, the application shall be deemed to have been withdrawn. However, if the applicant desires to have the HPC review an application prior to applying to the Board of Adjustment, the applicant shall request the Building Official to forward the application to the HPC.
 - (6) The HPC may either grant approval, grant approval with conditions, or deny the application. A denial shall include the reasons that the proposal does not meet the criteria in Article 6, § 197-59, Criteria; standards. The applicant shall have the opportunity to resubmit his/her application with modifications; such resubmissions shall meet the same requirements as the original. If the second submission of the application is denied, the applicant may either modify the application for another submission or appeal the denial to the Board of Adjustment. In no event may the HPC make recommendations for changes that will require violation of other requirements of this chapter.
 - (7) Written notice of the decision of the HPC will be forwarded promptly by the HPC to the applicant and to the Building Official. The notice will inform the applicant to meet with the Building Official to complete the application for a building permit. Approval shall be valid for one year for the approved project; if the project is commenced but not completed before the end of that period, the owner shall apply to the Building Official for an extension that may not exceed an additional period of one year.
 - (8) Substantive changes to the HPC-approved project prior or during construction shall require review and approval by the HPC. For such changes, the applicant shall submit one copy of the original application and a description of the proposed changes as well as any supporting documentation to illustrate the effect or non-effect of such proposed changes. Consideration of such changes shall be placed at the top of the HPC's agenda at the next regularly scheduled meeting.
- D. Demolition or removal. If the structure or any part thereof is deemed to be "contributing" and therefore has historic and/or architectural significance, no demolition or removal of the structure from the premises may take place until after an initial meeting with the HPC and a subsequent public hearing. Presentation of a conceptual plan for reuse of the property shall be required prior to the approval to move and/or demolish the structure. Efforts may be taken to either mitigate or eliminate the demolition or removal through informal discussions among the applicant, the Chair of the HPC, and the City Building Official. In addition, the HPC may delay its final decision for up to

an additional 60 days over and above the usual two meeting requirement for a decision in order to obtain an independent opinion from a licensed professional engineer regarding the structural integrity of the property. A final decision on demolition or removal must be rendered no later than 120 days after the initial application unless delayed by federal, state or local holidays, severe weather or other natural disasters, emergencies, or unless an extension is agreed to by the applicant and the HPC. If the structure is noncontributing, the HPC may address the application for demolition or removal without a hearing.

- E. Interior features. The HPC shall consider only exterior features and shall not consider interior arrangements except to the extent that an interior alteration affecting the exterior is required by law or disability of owner or tenant.
- F. Designation of historic properties. Owners of property outside the boundaries of the Historic District may request his/her/their property be designated an historic property. Before any such designation may be assigned, specific procedures, information required and recordation procedures and requirements shall have been determined. Such procedures shall include reference to the guidelines of the United States Department of Interior (see HPC bylaws and procedures).
- G. Appeals. Any person aggrieved by a decision rendered by the HPC shall have the right to appeal to the Board of Adjustment of the City of Lewes.

§197-59. Criteria; Standards.

- A. Criteria—In reviewing the plans for any construction, change, or demolition, the HPC shall give consideration to:
 - (1) Historic or architectural value and significance of the structure and its relationship to the historic value of the surrounding area;
 - (2) Relationship of the exterior architectural features of the structure to the remainder of the structure and to the surrounding neighborhood. Distinctive stylistic features or examples of skilled craftsmanship shall be preserved, if possible.
 - (3) General compatibility of exterior design, arrangement, texture and materials proposed to be used with other structures contributing to the established character of the Historic District of Lewes;
 - (4) When application is made to demolish a structure or any part thereof, the impact of its removal from the area in which it is located, and its structural condition and the economic feasibility of alternatives to the proposed demolition.
 - (5) When application is made to move a historic structure, the potential loss of history to its original site and to the Historic District as a whole, and the reasons for not keeping the structure at its present location.
 - (6) The effect of the structure on the health, safety and general welfare of the City.
 - (7) Other factors that the HPC deems to be pertinent, consistent with the City Code, include the following:
 - (a) Facade treatment: The exterior features of all buildings should be visually and physically compatible with those facades surrounding them.
 - (b) Height: New and renovated structures should be in harmony with the streetscape.
 - (c) Proportion: The relationship between the width and height of the front elevation of a structure should be compatible to adjacent structures. Proportion can apply to the relationship between windows and doors and their relationship to the structure itself.
 - (d) Rhythm: The rhythm of the building and its components should be considered as one of the criteria.
 - (e) Scale: Since the scale of the City of Lewes is intimate in nature, any building contrary to that of the streetscape will be deemed to be out of place.
 - (8) When owners of structures in the Historic District that have been or are designated as "non-contributing" make application to the HPC for approval for alteration or demolition, the HPC evaluation shall be based on the potential impact on the streetscape setting of the property,

rather than the potential impact on the property itself. When owners of structures in the Historic District designated as "contributing structures" make application to the HPC for alteration or demolition, preserving the property will be the HPC's primary criterion in evaluating the application. The HPC may require the applicant to submit both financial and construction details in support of any proposed demolition.

- (9) A proposed new structure or any alteration to an existing structure or historic property shall conform to the City Code. However, it is the intent of the HPC, consistent with its purpose [§ 197-56 B (1)] to assist in preserving the historic character and the historic fabric of the City of Lewes, to work in conjunction with applicants to arrive at the most desirable and appropriate outcome of their application to maintain harmony within the streetscape. To this end, the HPC may focus on height, rhythm, scale and proportion as issues that the applicant will be asked to consider and, when appropriate, to alter their plan and/or design.
 - (10) The current or future color of a structure or any part of the exterior of a structure in the Historic District shall not be reviewed or considered by the HPC.
 - (11) The HPC shall not deny the addition of items such as solar panels or other inventions that are designed to generate or conserve energy except to designate reasonable alternative design and/or placement.
 - (12) The HPC shall not deny any reasonable accommodation for a disability, compatible with this ordinance; however, the HPC may suggest reasonable alternative design and/or placement.
- B. Standards—The following standards shall be used by the HPC in preserving the District's architectural integrity and insuring the compatibility of new construction and alterations with the existing body of distinctive Lewes historic building styles. All materials used shall be consistent with and appropriate in design, texture and other visual qualities to the style and period of the structure. (The Secretary of the Interior's Regulations, "Standards For Rehabilitation," including reference drawings, as designated in Appendix C,⁴ include broad guidelines covering rehabilitation projects of historic buildings and should be referred to in a reasonable manner, taking into consideration economic and technical feasibility).
- (1) Roofs, Pitch, Dormers and Types—The roof and pitch of the roof shall be in keeping with traditional roof types and styles in use in Lewes in new structures and alterations.
 - (a) The roof types traditionally found in Lewes include:
 - [1] Gable, including such variations as the "clipped gable" and the "saltbox;"
 - [2] Gambrel or "barn roof;"
 - [3] A traditionally framed mansard with dormers incorporated into the roof design; and
 - [4] Hip, including variations on hip roofs such as "gable on hip."
 - (b) Any of these traditional roof types is acceptable without the need to duplicate the predominant roof type of a specific neighborhood since part of the charm of the Lewes streetscape lies in the variation of roof styles and pitches within these basic roof types. Modern variations of these roof types that clearly bear no resemblance to the traditional styles and pitches will not be approved. (Reference drawings, Nos. 1, 2 and 3.⁵)
 - (2) Roofing Materials— Acceptable materials include wood, slate, metal, asphalts, and fiberglass shingles. Repair materials shall be compatible with the existing roofing material. When a flat roof is otherwise consistent with the design criteria established in this article, i.e., porches, decks, widow's walks or cupolas, then rubber membrane or similar material may be used.
 - (3) Siding Material— All materials used shall be consistent with and appropriate in design, texture and other visual qualities to the style and period of the structure. Man-made siding (brick, stucco, cedar shake and cement fiber board can all be considered man-made or manufactured) is acceptable, although, if used, it should have a traditional profile. When cement fiber board is

⁴ Said appendix is on file and available for inspection in the City Manager's office.

⁵ See Appendix C on file and available for inspection in the City Manager's office.

selected, the smooth surface is to be used. Vinyl and aluminum or other metal siding is prohibited as substitute material; provided, however, that if vinyl or aluminum or other metal material exists on a contributing or noncontributing structure, such material may be continued to be used. No vinyl or aluminum or other metal material may be used on any new noncontributing structure.

- (4) Foundation Material— The traditional type of foundation in use in the Lewes Historic District is brick or ballast stone. The use of brick, or a brick veneer over a block foundation is strongly recommended. Other acceptable materials are natural stone and pargeting (stucco) sufficient to disguise the block joints.
- (5) Chimney Styles and Materials— Chimneys in public view should be of brick or pargeting (stucco). Metal chimneys are acceptable for use in non-public view.
- (6) Porches— All materials shall be consistent with and appropriate in design, texture and other visual qualities to the style and period of the structure. Vinyl or aluminum or other metal railings and trim are prohibited; provided, however, that if such vinyl or aluminum or other metal railings and trim exist on a contributing or noncontributing structure, it may continue but cannot be used on a new noncontributing structure in the Historic District. If a porch is to be included in new construction or alteration, it shall adhere to the height line and average depth of other porches in the surrounding neighborhood. When existing structures with traditional porches, either one or two story, are renovated, owners are encouraged to preserve both the porch and its architectural detailing. An open porch in public view that encroaches into the setback shall not be converted into living space.
- (7) Windows— If the windows are original to the historic structure, every effort should be made to rehabilitate them rather than replace them. New structures or alterations to existing historic properties and construction or alterations of structures in the Historic District shall have windows that are compatible with existing and surrounding structures. (Reference drawing No. 4.⁶)
- (8) Architectural Details— The term "architectural details" applies to such building features as window and door trim styles, cornices, ornamental brackets, porch and entrance balustrades, porch pillars, corner pilasters, gable peak ornamentation, lattice work, traditional paneled and louvered wooden shutters and similar details. If consistent with the period, shutters added to a structure shall present the appearance of working shutters, i.e., set out from the siding surface, covering the window casing, and of proper size and proportion in relation to the window. Decorative shutters should not be installed on a building unless there is clear evidence that such decorative shutters were used at some point in the structure's period of significance. The applicant is encouraged to extend the design motif of the existing structure to any addition, and, in the case of alteration of an existing structure, the architectural details on the exterior shall be preserved. (Reference drawings, Nos. 5 and 6.⁷)
- (9) Walls, Fences and Gates— Materials shall be of a type compatible with the architecture of the Historic District and historic properties. Chain link, vinyl, and concrete block are prohibited. (Reference drawing No. 7.8)

⁶ See Appendix C on file and available for inspection in the City Manager's office.

⁷ Same

⁸ Same

Article 7. Off-Street Parking and Loading

§197-60. Purposes and Scope

A. Purposes

- (1) Relieve congestion and facilitate the movement of vehicular traffic.
- (2) Facilitate the movement of police, fire, and other emergency vehicles.
- (3) Promote the safety and convenience of pedestrians and shoppers by locating parking areas so as to lessen vehicle movements in the vicinity of intensive pedestrian traffic.
- (4) Protect adjoining residential neighborhoods from the negative effects of on-street parking.
- (5) Promote the general convenience, welfare, and prosperity of commercial and other uses that depend on off-street parking and loading facilities.

B. Scope

- (1) When Required—Off-street parking and loading facilities shall be provided under the following conditions.
 - (a) When any use is established or changed
 - (b) When any building or structure is erected, altered, renovated, or expanded
- (2) The parking and loading requirements in this part of the Ordinance are in addition to requirements in other parts of this Ordinance.
- (3) The parking and loading requirements in this part of the Ordinance do not limit requirements or conditions that may be imposed in conjunction with other approvals, reviews, or applications.
- (4) Parking and loading facilities may not be used for the sale, repair, servicing, or dismantling of any type of vehicle, equipment, material, or supplies.

§197-61. Off-Street Parking

A. Definition— An off-street parking space is a permanently reserved, temporary storage area for 1 motor vehicle that is not located on, but is directly accessible to, a dedicated street right-of-way by a driveway. With the exception of townhouses and lots that are less than 5,000 square feet, an off-street parking space shall afford ingress and egress for a motor vehicle without requiring another motor vehicle to be moved.

B. General Requirements

- (1) The parking requirements in the chart are in addition to space for storage of trucks or other vehicles used in connection with any use.
- (2) The parking requirements in this article do not limit other parking requirements contained in the district regulations.
- (3) The parking requirements in this article do not limit special requirements which may be imposed pursuant to Article 13, Conditional uses.
- (4) Floor area shall be as defined in Article 16.
- (5) Where fractional spaces result, the parking spaces required shall be constructed to be the highest whole number.
- (6) Except as otherwise provided, the number of employees shall be compiled on the basis of the maximum number of persons employed on the premises at one time on an average day or average night, whichever is greater. Seasonal variations in employment may be recognized in determining an average day, as determined by The City of Lewes Planning Commission.
- (7) The parking space requirements for a use not specifically listed in the chart shall be the same for a listed use of similar characteristics of parking demand generation.
- (8) In the case of mixed uses, uses with different parking requirements occupying the same building or premises or, in the case of joint use of a building or premises by more than one use having the same parking requirements, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.
- (9) Whenever a building or use is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise to create a need under the requirements of this

article for an increase in parking spaces of 10% or more than those required before the change or enlargement, such additional space shall be provided on the basis of the change or enlargement. No additional spaces shall be required for the first change or enlargement which would result in an increase of spaces of less than 10% of those required before the change or enlargement, but this exception shall not apply to a series of changes or enlargements which together result in a need or an increase in parking space of 10% or more.

- (10) Parking requirements, if any, for home businesses or home offices shall be determined by the Building Inspector to provide adequate off-street parking outlined in § 197-61. In any event, the front yard shall not be used for the required parking spaces, and parking spaces shall not be less than five feet from any property line.
- (11) All parking spaces required herein shall be located on the same lot with the building or use served, except that where an increase in the number of spaces is required by a change, enlargement of use or where such spaces are provided collectively or used jointly by two or more buildings or establishments, the required spaces may be located and maintained at a distance not to exceed 400 feet from an institutional building or other nonresidential building served.
- (12) Up to 50% of the parking spaces required for theaters, public auditoriums, bowling alleys, dance halls and nightclubs and up to 100% of the parking spaces required for a church auditorium may be provided and used jointly by banks, offices, retail stores, repair shops, service establishments and similar uses not normally open, used or operated during the same hours as those uses listed, and up to 100% of parking spaces required for schools may be provided and used jointly by a church auditorium; provided, however, that a written agreement thereto is properly executed and recorded as specified below.
- (13) In any case where the required parking spaces are not located on the same lot with the building or use served or where such spaces are collectively or jointly provided and used, such parking space shall be used in conjunction with the principal use and shall be reserved as such through an encumbrance on the title of the property to be designed as required parking space, such encumbrance to be valid for the total period that the use or uses for which the parking is needed are in existence. A certificate of recording shall be furnished to the Building Inspector.

C. Design Standards

- (1) Minimum area. For the purpose of these regulations, an off-street parking space is an all-weather surfaced area not in a street or alley, permanently reserved for the temporary storage of one vehicle and connected with a street or alley by a paved driveway which affords ingress and egress for an motor vehicle without requiring another motor vehicle to be moved. An off-street parking space shall have the following dimensions exclusive of driveways:
 - (a) For single-family, duplex, and townhouse residential uses, a minimum of 162 square feet, measured with a minimum width of 9 feet and a minimum length of 18 feet.
 - (b) For all other uses, a minimum of 200 square feet, measured with a minimum width of 10 feet and a minimum length of 20 feet.
- (2) Vehicular access. Off-street parking areas that make it necessary for vehicles to back out directly into a public road are prohibited, except for dwelling units each having an individual driveway.
- (3) Drainage and maintenance. Off-street parking facilities shall be drained to eliminate standing water and eliminate damage to abutting property and/or public streets and alleys and surfaced with erosion-resistant material in accordance with applicable specifications. Off-street parking areas shall be maintained in a clean, orderly and dust-free condition at the expense of the owner or lessee and not used for the sale, repair or dismantling or servicing of any vehicles, equipment, materials or supplies.
- (4) Separation from walkways and streets. Off-street parking spaces shall be separated from walkways, sidewalks, streets or alleys by a wall, fence or curbing or other approved protective device or by a distance so that vehicles cannot protrude over publicly used areas.

- (5) All curb cuts for entering and/or exiting any off-street parking areas, including single family dwellings, shall have a maximum width of twenty (20) feet, except in the Town Center District, the R-4 District, the R-4 (H) District, and single family dwellings located in the Limited Commercial District which the maximum curb cut shall be twelve (12) feet in width.
 - (6) Entrances and exits. Location and design of entrances and exits shall be in accord with the requirements of applicable state regulations and standards. Landscaping, curbing or approved barriers shall be provided along lot boundaries to control entrance and exit of vehicles or pedestrians.
 - (7) Interior drives. Interior drives shall be of adequate width to serve a particular design arrangement of parking spaces as determined by the Planning Commission.
 - (8) Marking. Parking spaces in lots of more than 4 spaces shall be marked by painted lines or curbs or other means to indicate individual spaces. Signs or markers shall be used as necessary to ensure efficient traffic operation of the lot.
 - (9) Lighting. Adequate lighting shall be provided if off-street parking spaces are to be used at night. The lighting shall be arranged and installed to minimize glare on property in a residential area and all traffic areas.
 - (10) Screening. When off-street parking areas for 10 or more motor vehicles are located closer than 50 feet to a lot in a residential district, or to any lot upon which there is a dwelling as a permitted use under these regulations, and where such parking areas are not entirely screened visually from such lot by an intervening building or structure, there shall be provided along the lot a continuous visual screen with a minimum height of six feet. Such screen may consist of a compact evergreen hedge or foliage screening or a louvered wall or fence.
- D. Exceptions—No off-street parking shall be required for any uses fronting on properties in the following areas.
- (1) On the north side of Second Street from the westerly right-of-way line of Savannah Road to the westerly side of the parking lot located on Sussex County Tax Parcel 3-35-8.08-35.00
 - (2) On the south side of Second Street from the westerly right-of-way line of Savannah Road to the easterly right-of-way line of Market Street
 - (3) On the west side of Market Street from Sussex County Tax Parcel 3-35-8.08-35.00 to the northerly side of the intersection of Parcel 35 aforesaid and the westerly side of Market Street and continuing along the westerly side of Market Street to the southerly side of Front Street
 - (4) On the south side of Front Street from the westerly right-of-way of Market Street to the westerly right-of-way line of Savannah Road
 - (5) On both sides of Bank Street
 - (6) On both sides of Neils Alley
 - (7) On both sides of West Third Street from the westerly right-of-way of Savannah Road to the easterly right-of-way of Market Street

E. Minimum Required Spaces

Use	Required Number of Off-Street Parking Spaces
Single and multifamily dwellings, apartments and garden apartments	2 per dwelling unit
Rooming houses, boardinghouses or tourist houses	1 per rental room, plus 1 for the resident owner or manager
Hotels, motels and lodging inns	1 per rental room or suite, plus 1 per 3 employees. If a restaurant, open to the public, is operated in connection with such use, additional off-street parking space meeting the minimum requirements for a restaurant must be provided.
Eating places, taverns or bars and nightclubs	1 per 200 square feet assigned for patron use, plus 1 for each 2 employees on the largest shift
Food service drive-in facilities	15 minimum, plus 1 per 150 square feet of floor area
Indoor and outdoor commercial recreation	1 per 150 square feet of floor, building or ground area, or 1 per 4 seats for patron use, whichever is applicable to the particular area
Offices, office buildings, banks or other financial offices	1 per 200 square feet of floor area, exclusive of basements, if not used for office or customer service purposes
Retail stores and supermarkets	1 per 200 square feet of floor area used for sales or display of merchandise purposes, plus 1 for each 2 employees on the largest shift
Beauty and barbershops and other personal services	2 per 200 square feet of floor area
Shopping Centers	5 per 1,000 square feet of gross leasable area
Furniture and appliance stores	1 per 400 square feet of floor area devoted to sales and display purposes
Funeral homes	1 per 10 square feet of floor area used for seating accommodations, including chairs, plus 1 per employee
Commercial nurseries, sales of outdoor equipment or furniture and sales of new and used cars, trucks, boats, mobile homes, trailers and campers	3 per salesman during peak period of employment
Gasoline service stations	2 spaces for each employee plus 1 for each service bay
Automobile service and repair garages	1 per 500 square feet of floor area, plus 1 per employee during peak period of employment
Wholesaling and manufacturing establishments	1 for every 2 employees on the major shift
Day nurseries, day-care centers or private pre- schools or kindergartens	1 for every 1,000 square feet of floor area, plus 1 per adult teacher or attendant
Elementary and junior high or middle schools	3 per room used for administrative purposes, plus 1 per classroom, plus 1 for each 5 seats in the auditorium or gymnasium or other facility open to the public
Senior high, trade and vocational schools, colleges and universities	3 per room used for administrative offices, plus 1 for every 10 pupils enrolled, plus 1 for each 5 seats in the auditorium, gymnasium or other facility open to the public
Stadiums, assembly halls, theaters and community centers	1 per 4 fixed seats in the assembly area or for each 40 square feet of floor area for rooms having movable seats or 1 space per 150 square feet of floor area, whichever is applicable to the facility
Public libraries	1 per 400 square feet of floor area for public use, plus 1 per 2 employees
Nursing homes, convalescent homes and homes for the aged	1 for each 4 patient beds, plus 1 per each employee on the largest shift
Hospitals	1 for each 3 patient beds, except bassinets, plus 1 per medical staff member, plus 1 per 2 employees on the largest shift
Medical and dental clinics and offices	1 for each 2 employees, plus 4 per doctor or dentist
Churches or other places of worship	1 for each 5 seats

§197-62. Off Street Loading

- A. Definition—An off-street-loading space is a space or berth that is not on a dedicated street that is used for the loading or unloading of cargo, products, or materials from vehicles.
- B. Minimum Required Spaces

Use or Category	Square Feet of Floor Area	Loading Spaces Required
Retail store, department store, eating and drinking establishment, wholesale establishment, warehouse, general service, manufacturing, or industrial establishment	2,000-10,000	1
	10,000-20,000	2
	20,000-40,000	3
	40,000-60,000	4
	Each additional 50,000	1
Apartment building, hotel, motel, offices, office building, hospital or similar institution, places of public assembly	5,000-25,000	1
	25,000-100,000	2
	100,000-200,000	3
	Each additional 50,000	1
Funeral home or mortuary	N/A	1 for each chapel

- C. Additional Computational Standards
 - (1) Joint Use—Where more than 1 land use occupies a single structure, off-street-loading space shall be computed by assuming that the entire building is occupied by the use for which the most spaces are required.
 - (2) Modification Permitted—The Planning Commission may, or recommend that the Mayor and City Council, waive the requirement for or reduce the number of required loading spaces for buildings containing less than 10,000 square feet under the following circumstances.
 - (a) When the character of a particular use makes loading and unloading facilities unnecessary
 - (b) Where community loading facilities are available
 - (c) Where providing loading space is impractical

- D. Location – Off-street-loading spaces shall be:
 - (1) Located on the same lot as the building or use served, and
 - (2) Situated on the lot served so as to minimize their visibility from public roads and adjacent residential areas.

- E. Design Standards
 - (1) Loading-Space Dimensions

Item	General Standard	Funeral Homes
Width	12.0 feet	10.0 feet
Depth	40.0 feet	25.0 feet
Vertical Clearance	14.0 feet	8.0 feet

- (2) Entrances and Exits—The location and design of entrances and exits shall be in accord with applicable State or municipal traffic regulations and standards.
- (3) Surface Material—Off-street-loading areas shall be surfaced with erosion-resistant material in accordance with applicable City specifications.
- (4) Drainage—Off-street-loading areas shall be drained to eliminate standing water and prevent damage to abutting property and/or public streets and alleys.
- (5) Maintenance—Off-street-loading areas shall be maintained in a clean and orderly condition at the expense of the owner or lessee and not used for the sale, repair, dismantling, or servicing of any vehicles, equipment, materials, or supplies.

Article 8. Signs and Billboards

§197-63. Purpose; Definitions

- A. This article is intended to protect and further the health, safety, and welfare of the residents of the City of Lewes; to further the intent of the City of Lewes Zoning Ordinance and its zoning districts; to prevent traffic hazards; to provide safer conditions for pedestrians; to improve community appearance; and to promote economic development by regulating the construction, alteration, repair, maintenance, size, location and number of signs. Signs should be consistent with the architectural features of the building upon which it is placed and the streetscape in which it is located and should not obstruct or destroy any unique architectural features of such building or surrounding buildings. This Article is intended to promote and encourage the continuation of the small town ambience and eclectic nature of existing signage within the City while limiting excessive signage both in number and location.

§197-64. Definitions

The following words and phrases shall be construed in accordance with the definitions noted in the Article.

ADVERTISE—To advise, announce, apprise, command, give notice of, inform, make known, publish or call to the public attention by any means whatsoever

ADVERTISEMENT—Notice given in a manner designed to attract public attention. Information communicated to the public or to the individual concerned, as by handbills, newspaper, television, billboards, radio

ANIMATED SIGN—A mechanical or electronically illuminated or non-illuminated sign which displays letters, words, characters or symbols which are not stationary

AWNING OR CANOPY—A retractable or fixed shelter constructed of materials on a supporting framework that project from the exterior wall of a building

AWNING OR CANOPY SIGN—A sign affixed to or integral with the surface of an awning or canopy

BALLOON SIGN—A sign composed of an inflatable, non-porous bag

BANNER SIGN—A fabric, plastic, or other sign made of non-rigid material without an enclosing structural framework

BILLBOARD—A sign located on or off premises which advertises an establishment, product, service, space or activity not located on the lot on which the sign is located

BUSINESS—Non-residential activity, employment, occupation, profession, or enterprise, whether for profit or not for profit, in which an individual is willing to invest time and capital on future outcome

CANOPY—See Awning or Canopy

COMMUNITY SIGN—Any permanent sign that identifies any community, subdivision or facility

CONSTRUCTION SIGN—A sign which identifies the owners, financiers, contractors, architects, engineers or tenants of a project under construction

DIRECTIONAL SIGN—A sign displaying only the name, nature and location of establishments located in the City offering accommodations, merchandise, and/or services or real estate developments, industries, churches, schools, parks or other features or institutions of note located in the City

FLAG—A fabric or similar material that is mounted onto a pole on one edge

FLAG, COMMERCIAL—A flag with an advertisement or used to advertise the operation of a business, products for sale or services available, including but not limited to “open/closed” flags

FLAG, DECORATIVE—A flag consisting of patterns and colors without messages

FLAG, GOVERNMENTAL—A flag consisting of a symbol of a recognized government or related entity

FLASHING SIGN—An illuminated sign on which the artificial or reflected light is not maintained stationary and constant in intensity and color. Any sign which revolves or moves, whether illuminated or not, shall be considered a “flashing sign”

FREE STANDING SIGN—A permanent sign which is not attached to a building, including pylons, posts or monument signs

GOVERNMENT SIGN—A temporary or permanent sign erected by the City of Lewes, Sussex County, or the state or federal government including temporary signs as necessary in conjunction with the improvement of public infrastructure

GRADE—shall be determined by height from center of road and shall be adjusted to consider exceptional topography

GROUND SIGN—A detached sign which shall include any sign supported by uprights or braces placed upon or in or supported by the ground and not attached to any building

IDENTIFICATION SIGN—A sign which lists the name and/or address of the occupant or business entity

ILLUMINATED AWNING SIGN—Any sign which is a part of an illuminated awning

INCIDENTAL OR DIRECTORY SIGN—An informational sign which gives directions or instructions for use of the zone lot on which it is located, such as "no parking", "entrance", "loading only", etc.

INDIRECTLY ILLUMINATED SIGN—A sign whose illumination is derived from an external artificial source, which source is so arranged that no direct rays of light are projected into residential districts or public streets

INSTRUCTIONAL SIGN—A sign conveying instructions with respect to the premises on which it is maintained, such as “entrance”, “exit”, “no trespassing”, “danger”, and similar signs

LICENSEE—A person holding a valid license

MARQUEE SIGN—A sign attached to or hung from a marquee. For the purpose of this Ordinance, a “marquee” is a covered structure projecting from and supported by the building with independent roof and drainage provisions and which is erected over a doorway or doorways as protection against the weather

MONUMENT SIGN—A freestanding sign that is affixed to a base that is equal to or wider than the sign itself

MULTIFACED SIGN—A sign with two or more facings

MURAL—A design or representation painted or drawn on a wall which does not contain promotional or commercial advertising; any wall decoration without lettering

NONCOMMERCIAL SPEECH SIGN—Any sign containing a philosophical, religious or other public-interest message not used for commercial purposes and not made in furtherance or promotion of a commercial product, service or enterprise

OFF-PREMISES SIGN—A sign directing attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the premises where the sign is maintained

ON-PREMISES SIGN—A sign directing attention to a business, commodity, service or entertainment conducted, sold or offered upon the same premises as those upon which the sign is maintained

PERMANENT SIGN—A sign which has a permanent location on the ground or which is attached to a structure having a permanent location and which meets the structural requirements for signs as established in the Building Code

PLACARD—A sign which provides notices of a public nature, such as “No Trespassing” or “No hunting” signs

POLITICAL SIGN – A sign used in connection with an official City of Lewes, school district, county, state or federal election or referendum

PORTABLE SIGN—Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A or T frames, including but not limited to “sandwich board signs”; and signs attached to or painted on vehicles parked and visible from the public right-of-way

PROJECTING SIGN—Includes any sign which is attached to a building and extends beyond the wall of the building to which it is attached or within the setback required for a building

PROMOTE—To contribute to growth, enhancement or prosperity of; to forward; to further; to encourage; to advance

PROPERTY – Includes a lot, parcel or tract of land, a building, and/or a single business or activity, such as a tenancy, within a building

READER BOARD—A sign of permanent character, but with movable or printed letters, words or numerals, indicating the names of persons associated with or events conducted upon or products or services offered upon the premises upon which such a sign is maintained

REAL ESTATE SIGN—A sign advertising the real estate upon which the sign is located as being for sale, rent, or lease

ROOF LINE—The eave line of a roof or building parapet, whichever is higher, but excluding any cupolas, chimneys, or other minor projections

ROOF SIGN—A sign erected on a roof which extends above the roofline of the building

ROOF SIGN, INTEGRAL—A sign which is constructed as an essentially integral part of a normal roof structure of any design, such that no part of the sign is separated from the rest of the roof by a space of more than six inches

SETBACK—An open space on the same premises with a sign or signs, which open space lies between the nearest edge of the sign or signs and the nearest street line or property line

SIGN—A structure, display or device that is arranged, intended, designed or used as an advertisement, announcement, identification, description or direction

SIGN AREA—The total “area” of a sign shall include all side or area of display of a single or multifaced sign, together with all moldings, battens, cappings, nailing strips and latticing which are attached and are part of the sign proper and/or incidental to its decoration. Structural elements, such as aprons or skirting, which serve to shade, deflect or block light generated by a sign and which do not display advertising on their surfaces shall not be included in the total “area” of a sign. For the purpose of this Ordinance, signs which are composed of letters, words or representations only and which follow no square or rectangular pattern shall be considered to include in “sign area” a square or rectangle as drawn at the outer limits of the letters, words or representations

SPECIAL EVENT SIGN—A sign used for activities or events that are temporary and of limited duration, may be recurring, or be unusual for the purpose of drawing attention or conveying public information for the activity and shall include, by way of example and not in limitation, yard sales, sidewalk sales, special promotions and public events

STREET LINE—A dividing line between a lot, premises or tract of land and/or a street, road, highway, court, place, square, lane or way set aside and/or used as a right-of-way for common street or ingress or egress purposes. For the purposes of this Ordinance, street frontage shall be measured along the “street line”

TEMPORARY SIGN—A sign which is erected for a time limit not to exceed two (2) weeks

WALL SIGN—A single faced sign painted or attached directly to and parallel to the exterior wall or window of a building, and shall not project more than 12 inches from the wall

WINDBLOWN DISPLAYS—Any banner, flag, pennant, spinner, streamer, moored blimp or gas balloon, or the like, whether or not conveying a message through the use of words, letters and/or symbols

WINDOW SIGN—A sign placed inside or outside of a window and intended to be viewed from the outside and which is displayed within 12 inches of the window and is legible from outside the window

§197-65. Signs Exempted in All Districts

The following signs do not require a sign permit but shall comply in all other respects with the regulations set forth herein.

- A. Noncommercial Speech Signs—Noncommercial speech signs may be erected or displayed in any District, subject to the following limitations.
 - (1) Not more than one (1) sign per dwelling unit or, in the case of lots upon which no dwelling units are constructed, not more than one (1) sign per lot or business.
 - (2) Noncommercial speech signs shall not be illuminated.
 - (3) The total area of all noncommercial speech signs shall not exceed 3 feet by 5 feet.
 - (4) Noncommercial speech signs shall not be displayed on any one parcel during more than 180 days, consecutively or nonconsecutively, of any calendar year.
 - (5) Noncommercial speech signs shall be subject to all other controlling First Amendment considerations, including, without limitation, obscenity, fight words and libel.
- B. Political signs are subject to the following provisions.
 - (1) Political signs shall not be displayed more than 90 days prior to and must be removed one (1) day after the official election to which such sign pertains.
 - (2) Political signs shall be no larger than four (4) square feet.
 - (3) Political signs shall be placed only on private property with permission of the property occupant.
 - (4) Political signs shall be no higher in overall height than four (4) feet from the grade. A political sign shall conform to all local sign ordinances.
 - (5) Political signs shall not obstruct visibility at road intersections.
- C. Real estate signs are subject to the following provisions.
 - (1) Real estate signs shall be no larger than six (6) square feet.
 - (2) Real estate signs shall be placed only on private property with the permission of the property owner.
 - (3) Real estate signs shall be no higher in overall height than four (4) foot from the grade.
 - (4) Real estate signs shall be removed within 30 days after closing the sale, lease or rental of the property.
 - (5) One (1) real estate sign per street frontage permitted except during the period an open house is conducted, wherein signs directing traffic to the open house are permitted.
 - (6) Real estate signs announcing the sale of properties within a subdivision are permitted provided that such signs comply with the following provisions.
 - (a) They do not exceed 20 square feet in area
 - (b) They are removed at such time as all lots are sold
 - (c) They do not obstruct visibility at road intersection.
 - (d) No more than one (1) sign per each subdivision entrance is erected.

- D. Construction signs are permitted subject to the following provisions.
 - (1) Construction signs shall not be erected until a building permit has been issued for the project which is the subject of the proposed sign, and construction activity has begun.
 - (2) There shall be no more than one (1) construction sign per contractor and/or subcontractor, architect, surveyor, engineer, lender to be displayed at any one time on a single property.
 - (3) Construction signs shall be removed immediately upon the issuance of any Certificate of Occupancy or Certificate of Completion of the structure(s) or facility which is the subject of the sign.
 - (4) Construction signs shall not exceed six (6) square feet; i.e. 2'x 3' per sign.
- E. Incidental signs are permitted subject to the following provisions.
 - (1) Incidental signs shall not exceed six (6) square feet in area and four (4) feet in overall height from the grade.
 - (2) Incidental signs shall be limited to the identification of functions such as traffic control, loading areas, entrance/exit and security system signs.
- F. Commercial Flags are permitted subject to the following provisions.
 - (1) The maximum number of commercial flags shall be two (2) per business.
 - (2) The total square footage of commercial flags per flag shall be 15 square feet (3'x 5') maximum.
 - (3) The bottom of a flag shall be no lower than 7 feet above grade or sidewalk.
- G. Signage with the international symbol of accessibility or van accessible recognized logo
- H. Window signs are permitted as long as the total number does not exceed ½ of the total area of the window in which they are posted; provided, however, this shall not apply to grocery stores
- I. Government Signs—Highway and street signs erected by state, county or municipal road agency identifying streets or highways, giving direction to streets or places of interest or establishing restrictions or conditions of use for street or highways. This exemption shall further include all such signs authorized by a road agency in conjunction with street or utility construction projects denoting detours, or identifying access to business or industrial areas or sites when normal access is disrupted by such construction
- J. Historic markers placed under the authority of the local, state or federal government
- K. Placards not exceeding two (2) square feet
- L. Flags of any nation, state, city, educational institution, non-profit organization, or decorative flags
- M. Special decorative displays used for holidays, public demonstrations or promotion for nonpartisan civic purposes
- N. Signs on a truck, bus or other vehicle while in use in the normal course of business

§197-66. Signs Prohibited in All Districts

- A. Strings of light bulbs, pennants, streamers, balloons, or banners except as temporary advertising signs provided in this Article
- B. Signs, including reader boards, that employ any flashing, moving, oscillating, blinking, variable intensity lights, or produce noise, vapor, smoke, particles, or odor
- C. Building walls used for advertising or directing attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere other than upon the premises on which the building sits
- D. Off-premises signs
- E. A sign erected in any place where it may, by reason of its position, shape, color, or other characteristic, interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, or constitute a nuisance *per se*.
- F. Wall sign extending beyond the edge of the wall to which it is affixed nor extending above the roofline of a building
- G. Roof signs
- H. Billboards
- I. Internally illuminated signs

- J. Signs attached to or included on or in any vehicle parked primarily for display purposes
- K. Any sign which is not specifically permitted by, or does not conform to the provisions of this Article

§197-67. General Provisions for All Zoning Districts

- A. Any sign and/or supporting structure which for a period of sixty (60) days advertises or identifies a closed business that had been conducted, or product no longer sold on the premises, shall be removed by the owner, agent, or person having the beneficial use of the building, structure, or property upon which such sign is located, within thirty (30) days of receipt of written notice by the Building Official.
- B. No light pole, utility pole or other supporting member of a building or property shall be used for the placement of any sign unless the owner of the pole or supporting member has given prior written approval for such use and the sign otherwise conforms with this Article.
- C. All signs for home occupations, bed & breakfast establishments, or professional offices located in a residential dwelling, if lit, shall only be externally illuminated. The source of the light shall be enclosed and directed to prevent the source of light from shining directly onto traffic or residential property or otherwise restricting visibility.
- D. A sign accessory to a nonconforming use or structure shall conform to the provisions of the zoning district in which the nonconforming use or structure is located.
- E. All signs, including all supports, braces, guys and anchors, shall be maintained in good repair, free of peeling paint or paper, fading of colors, staining, rust, damaged, outages in lighting, or other conditions which impair the legibility of such sign and in conformance with this article and in such a manner so as not to cause a hazard to the public.
- F. At every street intersection there shall be a clear view between the heights of three (3) feet and ten (10) feet in a triangle formed by the corner and points on the curb thirty feet from the intersection and entranceway.
- G. All signs shall comply with the Building and Electrical Codes of the City of Lewes. Underground wiring shall be required for all illuminated signs, or signs requiring electrical connections which are not attached to a building.
- H. Temporary Permits for Special Event Signs—Notwithstanding any other provision of this chapter, any property owner, tenant or other entity in legal possession of any real property in the City may apply to the Building Official for a temporary permit to display a sign in connection with a special event, subject to the following:
 - (1) A “special event” shall, for purposes hereof, mean an event of temporary and limited duration and shall include, by way of example and not in limitation, sidewalk sales, special promotions and public events.
 - (2) Permits granted hereunder shall generally be limited to the duration of the event and not exceed seven (7) days consecutive or nonconsecutive. Depending upon the nature of the event and the purpose and location of the temporary sign, a longer period, not exceeding 21 days consecutive or nonconsecutive, may be approved in the exercise of the Building Official’s reasonable discretion.
 - (3) No temporary permit shall be issued for any sign hereunder which exceeds 3 feet by 5 feet or is illuminated by animated, revolving, flashing or moving lights, which is, itself, animated, revolving or moving or which utilizes reflectors or sound devices nor shall any such permit be granted for an illuminated sign in the OS, R-1, R-2, R-2 (H), R-3, R-3 (H), R-4, R-4 (H), R-5, , TC, or TC (H) zoning districts. .

§197-68. Signs Permitted In All Zoning Districts

- A. General Provisions
 - (1) Signs not otherwise prohibited in this Article are permitted in all districts unless otherwise provided in this Article.
 - (2) Any sign shall not be placed between a sidewalk and street
 - (3) A business may have a maximum of three (3) signs.

- B. Area Measurement—The area of a sign shall be measured as the area within a single, continuous perimeter composed of the smallest geometric shape which encloses the extreme limits of writing, representation, emblem, logo, or any other figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the structure necessary to support the sign. Reader boards shall be included in the sign measurement.
- C. Multi-faced Signs—The area shall be measured by including the area of all sign faces, except if two such faces are placed back-to-back and are of equal size, the area of the two back-to-back faces shall be counted as one face. If the two back-to-back faces are of unequal size, the larger of the two sign faces shall be counted as the one face. While square footage is referenced throughout, unusually shaped signs may be calculated by square inches.
- D. Wall Signs
- (1) Size—The maximum area for all wall signs per storefront or business frontage may not exceed one (1) square foot of sign area for every one linear foot of building length of the wall upon which the sign is to be displayed
 - (2) Number—One (1) per storefront or business frontage
- E. Awning and Canopy Signs
- (1) Size—The total sign area shall not exceed one (1) square foot for every two linear foot of street frontage of the wall upon which the awning, canopy or marquee is located. Signs shall be affixed flat to the vertical surface.
 - (2) Illuminated Awning Sign
 - (a) Only the copy area of an “illuminated awning sign” shall be considered in any square-foot limitations.
 - (b) When an “illuminated awning sign” covers multiple store fronts, each store shall be permitted on copy area width not to exceed 80% of the individual store front.
- F. Projecting Signs
- (1) Number
 - (a) Generally—One (1) per building wall which faces a street or parking lot.
 - (b) A building having multiple commercial tenants is permitted more than one projecting sign on a street or parking lot frontage provided that the number of projecting signs does not exceed one (1) for each 25 feet of frontage and one per tenant.
 - (2) Size—Signs shall not exceed six (6) square feet in area per sign.
 - (3) Location
 - (a) Signs shall not project more than 3 inches from the face of the building or wall, or extend beyond the roofline of a one-story building.
 - (b) Signs shall maintain a clearance of eight (8) feet from the public way (sidewalk).
 - (c) No “projecting sign” shall project or extend more than 10 feet into or beyond a required building setback line.
 - (d) No “projecting sign” shall be permitted which obstructs or interferes or in any way becomes a hazard to the orderly movement of pedestrian and/or vehicular traffic.
- G. Freestanding Signs
- (1) Number
 - (a) Street Frontage Less than 300 Continuous Linear Feet—One (1) per lot or parcel
 - (b) Street Frontage 300 or More Continuous Linear Feet—2 signs per lot or parcel
 - (2) Size—The sign area shall not exceed one (1) square foot for each linear foot of street frontage and with a maximum of 32 square feet.
 - (3) Location—Signs shall be located at least five (5) feet from any property line, provided, however, that portable signs, where permitted, shall meet the requirements of subparagraph (11) of this section.
 - (4) Height—Signs shall be no higher than 12 feet from the grade in districts where the maximum posted speed limit is 25 mph, 16 feet where speed limit is over 25 mph.

- (5) All signage in multi-tenant locations shall have continuity in design, size, color and lettering.
- H. Instructional Signs—The total sign area shall not exceed eight square-feet.
- I. Marquee signs are subject to the following.
 - (1) They shall not project more than 18 inches beyond the marquee faces or edges.
 - (2) They shall in no instance be lower than eight (8) feet above the walkway or thoroughfare or sidewalk.
 - (3) They shall in no instance exceed 32 square feet in area.
- J. Letters Mounted on Buildings—When individual letters are mounted directly on a building, square footage shall be determined by the space from the left-hand side of the first letter and ending on the right-hand side of the last letter multiplied by the height of the largest letter; such letters shall not exceed 12 inches in width or 36 inches in height.
- K. Sign Height—The height of the sign is measured from the finished grade to the top of the sign. Such signs shall be situated so as to have the longer dimension oriented horizontally, and to have the shorter dimension oriented vertically.
- L. Portable Signs/Sandwich Board Signs—Sandwich board signs shall not exceed 12 inches in width and 36 inches in height and it shall be placed adjacent to the building and business to which it pertains.
- M. One reader board per lot or business is permitted on a wall or as a freestanding sign.
- N. Windblown Display—In the case of a string of pennants, flags, etc., each string shall be treated as one (1) “windblown display” and the total area of all such pennants or flags on the string shall not exceed 3 feet by 5 feet.

§197-69. Sign Regulations by Zoning District

- A. Residential Districts
 - (1) Applicability—R-1, R-2, R-2 (H), R-3, R-3 (H), LC, and LC (H) Districts
 - (2) Customary signs and fixed symbols, in conjunction with residential usage, such as mailbox signs and names of residences. No such sign shall exceed 15 square feet in area, nor shall it be illuminated.
 - (3) Except as may otherwise be provided in this Article, no signs shall be displayed from the interior of any structure so as to be plainly visible from outside such structure.
 - (4) Freestanding community signs for residential subdivisions, mobile home parks, multiple family complexes having six (6) or more units, schools, churches, or other institutional uses permitted in the district:
 - (a) Number—One (1) per street frontage, to a maximum of two (2) signs per subdivision, park, multiple family complex, school, church or other institutional use.
 - (b) Size—Each sign shall be no greater than 24 square feet.
 - (c) Location—Signs shall be located at least five (5) feet from any property line.
 - (d) Height—No higher than six (6) feet from the grade.
 - (5) Wall signs for multiple family complexes having six (6) or more units and non-residential uses:
 - (a) Number—One (1) per street frontage.
 - (b) Size—No greater than twelve (12) square feet.
 - (6) Signs for home-based businesses and bed and breakfast establishments
 - (a) Number—A licensed home occupation, professional office, or bed and breakfast establishment shall be permitted only one identification sign that is freestanding, projecting, or affixed flat against the residence
 - (b) Size—No greater than three (3) square feet in area
 - (c) Freestanding Sign Standards
 - [1] Height—No higher than four feet from grade level
 - [2] Location—Not less than two (2) feet from the public right-of-way
 - (d) Any sign must be placed or sized so as not to impede visibility for vehicular or pedestrian traffic.

- (7) Windblown displays may be flown or displayed in the R-1, R-2, R-2 (H), R-3 and R-3 (H) Districts and maybe flown in the LC and LC (H) Districts when the primary use for the property is residential, provided that:
- (a) No windblown display shall be permitted on any lot carrying a commercial message in conjunction within a commercial use or activity occurring on any other specific lot with the City or within in one-mile radius of the City.
 - (b) Where flown or displayed upon any lot upon which a commercial use or activity is occurring, the following restrictions shall apply:
 - [1] No more than three (3) windblown displays per lot may be flown or displayed at the same time.
 - [2] No windblown display shall exceed 3' x 5' in area.
 - (c) No windblown display shall be illuminated in any fashion, except for flags of sovereign nations, states, counties or municipalities.
 - (d) Flags of sovereign nations, states, counties or municipalities may be illuminated by any conventional methods, but:
 - [1] Revolving flashing, animated, or moving lights shall not be permitted.
 - [2] All such illuminated flags shall be flown or displayed from the same flagpole, staff or other similar device any illumination shall be enclosed and directed to prevent the light from shining directly into traffic or residential property or otherwise restricting visibility.
- B. Non-Residential Districts
- (1) Applicability—TC, GC, MC, C/H, CF, CF (E), CF (HC), I Districts
 - (2) Standards
 - (a) Temporary signs and/or banners used for holidays, public demonstrations, or promotion of civic welfare or charitable purposes, when authorized by the Building Official.
 - (b) The Building Official will consider the size of the proposed sign in relation to the location and zoning of the area in which it is proposed for placement.
 - (c) Temporary signs, i.e. garage sales, shall be removed within two (2) days following the event.
- C. Sign Specifications—Mixed-Use
- (1) In case of a mixed-use building or lot, sign rules shall be those pertaining to the primary use.
 - (2) In case of a conflict, the most stringent regulation shall apply.
- D. Structures with Multiple Uses—The following shall be allowed.
- (1) One (1) freestanding sign identifying the structure and/or the separate primary tenants or business uses.
 - (2) One (1) wall sign for each tenant or business.

§197-70. Nonconforming Signs, Billboards or Advertising Signs; Removal

- A. General Provisions
- (1) Every permanent legally existing sign, billboard or advertising sign which does not conform to the height, size, area, or location requirements of this Article as of the date of the adoption of this Ordinance is hereby deemed to be a continued legal non-conforming use.
 - (2) When Compliance Required—Nonconforming signs shall be removed from the premises or otherwise made to comply with these regulations in the following instances.
 - (a) When there is a construction, renovation, replacement or repair to more than 75% of the exterior of the principal building measured in square feet of exterior wall surface area, or expansion of more than 20% of the floor area of the principal building measured in square feet of floor area on the premises on which such nonconforming signs are present, except that freestanding signs that are nonconforming with respect to front setback requirements shall not be made to be set back further than the front of the principal structure.

- (b) When, within any given two-year period, construction, renovation, replacement or repair projects involving less than 75% of the building exterior and/or individual building additions involving less than 20% of the floor area of the principal building on the premises would, in aggregate, exceed the 75% renovation and/or 20% expansion thresholds set forth herein, all such nonconforming signs shall be brought into conformity with these regulations or shall be removed from the premises.
 - (c) When a sign is to be replaced.
 - (d) When a business or activity for which the sign existed closes its business or activity.
 - (e) Prior to the issuance of any permit for the placement of any additional signage on the property. No new signs of any type shall be added to the property until nonconforming signs are removed.
- B. Removal of Unsafe or Nonconforming Signs
- (1) If the Building Official or the authorized representative determines that any sign regulated by this article is unsafe or constitutes a hazard to the public, including but not limited to obstructing vision of vehicle drivers or pedestrians, or has been constructed, erected or maintained in violation of the provisions of this article, the Building Official may remove the sign or require its immediate removal. Failure to comply with a notice of violation by the Building Official shall be deemed a violation.
 - (2) Any sign placed or erected in a public street, alley or right-of-way, or other public place, which is not specifically permitted in such place, shall be deemed an unlawful sign and the department of the city having jurisdiction over the maintenance of such public place shall remove such sign. Such removal may be without written or other notice to the owner, lessee or person of the property adjacent to the public street, alley, or right-of-way, or other public place upon which such sign is located however, there shall be notice if the unlawful sign will cause no immediate danger.
 - (3) Should any sign be removed by an authorized agency of the City, the owner of the property on which the sign was located shall be responsible for the cost of removal and any storage.

§197-71. Sign Permits

- A. Permit Required—A permit shall be required to erect, alter, display, relocate or replace any sign structure or mural, except as exempted herein.
- B. Application Contents and Procedure
 - (1) Application for permit to erect or install a sign is to be made by the owner, tenant, or lessee of the property on which the sign is located, or by the authorized agent, Delaware licensed contractor, or registered architect or engineer.
 - (2) The application is to be made in writing to the Building Official, on forms furnished by the Building Official and shall be signed by the applicant.
 - (3) The application shall state the address, site of installation, and estimated cost of work and fully describe the sign according to the definitions and specifications of the ordinance.
- C. Permit Fee—Upon approval of the application and before issuing the sign permit, a permit fee in an amount determined by Mayor and City Council shall be paid.
- D. Any person adversely affected by the provisions of this article as defined in a decision of Building Official concerning the compliance to code and denial of application may appeal to the Board of Adjustment for a variance from the provisions herein.
- E. If the licensee shall at any time fail to comply with the provisions of this Article or not be in accordance with the approved drawings, specifications and details of approved application, or shall fail to comply with any written directions of the Building Official based upon the provisions of this Article, the Building Official or authorized representative may suspend or revoke the permit and provide the reasoning therefor.

Article 9. Environmental Protection Regulations

§197-72. Purposes and Applicability

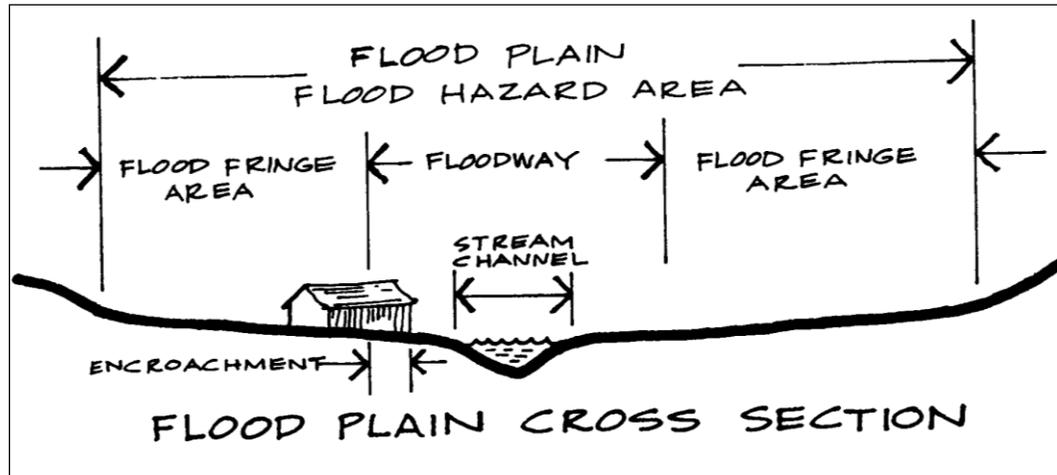
- A. Purposes
 - (1) Identify environmentally sensitive areas in the City
 - (2) Impose additional land-development standards and practices in these environmentally sensitive areas
- B. Applicability—In all zoning districts of the City

§197-73. Floodplains

- A. Components
 - (1) Coastal High Hazard Area
 - (a) Areas subject to high-velocity waters, including hurricane wave wash
 - (b) Corresponds to FEMA Flood Insurance Rate Zone VE
 - (2) Coastal Floodplain
 - (a) Areas lying landward of the Coastal High Hazard Area, which have been or may be covered by storm floodwaters of the base (100-year) flood or subject to erosion caused by the base (100-year) flood
 - (b) Corresponds to FEMA Flood Insurance Rate Zone AE
- B. Purposes
 - (1) Minimize hazards to human life and health, property damage, disruption of public services and public expenditures for flood protection and relief by imposing additional regulations in areas subject to flooding, erosion and battering from abnormally high tides, temporary sea-level rise and storm waves associated with hurricanes and northeastern storms
 - (2) Limit and guide land and water development projects that would reduce or destroy natural features that provide buffers and protection from storm waves and flooding
 - (3) Require site and facility plans for subdivision and land development
 - (4) Impose certain building construction standards and practices in flood-prone areas
- C. Identification on Development Plans
 - (1) Development plans shall delineate the locations of flood-prone areas by legal description with bearings and distances and with each flag point numbered, signed, and dated. A statement by an experienced, qualified professional shall be provided, verifying the accuracy of the delineation.
 - (2) If a tract proposed for development contains no flood-prone areas, the plan shall include a statement affirming this from an experienced, qualified professional.
- D. Boundary Regulations and Standards
 - (1) Official Boundary—All areas subject to inundation by the floodwaters of the 100-year flood or subject to shoreline erosion caused by a 100-year flood, as delineated in the Flood Insurance Study and on the Flood Insurance Rate Map (FIRM) prepared by the Federal Emergency Management Agency (FEMA) as amended from time to time
 - (2) Boundary Changes
 - (a) Boundary changes may be made where warranted by natural causes, new data, or other good reasons and when a study has been made utilizing field techniques of the United States Army Corps of Engineers or a comparable agency.
 - (b) Proposed boundary changes shall be subject to review and approval of the Federal Insurance Administration before taking effect.
 - (3) Boundary Conflict—Where a conflict appears to exist between a mapped boundary and actual field conditions, a determination of the exact boundary of the area subject to inundation by the base flood shall be made as follows.
 - (a) Flood Fringe—Exact boundaries shall be determined using the 100-year flood elevation information provided in the Flood Insurance Study for the flood fringe portions of the

floodplain and the best 100-year floodplain elevation information available for general floodplain areas.

- (b) Floodway—Exact boundaries shall be determined by scaling the distances shown on the floodway map and by utilizing the data in the applicable Flood Insurance Study or the area
- (c) The burden of proof shall be on the applicant.



E. Coastal High Hazard Area

(1) Prohibited Activities

- (a) Erection of any building or structure other than those specifically permitted or regulated
- (b) Placing, depositing or dumping of any solid waste
- (c) Any activity which involves the manufacturing, dumping, disposal or storage, except as authorized under the National Pollutant Discharge Elimination System, of pesticides, domestic and industrial waste, radioactive materials, petroleum products, except household storage, or other hazardous materials which, if flooded, would pollute coastal waters
- (d) The storage of materials or equipment which, if flooded, could be swept onto other properties
- (e) Any activity that will reduce the capacity of dunes existing at the time of legal adoption of this chapter to protect landward properties from storm velocity waters.
- (f) Building upon land within the reach of mean (average) high tide, except that piers, docks, wharves and harbor works shall be allowed as regulated uses
- (g) Fill for structural support
- (h) Mobile homes, except in an existing mobile home park or mobile home subdivision

(2) Permitted Activity

- (a) Definition—Activities which meet all of the following criteria
 - [1] Have low flood damage potential
 - [2] Do not threaten other lands during times of flood
 - [3] Are not prohibited by any other law
 - [4] Do not involve any prohibited uses in the Coastal High Hazard Area
- (b) Specific Permitted Activities
 - [1] Planting and fertilization of beach grass or the placement of a sand fence for the purpose of dune stabilization
 - [2] Steps or walkways to permit access across dunes and beaches
 - [3] Public and private recreation activities, such as lifeguard stations, picnic areas, boat launching ramps, swimming areas, parks, wildlife areas and fishing areas

- [4] The removal of sand blown or washed upon improved properties by the action of high winds and tides, provided that the removal will not create a hazardous condition upon the improved property or other properties
- (3) Regulated Activities
- (a) Definition—All activities not prohibited or permitted as defined in this Section
- (b) No Regulated Activities, except docks, piers, wharves and harbor works, shall be allowed seaward of mean high tide.
- (c) List of Regulated Activities
- [1] Grading, filling, excavation or alteration of dunes, beaches or other natural protective barriers, the sole purpose of which is flood protection, or reconstruction of such areas following a storm
- [2] Docks, piers, wharves and harbor works
- [3] Roads and bridges
- [4] Pipelines and storage tanks
- [5] Uses permitted by right or by special exception in this Zoning Ordinance provided that all buildings are constructed in accordance with the floodproofing construction requirements of this Section
- (4) Standards Governing Regulated Activities
- (a) Elevations
- [1] Requirement—Any new building or structure or any building or structure that is substantially improved shall be elevated on adequately anchored piles or columns so that the bottom of the lowest horizontal structural members of the lowest floor, excluding the pilings or columns, is elevated to or above the flood protection elevation and the pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components.
- [2] Water-loading values used shall be those associated with the base flood.
- [3] Wind-loading values used shall be those required by applicable state or local building standards.
- [4] A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction and shall certify that the design and methods for construction to be used are in accordance with accepted standards of practice for meeting the provisions of this Section.
- (b) Breakaway Walls
- [1] Required—All new buildings and structures or substantial improvements to existing buildings or structures shall have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood latticework or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.
- [2] Breakaway Walls—
- [a] A breakaway wall shall have a design-safe loading resistance of not less than 10 pounds nor more than 20 pounds per square foot.
- [b] Use of breakaway walls which exceed the design-safe loading resistance of 20 pounds per square foot, either by design or when required by the Building Code of The City of Lewes, may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions.
1. The collapse of the breakaway wall shall result from a water load less than that which would occur during the base flood.

2. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement or other structural damage because of the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural).
 3. Maximum wind and water loading values to be used in this determination shall each have a 1% chance of being equaled or exceeded in any given year (100-year mean recurrence interval).
 4. Such enclosed space shall be usable solely for the parking of vehicles, building access or storage.
- (c) Dunes—Existing protective barriers and dunes shall remain intact and maintained by the property owner or lessee.
 - (d) Service Facilities—Service facilities shall be installed above the flood protection elevation or be adequately flood proofed.
 - (e) Pipelines—All pipelines shall either be anchored to a foundation capable of preventing structural damage from waves and currents or be buried to a sufficient depth to prevent excavation by waves and currents, and in all cases shall be constructed in a way that will prevent accidental discharge of their contents into floodwaters.
 - (f) Storage Tanks—All storage tanks shall comply with applicable Delaware laws and applicable ordinances of City and shall be constructed to prevent excavation by waves and currents or elevated above the flood protection elevation, and in all cases shall be constructed so as to prevent the escape of tank contents into storm floodwaters.
 - (g) Certification Required—A registered professional engineer or architect shall certify that the structure or building is securely anchored to adequately anchored pilings or columns in order to withstand velocity waters and hurricane wave wash.
 - (h) Drainage—Adequate drainage shall be provided to reduce exposure to flood hazards.
- F. Coastal Floodplain
- (1) Prohibited Activities—The following activities are prohibited in the Coastal Floodplain.
 - (a) Any activity which involves the manufacture, storage, dumping or disposal, except as authorized under the National Pollutant Discharge Elimination System, of pesticides, domestic and industrial waste, radioactive materials, petroleum products, except household storage, or other hazardous materials which, if flooded, would cause water pollution.
 - (b) The storage of any material capable of flotation when flooded
 - (c) Residential structures whose lowest floor, including basement, is below the flood-protection elevation
 - (d) Placing or depositing of any solid waste
 - (2) Permitted Accessory Activities
 - (a) The following accessory uses are allowed.
 - [1] Accessory uses associated with residential structures such as lawns, gardens, parking areas, play areas, tennis courts and in-ground concrete swimming pools
 - [2] Accessory uses associated with commercial and industrial structures such as loading and parking areas
 - (b) Standards Governing Permitted Accessory Uses
 - [1] No part of an existing dune shall be removed or displaced to an extent that impairs its flood hazard protection qualities.
 - [2] Accessory uses may be at elevations lower than the flood protection elevation; however, structural accessory uses must be flood proofed.

(3) Regulated Activities

- (a) Applicability—All activities situated in the Coastal Floodplain not classified as Permitted Activities or Prohibited Activities in this Section
- (b) Standards Governing Regulated Activities
 - [1] Uses permitted by right or by special exception in this Zoning Ordinance within which the use is located, provided that all buildings shall be constructed in accordance with the floodproofing construction requirements of this Ordinance.
 - [2] Public Facilities and Structures
 - [a] Roads, railroad tracks, bridges and similar facilities, regulated, constructed, or financed, in whole or in part, by the City, shall be designed to minimize increased flood elevations.
 - [b] Protection to the flood protection elevation shall be provided where failure or interruption of these public facilities would result in danger to the public health or safety or where such facilities are essential to the orderly function of the area.
 - [c] Service facilities shall be located and constructed to minimize or eliminate flood damage.
 - [3] Pipelines—Pipelines shall be either
 - [a] Anchored to a foundation capable of preventing structural damage from currents and storm flooding, or
 - [b] Buried to a sufficient depth to prevent excavation by currents and storm flooding, and in all cases shall be constructed in a way that prevents accidental discharge of their contents into floodwaters
 - [4] Storage Tanks—Storage tanks shall be constructed to prevent the following.
 - [a] Excavation by waves and currents or elevated above the flood protection elevation
 - [b] Escape of tank contents into storm floodwaters
 - [5] Drainage—Adequate drainage shall be provided to reduce exposure to flood hazards.

G. Floodproofing Requirements

- (1) Purpose—Prevent excessive or needless damage to buildings and structures due to conditions of flooding
- (2) Applicability
 - (a) All construction occurring within the Coastal Floodplain
 - (b) All types of buildings or structures
- (3) Lowest Floor Elevation
 - (a) The lowest floor, including basement, of new construction or substantially improved residential buildings shall be elevated to or above the level of the flood protection elevation.
 - (b) The lowest floor, including basement, of new construction of nonresidential buildings shall be elevated to or above the level of the flood protection elevation or, together with attendant utility and sanitary facilities, designed so that below the flood protection elevation the building or structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - (c) All new construction and substantial improvements that have fully enclosed areas below the lowest floor usable solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be either certified by a registered professional engineer, or architect, or meet, or exceed, the following minimum criteria.

- [1] A minimum of 2 openings having a total net area of not less than 1-square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than 1 foot above grade.
- [2] Openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- (4) Placement of Structures—Any new building or structure erected shall be aligned to offer minimum resistance or obstruction to the flow of the base (100-year) floodwaters.
- (5) Anchoring
 - (a) All new buildings and structures shall be firmly anchored to the ground to prevent movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
 - (b) All air ducts, large pipes and storage tanks for non-hazardous materials located below the first floor level shall be firmly anchored to prevent lateral movement, flotation or collapse.
 - (c) Manufactured Homes
 - [1] Shall be on a permanent foundation and above the flood-protection elevation level
 - [2] Shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors by providing over-the-top ties at each of the 4 corners of the manufactured home, with 2 additional ties per side at intermediate locations, and
 - [a] manufactured homes less than 50 feet long requiring 1 additional tie per side; frame ties are provided at each corner of the home, with 5 additional ties per side at intermediate points, and
 - [b] manufactured homes more than 50 feet long requiring 4 additional ties per side; all components of the anchoring system shall be capable of carrying a force of 4,900 pounds; and
 - [3] Any additions to the manufactured home shall be similarly anchored.
- (6) Basement Floor and Foundation Walls in Nonresidential Buildings
 - (a) Basement floors shall be reinforced to prevent upheaval from hydrostatic pressure.
 - (b) Foundation walls shall be reinforced to prevent collapse from hydrostatic and hydrodynamic pressures of the base (100-year) flood.
- (7) Plumbing and Heating—Water heaters, furnaces and other permanent mechanical installations shall be permitted only at or above the level of the flood-protection elevation
- (8) Electrical Circuits and Equipment and Other Utilities
 - (a) Electrical water heaters and furnaces and other installed electrical equipment shall be permitted only at or above the level of the flood-protection elevation.
 - (b) Electrical distribution panels shall not be less than the level of the flood protection elevation.
 - (c) Plumbing, ductwork and other utility components shall not be attached to breakaway walls. Utility connections servicing the elevated building shall be attached to the landward side of foundation piles.
 - (d) Public and/or private utility facilities, including but not limited to the following, shall be located and constructed at or above the flood protection elevation of the building: heating ventilation, plumbing, air-conditioning equipment and other service facilities.
- (9) Storage—No goods, supplies, chemicals or materials that are buoyant, flammable, toxic, explosive, radioactive or, in times of flooding, could be injurious to human, animal or plant life shall be stored below the level of the flood-protection elevation.
- (10) Plan for Floodproofing—Floodproofing measures, other than elevation above the base (100-year) flood level, require a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with adequate protection against floodwaters, storm tides, and storm waves of the base (100-year) flood.
- (11) Flood- and Corrosion-Resistant Materials

- (a) Materials used in new construction and substantial improvements, and exposed to floodwaters during design flood conditions, shall be flood-resistant.
- (b) Nails, bolts, screws and other fasteners exposed to salt air shall be hot-dip galvanized to meet ASTM A 153/A 153M-82.
- (c) Sheet metal connectors such as wind anchors, joist hangers and truss plates shall comply with FEMA Technical Bulletin 8-96, "Corrosion Protection for Metal Connectors in Coastal Areas."

§197-74. Wetlands

- A. Purpose – Provide standards for protecting wetlands in development projects
- B. Definition
 - (1) Areas inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, or
 - (2) Areas that are defined and delineated in accordance with the U.S. Army Corps of Engineers *Wetlands Delineation Manual, Technical Report Y-87-1*, as amended from time to time, or
 - (3) Areas that are further defined and delineated by the U.S. Army Corps. of Engineers, the U.S. Environmental Protection Agency, or the Delaware Department of Natural Resources and Environmental Control (DNREC)
- C. Official Boundaries—The official map for wetlands is prepared by the Delaware Department of Natural Resources, Division of Water Resources, Wetlands and Subaqueous Lands Section.
- D. Identification on Development Plans
 - (1) Development plans shall include a report delineating the locations of both state and federal wetlands by legal description with bearings and distances and with each flag point numbered, signed, and dated.
 - (2) Wetland Delineation Report
 - (a) The report shall utilize the on-site method or process for identifying wetlands as described in the U.S. Army Corps of Engineers *Wetlands Delineation Manual, Technical Report Y-87-1*, 1987 as amended from time to time.
 - (b) The report shall be prepared by a person with professional experience and knowledge in wetlands identification and shall analyze a site for the existence and extent of wetlands.
 - (3) Building lots containing wetlands shall be identified with a notation stating "Construction activities within these sites may require a permit from the United States Army Corps of Engineers or the State of Delaware."
 - (4) If a tract proposed for development contains no wetlands, the plan shall include a statement affirming this from an experienced, qualified professional.
- E. Permitted Activities
 - (1) Generally, development is not permitted in wetlands.
 - (2) Exception—Utility and access crossings within wetlands may be allowed where no other recourse is available
 - (a) Proposed crossings must be authorized by the City and meet the requirements of the City Code, U.S. Army Corps of Engineers regulations, and DNREC.
 - (b) Any work in wetland buffer areas shall meet the requirements of the Town Code, U.S. Army Corps of Engineers regulations, and DNREC.
- F. Wetland Mitigation Activities
 - (1) Definition—Activities carried out in order to compensate for freshwater wetlands or state open-waters loss or disturbance caused by regulated activities
 - (2) Before commencing wetland mitigation measures, an applicant shall obtain a permit from the U.S. Army Corps of Engineers.
 - (3) Permits from the State may also be required.

§197-75. Water Resources Protection Areas**A. Intent**

- (1) The intent of this section is to provide clarification on the environmental constraints and requirements for development in environmentally sensitive areas and to protect public drinking water resources from contamination and pollution. Protection areas include Source Water Resource Protection Areas.
- (2) The purpose of this article is to protect the quality and quantity of groundwater supplies. The City herein adopts the overlay maps delineating, as source water protection areas, wellhead protection and excellent groundwater recharge potential areas. To ensure the protection of these drinking water supplies, this article establishes a zoning overlay to be known as the Source Water Protection Overlay.
- (3) The purpose of the Source Water Protection Overlay is to protect public health and safety by minimizing contamination of aquifers, preserving, and protecting existing and potential sources of drinking water supplies. It is the intent to accomplish this purpose through both public education and public cooperation, as well as by creating appropriate land use regulations that may be imposed in addition to those currently imposed by existing zoning districts or other state and county regulations.
- (4) The Source Water Protection Overlay is superimposed on current zoning districts. It shall apply to all new construction, redevelopment, or expansion of existing buildings and new or expanded uses. Applicable activities/uses allowed in a portion of one of the underlying zoning districts that fall within the Source Water Protection Overlay must additionally comply with the requirements of this district. Uses prohibited in the underlying zoning districts shall not be permitted in the Source Water Protection Overlay District.

B. Definitions—This section defines words, terms, and phrases found in this article.

ABOVEGROUND STORAGE TANK (AST)—A single containment vessel greater than 250 gallons as defined in the *Delaware Regulations Governing Aboveground Storage Tanks*, dated February 11, 2005. ASTs with a storage capacity greater than 12,499 gallons containing petroleum or hazardous substances, and ASTs with a storage capacity greater than 39,999 gallons containing diesel, heating fuel or kerosene, are subject to the design, construction, operation, and maintenance requirements of the Delaware AST regulations.

APPLICANT—See Article 16.

AQUIFER—A geological formation, group of formations or part of a formation composed of rock, sand, or gravel capable of storing and yielding groundwater to wells.

CERCLA AND/OR HAZARDOUS SUBSTANCES—Those substances specifically designated as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), otherwise known as the Superfund Law, or those substances identified under other laws. In all, the Superfund Law includes references to four other laws to designate more than 800 substances as hazardous and identify many more as potentially hazardous due to their characteristics and the circumstances of their release.

CONTAMINATION—Any physical, chemical, biological, or radiological substance that enters the hydrological cycle through human action and may cause a deleterious effect on groundwater resources; it shall include, but is, not limited to, hazardous waste, limiting nutrients, and sanitary sewage.

DRAINAGE—The process by which surface water (usually from rainfall) moves across the land surface. See "stormwater management."

DRAINAGE AREAS—The delineated areas that currently contribute or are proposed to contribute runoff to a specific location or point.

ENGINEER—See Article 16.

EXCELLENT GROUNDWATER RECHARGE POTENTIAL AREA—Those areas with high percentages of sand and gravel that have "excellent" potential for recharge as determined through a Stack Unit Mapping Analysis delineated by the Delaware Geological Survey and presented in the *Report of Investigations No. 66, Groundwater Recharge Potential Mapping in Kent and Sussex Counties, Delaware, Geological Survey, 2004*.

GEOLOGIST— See Article 16.

GROUNDWATER—A portion of the subsurface water that occurs beneath the water table in soils and geologic formations that are fully saturated.

HAZARDOUS SUBSTANCE UST SYSTEM—An underground storage tank system that contains a hazardous substance defined by § 101(4) of CERCLA (but not including any substance regulated as a hazardous waste under RCRA Subtitle C, or any mixture of such substances and petroleum, and which is not a petroleum UST system.

HAZARDOUS WASTE—A solid waste, or combination of solid wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating irreversible illness, or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. Without limitation, included within this definition are those hazardous wastes described in the *Delaware Regulations Governing Hazardous Wastes*, §§ 261.31 to 33.

IMPERVIOUS COVER—Surfaces providing negligible infiltration such as pavement, buildings, recreation facilities (by example, but not by limitation, tennis courts, swimming pools) and covered driveways.

PUBLIC WATER SUPPLY WELL—A well from which the water is used to serve a community water system by § 22.146 (Public Water Systems) in the *Delaware Regulations Governing Public Drinking Water Systems*.

REDEVELOPMENT—Any proposed expansion, addition, major facade change or rebuilding to an existing building, structure or parking facility.

RUNOFF—That portion of precipitation or snowmelt that has not evaporated or infiltrated into the soil but flows on land surface.

SOURCE WATER—Refers to any aquifer from which water is drawn either periodically or continuously by the City's water system or any community water system which provides piped water for human consumption.

SOURCE WATER PROTECTION AREA—Wellhead protection areas and excellent groundwater recharge potential areas.

STORMWATER—The runoff of water from the surface of the land resulting from precipitation or snow or ice melts.

STORMWATER MANAGEMENT

- (1) For water quantity control, a system of vegetative, structural, and other measures that may control the volume and rate of stormwater runoff which may be caused by land-disturbing activities or activities upon the land; and
- (2) For water quality control, a system of vegetative, structural, and other measures that control adverse effects on water quality that may be caused by land-disturbing activities or activities upon the land.

UNDERGROUND STORAGE TANK (UST)—One or a combination of tanks including underground pipes, the volume of which is 10% or more below ground, as defined in the *Delaware Regulations Governing Underground Storage Tank Systems*, dated March 12, 1995. The following USTs are not subject to the design, construction, operation, and maintenance requirements of the Delaware UST regulations: residential heating fuel, agricultural, and residential motor fuel USTs less than 1,100 gallons and any UST less than 110 gallons.

WELLHEAD—The upper terminal of a well, including adapters, ports, seals, valves, and other attachments.

WELLHEAD PROTECTION AREA (WHPA)—Surface and subsurface areas surrounding public water supply wells or well fields where the quantity or quality of groundwater moving toward the wells or well fields may be adversely affected by land use activity.

WELLHEAD PROTECTION (WHP) ZONE 1—The surface area extending to a minimum one-hundred-fifty-foot radius around the wellhead.

WELLHEAD PROTECTION (WHP) ZONE 2—The remaining surface area of the delineated WHPA outside Zone 1.

C. Source Water Protection Areas

Source water protection areas are wellhead protection areas and excellent water recharge potential areas. All such areas are as depicted on Source Water Protection Area maps located in City Hall as adopted as part of the update and implementation of the 2005 *Comprehensive Land Use Plan*. These maps are also available in GIS overlays from Delaware Department of Natural Resources and Environmental Control, Division of Water Resources, Source Water Assessment and Protection Program. These areas shall be managed as required by this article to protect public drinking water resources from activities and substances that may harm water quality and subtract from overall water quantity.

D. Wellhead Protection Areas

(1) WHP Zone 1 Requirements.

- (a) Parcels of land within a WHP Zone 1 wellhead protection area shall be preserved in a natural condition with the exception of impervious surface limited to building and access associated with the well and distribution and treatment facilities and their maintenance.
- (b) Aboveground storage tanks for materials used in the treatment facility operation are permitted.
- (c) Underground storage tanks are prohibited.
- (d) Stormwater runoff shall be diverted away from the wellhead.
- (e) Stormwater infiltration practices designed to handle runoff are prohibited,
- (f) The minimum lot area for a proposed public water supply well and related facility drawing from a confined aquifer shall be one acre, and the minimum lot area for a public well drawing from an unconfined aquifer shall be two acres.
- (g) On-site wastewater and disposal systems shall not be permitted.

- (2) WHP Zone 2 Requirements.
 - (a) Impervious cover—Impervious cover shall not exceed twenty-percent per parcel. New development in this Zone 2 may exceed the twenty-percent impervious cover threshold within WPAs but shall be no more than 50% impervious cover, provided the applicant submits an environmental assessment impact report (See Article 9. §197-75.H).
 - (b) Stormwater.
 - [1] Stormwater shall be treated by an approved stormwater quality management practice in accordance with current requirements of the *Delaware Sediment and Stormwater Regulations*, dated October 11, 2006, or as later revised.
 - [2] For all new construction, all structures shall be required to discharge roof drains onto permeable surfaces.
 - (c) Underground Storage Tanks (USTs).
 - [1] USTs with a capacity greater than 110 gallons containing petroleum, and residential and agricultural USTs with a capacity greater than 1,100 gallons containing heating fuel or motor fuel, shall not be permitted in a delineated WHP Zone 2 wellhead protection area.
 - [2] USTs with a capacity greater than 110 gallons containing a hazardous substance as defined in CERCLA § 101(4) shall not be permitted in a designated wellhead area.
 - (3) Hazardous waste treatment, storage, and disposal facilities, as defined in 7 Delaware Administrative Code § 1302, *Delaware Regulations Governing Hazardous Waste*, shall not be permitted in wellhead protection areas.
 - (4) Sanitary and industrial landfills, as defined in 7 Delaware Administrative Code § 1301, *Delaware Regulations Governing Solid Waste*, shall not be permitted in wellhead protection areas.
 - (5) Hazardous waste generators, vehicle repair, salvage operations, waste sludge storage or application, tire piles and dredge spoil sites shall not be permitted in wellhead protection areas.
 - (6) Above ground storage tanks. Aboveground storage tanks with a capacity greater than 12,499 gallons containing petroleum or hazardous substances, and ASTs with a storage capacity greater than 39,999 gallons containing diesel, heating fuel or kerosene, shall be permitted in a delineated wellhead area if the ASTs are designed, constructed, operated and maintained with the applicable requirements in the *Delaware Regulations Governing Aboveground Storage Tanks*, dated February 11, 2005, or as later revised.
 - (7) Wastewater treatment and disposal systems. On-site wastewater treatment and disposal systems shall not be permitted.
- E. Excellent Groundwater Recharge Potential Areas
- (1) Impervious Cover— The excellent groundwater recharge potential area shall not exceed 20% impervious cover per parcel. New development in this area may exceed the twenty-percent impervious cover threshold within the excellent groundwater recharge potential area, but shall be no more than 50% impervious cover, provided the applicant submits an environmental assessment impact report (See Article 9. §197-75.H).
 - (2) Stormwater
 - (a) Stormwater shall be treated by an approved stormwater quality management practice in accordance with current requirements of the *Delaware Sediment and Stormwater Regulations*, dated October 11, 2006, or as later revised
 - (b) For all new construction, all structures shall be required to discharge roof drains onto permeable surfaces.
 - (3) Underground Storage Tanks
 - (a) Underground storage tanks with a capacity greater than 110 gallons containing petroleum, and residential and agricultural ASTs with a capacity greater than 1,100 gallons containing heating fuel or motor fuel, shall be permitted in an excellent groundwater recharge potential area if the USTs are designed, constructed, maintained and operated in

accordance with the *Delaware Regulations Governing Underground Storage Tank Systems*, dated March 12, 1995, or as later revised. (NOTE: Regulated USTs must be constructed with secondary containment of the tanks and piping and must have continuous monitoring for releases.)

- (b) Underground storage tanks with a capacity greater than 110 gallons containing a hazardous substance as defined in CERCLA § 101(14) shall be permitted a delineated excellent groundwater recharge potential area if the USTs are designed, constructed, maintained and operated in accordance with the *Delaware Regulations Governing Underground Storage Tank Systems*, dated March 12, 1995, or as later revised. (NOTE: Regulated USTs must be constructed with secondary containment of the tanks and piping and must have continuous monitoring for releases.)
- (4) Aboveground Storage Tanks—Aboveground storage tanks with a capacity greater than 12,499 gallons containing petroleum or hazardous substances, and ASTs with a storage capacity greater than 39,999 gallons containing diesel, heating fuel or kerosene, shall be permitted in a delineated excellent groundwater recharge potential area if the ASTs are designed, constructed, operated and maintained with the applicable requirements in the *Delaware Regulations Governing Aboveground Storage Tanks*, dated February 11, 2005, or as later revised.
- (5) Wastewater treatment and disposal systems. Such systems shall not be permitted in an excellent groundwater recharge potential area.

F. Boundary Interpretation and Adjustment

- (1) All subdivision and land development plans depicting development or land disturbance submitted for City review shall be evaluated for the existence of source water protection areas. All such areas are as depicted on Source Water Protection Area maps located in City Hall, including but not limited to Stormwater Map, Recharge Area Map and Wellhead Protection Map, and as adopted as part of the update and implementation of the *2005 Comprehensive Land Use Plan*. These maps are also available in GIS overlays. Maps/overlays are available from Delaware Department of Natural Resources and Environmental Control (DNREC), Source Water Assessment and Protection Program (SWAPP). If an SWPA exists within a proposed development site, the boundaries of these areas shall be delineated on the plan by the applicant's engineer or geologist.
- (2) DNREC SWAPP may, when based on sound science and information, revise and update the overlay maps of wellhead protection areas.
- (3) The Delaware Geological Survey (DGS) may, when based on sound science and information, revise and update the overlay maps of excellent groundwater recharge potential areas.
- (4) When there appears to be a conflict between the mapped boundary and actual site conditions, the applicant may engage the services of a geologist to prepare a report intended to determine more accurately the precise boundary of the source water protection area. The report shall include:
 - (a) A detailed topographic layout of the subdivision and/or area to be developed and prepared by a state-registered professional land surveyor or geologist.
 - (b) Evidence derived from a site-specific investigation that may include aquifer testing, test borings, test pits, observation wells, groundwater elevations, and topography surveys as appropriate for the type of source water protection area that clearly demonstrate that the area in question does not meet the definition of a source water protection area as defined.
 - (c) Any challenges to the delineations of the excellent groundwater recharge potential areas must follow the methods used in the Delaware Geological Survey publication: *Report of Investigations No. 66, Groundwater Recharge Potential Mapping in Kent and Sussex Counties, Delaware*. The challenge must be approved by DGS and DNREC SWAPP.
 - (d) Notwithstanding any other section of this article, if an owner initiates a precise boundary delineation pursuant to this section, any and all time review limitations shall be stayed pending the submission of the complete report contemplated by this section. Following

submission of the report and all supporting documents, the DGS and DNREC SWAPP shall have 90 days to approve finally or disapprove the exploratory sketch plan submission or such further time as deemed necessary by the DGS and DNREC SWAPP, but not to exceed an additional 90 days.

G. Identification on Development Plans

- (1) Development plans shall delineate the locations of water resources protection areas. A statement by an experienced, qualified engineer or geologist shall be provided, verifying the accuracy of the delineation.
- (2) If a tract proposed for development contains no wellhead protection areas, the plan shall include a statement affirming this from an experienced, qualified professional engineer or geologist.
- (3) When a property proposed for development contains water resources protection areas, an environmental impact assessment report shall be submitted with the preliminary plan.
- (4) The following standards and criteria shall be applicable to any limited use, special use or other use requiring an environmental impact assessment permitted pursuant to this division:
 - (a) Stormwater management facilities shall be designed and constructed in accordance with *DNREC Delaware Sediment and Stormwater Regulations*, dated October 11, 2006, or as later revised.
 - (b) RESERVED

H. Environmental Impact Assessment Report

- (1) If a proposed use requires an Environmental Impact Assessment Report, the applicant shall submit an environmental assessment report. Such report shall include a climatic water budget and systems to augment recharge that assure water quality as well as water quantity. The environment impact assessment must document that post-development recharge will be no less than predevelopment recharge when computed on an annual basis. It is acknowledged that, commonly, the applicant offsets the loss of recharge due to impervious cover by constructing recharge basins that convey pretreated rooftop runoff for infiltration to groundwater. Refer to Supplement 1, *Groundwater Recharge Design Methodology*, dated May 2005, or as later revised, for the details of how to design recharge facilities in Delaware source water protection areas.
- (2) An engineer or geologist prepares an environmental assessment report, including but not limited to the following elements of planning, design, construction, and maintenance of groundwater recharge facilities:
 - (a) Site description of proposed development within the water resource protection area;
 - (b) Climatic water balance comparing predevelopment and post-development recharge potential;
 - (c) Subsurface exploration, including borings, test pits, and infiltration tests;
 - (d) Design of groundwater recharge facilities that assure water quality as well as quantity;
 - (e) Construction and maintenance considerations; and
 - (f) Recommended groundwater monitoring plan.
- (3) Enter into a water management agreement between the applicant, the City, the Board of Public Works of the City of Lewes and Sussex County Conservation District providing for review, monitoring, and maintenance of the recharge system.
- (4) The applicant shall abide by the Groundwater Management Agreement as written in *DNREC Supplement 1 to the Source Water Protection Guidance Manual for the Local Governments of Delaware: Groundwater Recharge Design Methodology*, dated May 2005, or as later revised.

I. Redevelopment in Wellhead Protection Areas and Groundwater Recharge Protection Areas

- (1) Impervious Cover
 - (a) Site modifications that require site plan approval must create a fifteen-percent reduction in the amount of impervious cover on the site when compared to pre-redevelopment conditions.

- (b) If the fifteen-percent reduction would require a site to go below the twenty-percent maximum impervious cover provisions of source water protection areas, then the maximum impervious surface cover for the site is 20%.
 - (2) Stormwater
 - (a) Sites that do not meet the twenty-percent impervious cover threshold must employ rooftop infiltration practices. Stormwater shall be treated by an approved stormwater quality management practice in accordance with current requirements of the Delaware Sediment and Stormwater Regulations, dated October 11, 2006, or as later revised.
 - (b) If the fifteen-percent reduction does not meet the twenty-percent impervious cover threshold, the site must employ rooftop infiltration practices. Stormwater shall be treated, by an approved stormwater quality management practice in accordance with current requirements of the Delaware Sediment and Stormwater Regulations, dated October 11, 2006, or as later revised.
 - (3) Abandoned or Vacant Property—Article 9. §197-75.I does not apply to vacant or abandoned property. These properties shall comply with the source water protection area regulations.
- J. Uniform Standards and Criteria
- (1) Hazardous waste treatment, storage, and disposal facilities, as defined in regulations established pursuant to 7 Del. C., § 6302, *Delaware Regulations Governing Hazardous Waste*, shall not be permitted in source water protection areas.
 - (2) Sanitary and industrial landfills, as defined in regulations established pursuant to 7 Delaware Administrative Code, § 1301, *Delaware Regulations Governing Solid Waste*, shall not be permitted in source water protection areas.
- K. Nonconforming Uses
- (1) Nonconforming uses may continue in wellhead protection areas and excellent groundwater recharge potential in the form in which they existed at the time of the posting of this proposed ordinance, unless they pose a direct hazard to the City's water supply, as determined by the Board of Public Works, upon advice from the Delaware Division of Public Health, or are causing some foreign substances (by example, but not by limitation, oil, salts, chemicals, or other substances) to be introduced into the City's water supply as determined by the Board of Public Works upon advice from DNREC's Division of Air and Waste Management and/or Division of Water Resources. In the latter case, the Building Official or Board of Public Works shall issue a mandatory cease and desist order to stop the offending activity within the area.
 - (2) Nonconforming existing underground or aboveground storage of oil, petroleum, and petroleum products shall require secondary containment pursuant to the regulations of the State of Delaware governing underground storage tanks.
 - (3) Nonconforming, existing aboveground storage of petroleum products shall require containment facilities capable of capturing the material stored on the site, for existing facilities that are proposed either to be upgrade or replaced.
- L. Replacement and New Wells
- (1) The replacement of any existing public water supply well that was not required to meet this wellhead protection requirement at the date of its original installation and that has failed shall be exempt from meeting this wellhead protection requirement.
 - (2) All public water supply wells within a housing development, subdivision or strip development recorded on or after the implementation of the *Delaware Regulations Governing the Construction and Use of Wells*, dated April 6, 1997, or as later revised, shall be located at least 150 feet within the subdivision's or development's outermost property lines.

§197-76. Drainage

- A. Natural Drainage System Utilized to Maximum Extent Feasible
 - (1) To the extent practicable, all development shall conform to the natural contours of the land. Natural and preexisting man-made drainage ways shall remain undisturbed.
 - (2) To the extent practicable, lot boundaries shall be made to coincide with the natural and preexisting man-made drainage ways within subdivisions to avoid the creation of lots that can only be built upon by altering such drainage ways.
- B. Proper Drainage Required
 - (1) All developments, lots, and properties shall be provided with a drainage system that is adequate to prevent the undue retention of surface water on the site.
 - (2) Surface water may not be channeled or directed into a sanitary sewer.
 - (3) Whenever practicable the drainage system of new developments shall be designed to retain run-off on-site and streets shall provide natural stormwater management in a manner consistent with provision of standardized shade trees.

§197-77. Permanent Stormwater Management

- A. Requirement
 - (1) Developments shall be constructed and maintained so that adjacent properties are not unreasonably burdened with surface waters as a result of such development.
 - (2) No development or property may be constructed or maintained in a way that such development or property unreasonably hampers the natural flow of water from higher adjacent properties across the development or property thereby causing substantial damage to the higher adjacent property.
 - (3) No development or property may be constructed or maintained so that surface waters from such development or property are unreasonably collected and channeled onto lower adjacent properties at such locations and at such volumes so as to cause substantial damage to the lower adjacent property.
- B. Design, Construction, and Review—See Section 170-24 Subdivision and Land Development.

§197-78. Erosion and Sediment Control

- A. Requirement—Development plans shall include adequate provision for controlling temporary flooding, soil erosion, and sediment deposits during and after construction.
- B. Design and Construction
 - (1) All development or land-disturbing activity is subject to the requirements of the *Delaware Erosion and Sediment Control Handbook*.
 - (2) Topsoil
 - (a) No topsoil shall be removed from a site or used as spoil.
 - (b) Top soil moved during the course of construction shall be redistributed so as to provide at least 6 inches of cover to all areas of the subdivision and stabilized by seeding and planting.

Article 10. Streets and Other Infrastructure

§197-79. Streets and Roads

See Section 170-21 in Chapter 170 Subdivision and Land Development.

§197-80. Water Supply and Distribution

See Section 170-22 in Chapter 170 Subdivision and Land Development.

§197-81. Sewage Collection and Disposal

See Section 170-23 in Chapter 170 Subdivision and Land Development.

§197-82. Electricity

See Section 170-25 in Chapter 170 Subdivision and Land Development.

§197-83. Other Utilities

See Section 170-26 in Chapter 170 Subdivision and Land Development.

Article 11. Nonconforming Situations**§197-84. Definition and Intent**

- A. Definition—Nonconforming situations are existing structures, lots, signs, and uses of land that were lawful before this Zoning Ordinance was adopted or amended but would be prohibited, regulated, or restricted under the provisions of this Zoning Ordinance.
- B. Intent—It is the intent of this chapter to permit these legal nonconforming lots, buildings, structures and uses of land, buildings and structures to continue until they are removed.

§197-85. Nonconforming Lots

- A. Definition—A recorded lot, whose area and/or width were lawful before this Zoning Ordinance was adopted, revised or amended, that does not meet the lot area and/or lot width standards of this Zoning Ordinance
- B. Applicability—All zoning districts
- C. Regulation
 - (1) A nonconforming lot may be improved (without a variance) as long as the structure complies with the dimensional and density standards of this Zoning Ordinance, other than lot area and/or lot width.
 - (2) A variance shall be required to deviate from any standards, other than lot area and/or lot width.

§197-86. Nonconforming Buildings and Structures

- A. Definition—A building or structure, whose dimensional and density characteristics were lawful before this Zoning Ordinance was adopted, revised, or amended, that does not meet the dimensional and density standards of this Zoning Ordinance
- B. Continued Existence
 - (1) A nonconforming building or structure may be continued under the following conditions.
 - (a) Normal repair and maintenance is permitted.
 - (b) A nonconforming building or structure may not be enlarged or altered in any way that increases its nonconformity. It may be altered in a way that decreases its nonconformity.
 - (c) Nonconforming buildings or structures may not be used as grounds for addition of other structures or uses that do not conform to the standards of zoning district.
 - (d) If a nonconforming building or structure is moved, it shall be located in a manner that conforms to the requirements of the zone in its new location.
- C. Status When Damaged or Destroyed (other than by neglect)—If any nonconforming building is damaged or destroyed, such building may be repaired, rebuilt or reconstructed, provided that it is not increased in size or square footage nor repaired, rebuilt or reconstructed in such a manner that the nonconformity which existed prior to such damage or destruction is increased in any way.

§197-87. Nonconforming Uses

- A. Definition—A use or activity, that was lawful before this Zoning Ordinance was adopted, revised or amended, that is not permitted under the Use Regulations of this Zoning Ordinance
- B. Continued Existence— Although nonconforming uses are incompatible with permitted uses in their respective districts, a nonconforming use may continue under the following conditions.
 - (1) The use may not be enlarged, increased, or extended to occupy a greater area of land or space within a building or structure than was occupied on the date when this Zoning Ordinance is adopted or amended.
 - (2) The use may not be relocated or partially relocated from its location on the date when this Zoning Ordinance is adopted or amended, unless it is placed in a zoning district that allows such use.

C. Termination of Legal Nonconforming Status

- (1) When a nonconforming use of land ceases for any reason for a period of six consecutive months or for 18 months during any three consecutive calendar years, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.
- (2) Any subsequent use of such land shall conform to provisions of this Zoning Ordinance.

§197-88. Nonconforming Uses of Land and Buildings

- A. Definition—A use of a building and land in combination, existing on the effective date of adoption or amendment of this chapter that would not be allowed in the district under the terms of this chapter.
- B. Continued Existence—The use may be continued as long as it remains otherwise lawful, subject to the following provisions.
 - (1) If the existing building should be enlarged, extended, reconstructed, moved or structurally altered, such change shall conform to the provisions of this chapter or any amendment thereto governing setbacks, yard widths, height and lot coverage applicable to the district in which the property is located.
 - (2) Whenever any building, or any building and land in combination, which is a nonconforming use is thereafter changed or altered or the use is changed to a more restricted use or to a conforming use, such building, or such building and land in combination, shall not thereafter be changed to a less restricted or to a nonconforming use.
- C. Termination of Legal Nonconforming Status
 - (1) Whenever a nonconforming use of a building, or a building and land in combination, is discontinued or abandoned for six consecutive months or for 18 months during any three consecutive calendar years, the building, or building and land in combination, shall not thereafter be used except for a use in compliance with the provisions of this chapter applicable to the district in which the property is located.
 - (2) Land on which a building devoted to a nonconforming use is destroyed so that it cannot be repaired, as determined by the Building Inspector, or which is removed from land on which it is located shall not thereafter be used except for a use in compliance with the provisions of this chapter applicable to the district in which the property is located.

§197-89. Nonconforming Signs and Billboards

See Article 8. §197-70.

Article 12. Administrative Reviews, Variances, and Special Exceptions

§197-90. Application and Public Hearing

- A. Applicability—The provisions of this section apply to applications for administrative reviews, appeals of administrative decisions and determinations, variances, and special exceptions.
- B. Application Submission
- (1) Applications shall be filed in the office of the Board of Adjustment. The Building Official may provide forms to facilitate application processing.
 - (2) Applications shall be made in writing and shall provide the following information.
 - (a) Name(s) and address(es) of applicant(s) and property owner(s)
 - (b) Statement of the type of relief, permission, or review requested
 - (c) Information to support the application
 - [1] Information about the property for which the application or review is requested; or
 - [2] Identification of the provisions of this Zoning Ordinance, with which the application must comply, and statements as to how the application complies with those provisions
 - (d) Plans or drawings that support or clarify the relief or permission requested
 - (e) Other information requested by the Board of Adjustment
- C. Burden of Proof on Applicant—Every applicant shall have the burden of presenting the information needed by the Board of Adjustment to make a determination.
- D. Board of Adjustment Hearing
- (1) Scheduling—The Board of Adjustment shall schedule a public hearing.
 - (2) Public Notice
 - (a) Contents—The public notice shall specify the time, place, and nature of the hearing.
 - (b) How Given—At least 15 days prior to the public hearing, the following notices shall be in place.
 - [1] Publication—A legal notice shall be published in a newspaper of general circulation.
 - [2] Property Posting—For an application concerning a specific property, a sufficiently large sign shall be posted on the subject property in a visible location.
 - [3] City Hall—Notice shall be posted at City Hall.
 - (3) Public Hearing
 - (a) The hearing shall take place no fewer than 15 days following publication of the legal notice.
 - (b) The Board of Adjustment’s hearing shall be conducted, and applications shall be acted on as specified in §197-19 of this Zoning Ordinance.
 - (c) The Board of Adjustment may attach conditions to approvals of applications.
- E. Relationship to Ordinances, Standards, Approvals, and Review Procedures
- (1) Approval of an application by the Board of Adjustment does not supersede or obviate the need for complying with any applicable ordinances, standards, approvals, or review procedures.
 - (2) The Board of Adjustment may condition approvals on satisfactory compliance with applicable ordinances, standards, approvals, or review procedures.
 - (3) The Board of Adjustment may also impose additional conditions.
- F. Duration, Revocation, Extension
- (1) Duration—The duration of an approved application is 1 year following its approval date.
 - (2) Revocation—If an applicant fails to make substantial progress in developing or construction on the property within 1 year of the approval date, the approval is automatically revoked.
 - (3) Extensions—The Board of Adjustment may grant 1 (one) 12-month extension for good cause especially when an applicant can demonstrate that delays were beyond his/her control.

G. Reapplications and Appeals

- (1) Limitation on Reapplications—The Board of Adjustment shall not hear or accept an application requesting the same relief or permission for the same property for a period of 12 months from the date that the Board of Adjustment took action on the application.
- (2) Appeals to Superior Court—Appeals from the Board of Adjustment’s decisions shall be made to the Superior Court as provided for in Title 22, Sections 328-332 of the *Delaware Code*.

§197-91. Administrative Review, Appeal of Administrative Decisions and Determinations

- A. Purpose—Provide a mechanism for appeal where an error is alleged in any interpretation, order, requirement, decision, or determination made by the Building Official or designee, in the administration of this Zoning Ordinance
- B. Who May Appeal—Pursuant to Title 22, Section 324 of the *Delaware Code*, an appeal to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the Building Official.
- C. Procedure—In order for the Board of Adjustment to conduct an administrative review,
 - (1) The Building Official shall issue a written interpretation, requirement, decision, or determination. The Building Official’s written product shall include information about the applicant’s/property owner’s situation, request, inquiry, etc. and references to pertinent sections of this Zoning Ordinance to support the interpretation, requirement, decision, or determination.
 - (2) The Building Official shall make every effort to present the written product to the applicant including, but not limited to, return-receipt mailing.
 - (3) The applicant shall file a written request for Administrative Review within 30 days after receiving written notice of the Building Official’s action in the office of the Board of Adjustment.
- D. Stay of Proceedings—Pursuant to Title 22, Section 325 of the *Delaware Code*, an appeal stays all proceedings in furtherance of the action appealed from unless the Building Official certifies to the Board of Adjustment that a stay would cause imminent peril to life or property. In such a case, proceedings shall be stayed only by a restraining order granted by the Board of Adjustment or a court having jurisdiction.

§197-92. Variances

- A. Definition—Relief from the strict application of *the provisions* of this Zoning Ordinance when, owing to special conditions or exceptional situations, a literal interpretation of this Zoning Ordinance will result in exceptional practical difficulties to the property owner.
- B. Required Findings—Pursuant to Title 22, Section 327(a)(3) of the Delaware Code, the Board of Adjustment shall determine whether each variance application meets the following criteria.
 - (1) The variance relates to a specific parcel of land, and the hardship is not shared generally by other properties in the same zoning district and vicinity.
 - (2) The variance can be granted without substantial detriment to the public good.
 - (3) The benefits from granting the variance would substantially outweigh any detriment.
 - (4) Approval of the variance would not substantially impair the intent and purposes of the comprehensive plan or this Zoning Ordinance.
- C. Additional Considerations—The Board of Adjustment shall also consider the following factors in reaching its decision on each variance application.
 - (1) Nature of the zone where the property lies
 - (2) Character of the immediate vicinity
 - (3) Whether the restrictions, if lifted, would affect neighboring properties and uses
 - (4) Whether the restriction would tend to create a hardship on owner in relation to normal improvements

D. Additional Standards

- (1) Use Variances Not Authorized—These provisions governing variances shall not be construed to permit the Board of Adjustment, under the guise of a variance, to authorize a use of land not otherwise permitted in this Zoning Ordinance.
- (2) Nonconforming Situations Not Grounds for Variance—Nonconforming uses lots, structures, uses, or signs shall not be considered grounds for granting variances.

§197-93. Special Exceptions

- A. Definition—Uses that are generally desirable for the general convenience and welfare, but, because of their nature, require additional review to assess their impact on neighboring properties and the entire City
- B. Required Findings—The Board of Adjustment shall determine whether each Special Exception application meets the following conditions.
 - (1) Is in harmony with the purposes and intent of the comprehensive plan.
 - (2) Will be in harmony with the general character of its neighborhood considering density, design, bulk, and scale of proposed new structures.
 - (3) Will not be detrimental to the use, peaceful enjoyment, economic value, or development of surrounding properties.
 - (4) Will not cause objectionable noise, vibrations, fumes, odors, dust, glare, or physical activity.
 - (5) Will have no detrimental effect on vehicular or pedestrian traffic.
 - (6) Will not adversely affect the health, safety, security, or general welfare of residents, visitors, or workers in the area.
 - (7) Complies with all other applicable standards, laws, and regulations in addition to the provisions of this Zoning Ordinance.
 - (8) Meets all other Additional Requirements for Certain Special Exceptions
- C. Additional Requirements for Certain Special Exceptions—The following requirements are in addition to the Required Findings in Section 234-24B for the Special Exceptions listed below.
 - (1) Bed and Breakfast Inn
 - (a) The bed-and-breakfast inn shall be an incidental use to the principal use of the building as a single-family dwelling.
 - (b) The maximum accommodations shall be 8 guests in 4 guest rooms, including children, with not more than 2 adults occupying any guest room.
 - (c) The dwelling shall have a minimum of habitable space, excluding porches, garages, closets, basements and cellars, of 2,250 square feet, but in no event shall more than 40% of the total living area in a single-family dwelling be used for bed-and-breakfast sleeping rooms.
 - (d) Off-street parking shall be provided as required by Article 7. The Board of Adjustment may add to, but not reduce, the number of required parking spaces.
 - (e) Adequate and appropriate screening or planter area or a combination thereof as determined by the Board of Adjustment to be necessary to protect and preserve the property values of abutting and adjoining properties.
 - (f) The design and dimensions of any sign shall be subject to the provisions of Article 8 Signs and Billboards.
 - (g) The property shall be the principal residence of the owner-operator of the bed-and-breakfast inn.
 - (h) There shall be no cooking facilities of any nature in any guest room used.
 - (i) The appropriate business license has been paid.
 - (j) No guests shall remain for more than eight consecutive nights in any sixty-day period.
 - (k) At the time the application for a special exception is submitted, it shall be accompanied by a site plan, drawn to scale by a resident surveyor or a professional engineer showing:
 - [1] The location of all structures located on the premises;

- [2] The design, dimension and location of any proposed sign;
 - [3] The location of all entrances and exits to the proposed property;
 - [4] The location of all off-street parking spaces;
 - [5] The location of all lot lines and the names of adjoining property owners;
 - [6] The location and type of any proposed fencing, screening or planning area and the location of any security lighting.
- (l) No exterior alterations shall be permitted in order to qualify a single-family dwelling as a bed-and-breakfast or to enlarge an existing dwelling to accommodate a bed-and-breakfast inn.
 - (m) A permanent record shall be maintained by the proprietor of guests, which said permanent record shall indicate the name and address of each guest, the date of arrival and the date of departure of each guest, the number of guests in any party and the number of rooms occupied. Such record shall be maintained for a period of three years and shall be available for inspection by the City Manager or a designated representative of the City Manager.
 - (n) The Board of Adjustment may impose additional conditions to preserve the residential character of the neighborhood.
- (2) Gasoline Stations, Gasoline Stations and Convenience Centers
- (a) A site plan of the gasoline station or gasoline station and convenience center shall be submitted to the Planning Commission.
 - (b) Minimum design standards for driveways, curb cuts and other design features relative to access to public roads shall be those of the Delaware Department of Transportation.
 - (c) Minimum lot size shall be 12,000 square feet.
 - (d) Minimum lot depth shall be 100 feet.
 - (e) Minimum lot width shall be 120 feet.
 - (f) Maximum lot coverage shall be 40%.
 - (g) Minimum setback line from all street lines shall be 50 feet.
 - (h) Minimum distance between any buildings and any lot zoned for residential use shall be 50 feet.
 - (i) Minimum distance between any access driveway or curb cut and any lot zoned for residential uses shall be 50 feet.
 - (j) Minimum distance between gasoline pumps or pump islands, compressed air equipment, tire racks and similar equipment and facilities and any street lines shall be 25 feet.
 - (k) Hydraulic hoists, service pits and all lubrication, greasing, repair and washing equipment must be entirely enclosed within buildings.
 - (l) A compact evergreen screen or a fence either solid or with narrow openings not more than one inch for each 10 inches of length and not less than six feet in height shall be placed along all property lines separating the gasoline station from any lot in an adjoining residential district.
 - (m) Except for permitted curb cuts, a solid raised curb at least six inches high must be provided along all street lines and all lot lines.
 - (n) Exterior lighting must be located, designed and shielded so that it will not cause glare hazardous to passing motorists and annoying to adjacent properties.
 - (o) Junked or stripped vehicles in an inoperative condition are prohibited on the premises.
 - (p) All waste petroleum products must be stored in underground tanks meeting the approval of the National Fire Protection Association.
 - (q) Off-Street Parking and Loading—See Article 7.
 - (r) No vehicles shall be parked or equipment placed, goods displayed or sign or lights erected within the street right-of-way.
 - (s) The entire service area and all access driveways and parking places must be paved with a weatherproof material and graded to direct all water away from adjoining lots.

- (t) The minimum distance between any gasoline station and any school, day nursery, hospital, nursing home, library or similar use must be 200 feet, measured along the same street line in the same block from the nearest property line of the gasoline station.
- (u) Where the storage and sale of liquefied petroleum gases is carried on as an accessory use to a gasoline station, the required service station site plan must clearly show the number, locations and capacities of liquefied petroleum gas storage tanks. No tank shall be installed and no truck carrying tanks shall be parked closer than 25 feet from the street line or any property line.
- (v) Where the rental of utility trailers and/or small trucks is carried on as an accessory use to a gasoline station, the required site plan must clearly show the location and dimensions of the parking area for these vehicles. No more than 15% of the total area may be devoted to parking for rental utility trailers and trucks, and no trailer or truck may be parked closer to any street line than the setback distance required for gasoline pump islands. Parking areas for rental utility trailers and trucks must be clearly marked on the ground and must be located to avoid interference with normal customer traffic flow onto, within and from the service station lot and with traffic visibility at road intersections

Article 13. Conditional Uses

§197-94. Definition

Uses that are generally desirable for the general convenience and welfare but, because of their nature, require additional review to assess their impact on neighboring properties and the entire City

§197-95. Application and Review Process

- A. New Application Submission
 - (1) Applications for conditional uses shall be submitted to the Building Official. The Building Official may provide forms to facilitate application processing.
 - (2) Applications shall be made in writing and shall provide the following information.
 - (a) Name(s) and address(es) of applicant(s) and property owner(s)
 - (b) Statement of the type of use requested
 - (c) Information about the property for which the application is being made
 - (d) Information to support the application
 - [1] Information about the property for which the application is being made
 - [2] Statements as to how the application complies with all of the provisions of §197-96
 - [3] Plans or drawings that support or clarify the use requested
 - [4] Other information requested by the Mayor and City Council
- B. Notification of neighboring property owners—An applicant for a conditional use shall provide copies of application materials to the owners of all properties within 200 feet of the property for which the application or review is being made.
- C. Burden of Proof on Applicant—An applicant for a conditional use shall have the burden of presenting the information needed by the Mayor and City Council to make a determination.
- D. Planning Commission Review—The Planning Commission shall review each conditional use application at a regular or special meeting and forward a recommendation to the Mayor and City Council.
- E. Mayor and City Council Review
 - (1) The Mayor and City Council shall review and take action on each conditional use application at a regular or special meeting.
 - (2) The Mayor and City Council may attach conditions to approvals of applications.

§197-96. Required Findings

The Mayor and City Council shall determine whether each Conditional Use application

- A. Is in harmony with the purposes and intent of the comprehensive plan
- B. Will be in harmony with the general character of its neighborhood considering density, design, bulk, and scale of proposed new structures
- C. Will not be detrimental to the use, peaceful enjoyment, economic value, or development of surrounding properties
- D. Will not cause objectionable noise, vibrations, fumes, odors, dust, glare, or physical activity
- E. Will have no detrimental effect on vehicular or pedestrian traffic
- F. Will not adversely affect the health, safety, security, or general welfare of residents, visitors, or workers in the area
- G. Will not unduly affect designated scenic byways
- H. Complies with all other applicable standards, laws, and regulations in addition to the provisions of this Ordinance
- I. May require additional off-street parking (based on the conditional use in question)
- J. Meets all other Additional Requirements for Certain Conditional Uses set forth this Article

§197-97. Relationship to Development Plan Approval

- A. Approval of an application by the Mayor and City Council does not supersede or obviate the need for complying with any Development-Plan Review standards or requirements.
- B. The Mayor and City Council may condition approvals on satisfactory compliance with applicable Development-Review standards and/or may request that the Planning Commission conduct Development-Plan Review in conjunction with its review and recommendation on an application.

§197-98. Duration, Expiration

- A. Duration
 - (1) For conditional use applications for public service organizations, the Mayor and City Council may grant long-term conditional use approval of up to 5 years, after which an applicant may reapply.
 - (2) For all other applications, the Mayor and City Council may grant conditional use approval of 1 year, after which an applicant may reapply.
- B. Expiration—A conditional use approval expires when such use is abandoned.

Article 14. Development Plans, Certificates, and Permits

§197-99. Purpose

The purpose of this Article is to ensure that buildings and proposed uses of buildings and structures comply with the provisions of this Zoning Ordinance prior to the issuance of any Building Permit or other development-related certificates, approvals, or permits.

§197-100. Development-Plan Approval

See Chapter 170, Subdivision and Land Development.

§197-101. Zoning Compliance Report

- A. When Required
 - (1) Whenever a building or structure is erected, moved, added to, structurally altered
 - (2) Whenever there is a change in use of any building or structure
 - (3) In conjunction with the approval of development plans and prior to the recording of plats pursuant to Chapter 170, Subdivision and Land Development, of the *Code of the City of Lewes*
 - (4) In conjunction with excavation permits
 - (5) In conjunction with issuance of building permits
 - (6) In conjunction with issuance of a Certificate of Occupancy (see Sections 70-40 and 70-41 of the *Code of the City of Lewes, Delaware*.)
- B. Temporary Zoning Compliance—The Building Official may issue a Temporary Zoning Compliance Report in conjunction with the issuance of a Temporary Certificate of Occupancy (see Section 70-42 of the *Code of the City of Lewes, Delaware*.) or a Temporary Use Permit as defined in this Article
- C. Format and Procedure
 - (1) The Building Official shall determine the format for the report.
 - (2) To the extent practical, the report shall be coordinated with and/or made simultaneous with the applications and procedures of other development-related approvals.

§197-102. Temporary-Use Permit

- A. When Required—A Temporary-Use Permit is required for every temporary use permitted in this Ordinance prior to commencement of the use.
- B. Procedure for Obtaining a Temporary-Use Permit
 - (1) An application for a Temporary Use Permit shall be filed with the Building Official.
 - (2) The Building Official may provide forms to expedite the processing of applications.
 - (3) The Building Official shall refer each Temporary-Use Permit application to the Mayor and City Council as soon as practicable after receiving all information needed for the Mayor and City Council to evaluate the application.
- C. Criteria for Issuing a Temporary-Use Permit—The Mayor and City Council shall determine whether each Temporary Use Permit application meets the following criteria.
 - (1) The operation of the requested use at the location proposed and within the time period specified will not jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare.
 - (2) The proposed site is adequate in size and shape to accommodate the temporary use.
 - (3) The proposed site is adequately served by streets or highways having sufficient width and improvements to accommodate the kind and quantity of traffic that such temporary use will or could reasonably generate.
 - (4) Adequate temporary parking to accommodate vehicular traffic to be generated by such use will be available either on-site or at alternate locations acceptable to the Building Official.
 - (5) The use would not jeopardize the public peace, safety or general welfare, or be injurious or detrimental to properties adjacent to, or in the vicinity of, the proposed location of the activity.

- D. Conditions for Approval—The Mayor and City Council may impose the following conditions on the issuance of a Temporary-Use Permit as appropriate.
- (1) Provision of temporary parking facilities, including vehicular access and egress
 - (2) Regulations to deal with nuisance factors such as, but not limited to, the prevention of glare or direct illumination of adjacent properties, noise, vibrations, smoke, dust, dirt, odors, gases, and heat
 - (3) Regulation of temporary buildings, structures and facilities, including placement, height and size, location of equipment and open spaces, including buffer areas and other yards
 - (4) Provision for sanitary and medical facilities
 - (5) Provision for solid waste collection and disposal
 - (6) Provisions for security and safety measures
 - (7) Regulation of signs
 - (8) Regulation of operating hours and days, including limitation of the duration of the temporary use to a shorter time period than that requested
 - (9) Submission of a performance bond or other surety devices to ensure that any temporary facilities or structures used for such proposed temporary use will be removed from the site within a reasonable time following the event and that the property will be restored to its former condition
 - (10) Evidence of sufficient insurance coverage for the proposed use
 - (11) Submission of a site plan indicating any information required by this Ordinance
 - (12) Requirement that the approval of the Temporary-Use Permit is contingent upon compliance with applicable provisions of other ordinances
 - (13) Such other conditions which will ensure the operation of the proposed temporary use in an orderly and efficient manner and in accord with the intent and purpose of this Ordinance

§197-103. Sign Permits

See Article 8. §197-71

Article 15. Amendment and Enforcement

§197-104. Text and Map Amendments

A. Types of Amendments

- (1) Text Amendment—Addition, supplement, change, or modification to the text of this Ordinance
- (2) Zoning Map Amendment— Addition, supplement, change, or modification to the Zoning Map
 - (a) Comprehensive Rezoning—Rezoning of the entire municipality following the adoption of a comprehensive plan pursuant to Title 22 Section 702(c) of the *Delaware Code* or amendments thereto.
 - (b) Local Rezoning—Change(s) in zoning district(s) for one or more parcels outside of the comprehensive rezoning process

B. Initiation

- (1) By Mayor and Council—The Mayor and City Council may amend, supplement, change, or modify the number, shape, area, boundaries of the zoning districts (Rezoning or Zoning Map Amendment), or may amend, supplement, change, or modify the text of the regulations (Text Amendment) contained in this Ordinance.
- (2) By Property Owner—A petition for change or amendment by a property owner shall be submitted to the Mayor and City Council and contain the following information.
 - (a) For an Amendment to the Zoning Map
 - [1] A metes and bounds description of the property
 - [2] A recent survey plot of the property
 - [3] A statement of the change requested and grounds to support it
 - [4] A petition fee payable to The City of Lewes
 - [a] For petitions for change of zoning to a residential or mixed residential and commercial district: \$1,500, plus \$250 per dwelling unit over three.
 - [b] For petitions for change of zoning to a nonresidential district: \$1,500, plus \$250 per 5,000 square feet of land in the parcel.
 - [5] Certification that the property owner has notified the owners of all properties within 200 feet of the property which is the subject matter of the petition with the details of the petition
 - [6] Property owner's name, signature, address, telephone number, and other contact information
 - (b) For an Amendment to the Text of the Zoning Ordinance—A description of the proposed changes

C. Planning Commission Recommendation

- (1) The Mayor and City Council may refer a text or map amendment application to the Planning Commission for review and recommendation before taking action on such application.
- (2) The Planning Commission shall review each text or map amendment, referred by Mayor and Council, at a regular or special meeting and forward a recommendation to the Mayor and City Council in a timely fashion.

D. Public Hearing

- (1) Mayor and City Council to Hold Hearing
 - (a) The Mayor and City Council shall hold a public hearing on each ordinance proposing an amendment to the text of this Ordinance or the Zoning Map.
 - (b) The Mayor and City Council shall set a public hearing date following receipt of the Planning Commission's review and recommendation.
- (2) Public Notice
 - (a) At least 15 days' notice of the public hearing shall be published in an official newspaper of the City or a newspaper of general circulation in the City.
 - (b) The notice shall provide information about the nature of the proposed amendment and announce the date, time, and place of the public hearing.

- (c) A copy of the newspaper notice shall also be given to the property owners, certified by the petitioner to be the property owners within 200 feet of the boundaries of the subject property.
 - [1] Such notice shall be given by certified mail with return receipt requested.
 - [2] Such notice shall be sent to the property owners within 200 feet of the boundaries of the subject property at least 15 days prior to the public hearing.
- (3) Conduct of Public Hearing
 - (a) The Planning Commission's recommendation shall be presented at the public hearing and made a part of the hearing record.
 - (b) All interested parties and citizens shall be given an opportunity to be heard.
- (4) Review Criteria
 - (a) Text Amendment
 - [1] The relationship of the proposed change to the general purpose and intent of this Ordinance and the Comprehensive Plan.
 - [2] Information as to why the existing zoning text should be changed.
 - (b) Comprehensive Rezoning—Land shall be placed only in a zoning classification that is in accordance with the uses of land provided for in the comprehensive development plan.
 - (c) Local Map Amendment
 - [1] Facts existing in the vicinity of the proposed change and the relationship of the proposed change to the general purpose and intent of the comprehensive plan
 - [2] Whether the proposed zoning classification is in accordance with the land uses provided for in the comprehensive plan
- (5) Adoption Procedure—An amendment to the text or map of this ordinance shall be made by Ordinance.
- E. Limitation on Reapplication—Whenever a petition requesting an amendment, supplement or change has been denied by the Mayor and Council, such petition, or one substantially similar, shall not be reconsidered sooner than one year after the previous denial.
- F. Revocation—Whenever a petition requesting an amendment, supplement or change has been granted by the Mayor and Council, the amendment shall become void unless the applicant shall have commenced within one year after the adoption of the amendment with development of the property, and the zoning shall revert to the same zoning as it was prior to the adoption of the amendment.

§197-105. Violations and Penalties

- A. Violations Enumerated—The following actions shall be violations of this Ordinance.
 - (1) Failure to secure a building permit, certificate of zoning compliance, temporary-use permit sign permit, or certificate from the Board of Adjustment, when required, previous to the erection, construction, extension, or demolition of, or addition to, a building
 - (2) Failure to secure a certificate of occupancy or certificate of compliance
- B. Who Shall Be Liable—Any person or entity who knowingly commits, takes part or assists in, any violation or who maintains any buildings or premises in which a violation exists, including, but not limited to, the following:
 - (1) The owner, general agent or contractor of a building or premises where such violation has been committed or shall exist, and
 - (2) The lessee or tenant of an entire building or entire premises where such violation has been committed or shall exist, and
 - (3) The owner, general agent, contractor, lessee or tenant of any part of a building or premises in which such violation has been committed or shall exist, and
 - (4) The general agent, architect, builder, contractor or any other person
- C. Penalties if Convicted—If convicted, a person or entity, as enumerated in this Section, shall be subject to the following.
 - (1) Fine and/or Imprisonment

- (a) A fine, not less than \$50 nor more than \$1000, and/or
 - (b) Imprisonment for not more than 30 days for each and every offense
- (2) Payment of costs of prosecution, including the City's reasonable attorney's fees.
- D. Each Day a Separate Offense—Whenever the Building Official shall have notified a person by service of a warrant in a prosecution or in any other way that he/she is committing such violation of this Ordinance, each day that such violation continues shall be deemed a separate offense punishable by like fine or penalty.
- E. Unlawful Construction Declared Nuisance—Any building or portion thereof or part of foundation wall hereafter erected or placed upon any lot or premises within the City in violation of the provisions of this ordinance is hereby declared to be a common and public nuisance and may be abated in the same manner provided by the Charter of The City of Lewes for the abatement of any other nuisance in addition to the provisions of this Ordinance.
- F. Violation Abatement—In addition to any other remedy provided by law, an appropriate action or proceeding, whether by legal process or otherwise, may be instituted to:
 - (1) Prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use
 - (2) Restrain, correct, abate such violation
 - (3) Prevent the occupancy of such building, structure or land or
 - (4) Prevent any illegal act, conduct, business or use in and about such premises.

Article 16. Definitions

ADJACENT—Physically touching or bordering upon; sharing a common boundary, but not overlapping

ADULT ENTERTAINMENT ESTABLISHMENT—Any commercial establishment, business or service, or portion thereof, which offers sexually oriented material, devices, paraphernalia or specific sexual activities, services, performances or any combination thereof, or in any other form, whether printed, filmed, recorded or live pursuant to Title 24, Section 1602 of the Delaware Code. The term "adult entertainment establishment" shall include but not be limited to such activities as:

- A. "Adult book stores" which shall mean any corporation, partnership or business of any kind which has as part of its stock books, magazines or other periodicals and which offers, sells, provides or rents for a fee:
 - (1) Any sexually oriented material, and which business restricts or purports to restrict admission to adults, within the meaning of this chapter, or to any class of adults;
 - (2) Any sexually oriented material which is available for viewing by patrons on the premises by means of the operation of movie machines or slide projectors;
 - (3) Any sexually oriented material which has a substantial portion of its contents devoted to the pictorial depiction of sadism, masochism or bestiality; or
 - (4) Any sexually oriented material which has as its principal theme the depiction of sexual activity by, or lascivious exhibition of, the uncovered genitals, pubic region or buttocks of children who are or appear to be under the age of 18;
- B. "Adult motion picture theatres" which shall mean an enclosed building used for presenting film presentations which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specific sexual activities for observation by patrons therein;
- C. "Adult shows" or "adult peep shows" which shall include all adult shows, exhibitions, performances or presentations which contain acts or depictions of specific sexual activities;
- D. "Conversation parlors," "relaxation studios," "health salons" or "call services" which shall mean any commercial business, enterprise or service which offers or which holds itself out as offering conversations or relaxation or any other services whereby any employee, attendant or patron is involved in specific sexual activities or representations thereof;
- E. "Massage establishments" which shall mean any business or enterprise which offers, sells or provides, or which holds itself out as offering, selling or providing, massages which include bathing, physical massage, rubbing, kneading, anointing, stroking, manipulating or other tactile stimulation of the human body, by either male or female employees or attendants, by hand or by any electrical or mechanical device, on or off the premises. This term shall not include the business or occupation of a chiropractor, chiropodist, podiatrist, barber, nurse, optometrist, cosmetologist, dentist, physician, massage/bodywork practitioner, physical therapist or operator of a funeral establishment, who is certified, registered or licensed pursuant to this title, or a hospital which is licensed pursuant to Title 16 or athletic coach or trainer.

AGRICULTURE—Production, storage, keeping, harvesting, grading, packaging, processing, boarding, or maintenance, for sale, lease, or personal use, of plants and animals useful to humans, including but not limited to, the following:

- A. Forages and sod crops;
- B. Grains and seed crops;
- C. Bees and apiary products;
- D. Trees and forest products;
- E. Fruits of all kinds, including grapes, nuts, and berries;
- F. Vegetables;
- G. Nursery, floral, ornamental, and greenhouse products; and
- H. Lands devoted to a soil conservation or forestry management program.

ALLEY—A service roadway providing a secondary means of public access to abutting property and not intended for general traffic circulation.

ALTERATION—Any change in or rearrangement of the supporting members of an existing building, such as bearing walls, columns, beams, girders, or interior partitions, as well as any change in doors, windows, means of ingress or egress, or any enlargement to or diminution of a building or structure, whether horizontally or vertically, or the moving of a building or structure from 1 location to another.

ALTERATION, STRUCTURAL—Any change in either the supporting member of a building, such as bearing walls, columns, beams, and girders, or in the dimensions or configurations of the roof or exterior walls.

ANIMAL HOSPITAL—See “Veterinary Hospital.”

ANIMAL KENNEL—Any structure or premises in which animals are boarded, groomed, bred, or trained for commercial gain.

ANIMAL SHELTER—A facility used to house or contain stray, homeless, abandoned or unwanted animals and that is owned, operated, or maintained by a public body, established humane society, animal welfare society, or other nonprofit organization devoted to the welfare, protection, and humane treatment of animals.

APARTMENT—A room or suite of rooms in a multiple-family dwelling intended for use as a residence by a single family where individual units usually share a common access, structure and similar common facilities.

APPLICANT—A person, firm or government agency that executes the necessary forms to obtain approval or a permit for any zoning, subdivision, land development, building, land disturbance, or other activity regulated.

ARCHITECT—An individual licensed to practice the profession of architecture by the State of Delaware

ASSISTED-LIVING FACILITY—A facility providing a special combination of housing, supportive services, supervision, personalized assistance, and health care designed to respond to the individual needs of those who need help with activities of daily living (such as, ambulating, transferring, range of motion, grooming, bathing, dressing, eating, and toileting) and/or instrumental activities of daily living (home management skills, such as shopping for food and personal items, preparing meals, or handling money) including those facilities licensed pursuant to Title 16, Chapter 3225 of the Delaware Administrative Code

AUTOMOBILE—A self-propelled, free-moving vehicle, with not more than 2 axles, usually used to transport passengers and licensed by the appropriate state agency as a passenger vehicle

AUTOMOBILE REPAIR SERVICES—Definitions include the following.

- A. **MAJOR REPAIR SERVICES**—General repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers, including bodywork, welding, and major painting service
- B. **MINOR REPAIR SERVICES**—Replacement or repair of any motor vehicle part that does not require removal of the engine head or pan, engine transmission, or differential, but may include incidental body and fender work, minor painting, and upholstery service

AUTOMOBILE SALES—Use of land and buildings for the display, sale, rental, or lease of new or used automobiles, light trucks, vans, trailers, recreation vehicles or sport utility vehicles (SUVs).

AUTOMOBILE SERVICE STATION— Building, land, or premises used for the retail dispensing or sales of vehicular fuels, servicing and repair of motor vehicles and, as accessory uses, the sale and installation of lubricants, tires, batteries, and similar vehicle accessories

BASE FLOOD—The flood that has a 1% chance of being equaled or exceeded in any given year, also referred to as the 100-year flood

BASEMENT—A story in a building having a floor partly below the finished graded but having more than 1/2 of its height (measured from the finished ceiling) above the average level of the finished grade where such grade abuts the exterior walls of the building. A basement shall be considered as one story in determining the permissible number of stories

BED AND BREAKFAST—A small inn, maintained as an incidental use to the principal use of the building as a single-family dwelling. See Article 12. §197-93.C(1)

BEST MANAGEMENT PRACTICES (BMPs)—State-of-the art technology as applied to a specific problem which includes a schedule of activities, prohibited practices, managerial techniques, and maintenance; most often applied to environmental problems, such as, but not limited to, nonpoint-source pollution problems

BLOCK—A unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways, or any other barrier to the continuity of development.

BOARD OF ADJUSTMENT—A Board appointed by Mayor and Council to hear appeals of order, requirements, decisions and similar actions taken in the enforcement of this ordinance; to hear arguments for special exceptions; and to authorize variances from strict application of provisions of this ordinance. See §197-19.

BOARD OF PUBLIC WORKS—Lewes Board of Public Works, authorized by an act of the General Assembly on March 15, 1901 to establish, control and regulate an electric light plant, water works, and a sewer system for the City of Lewes

BUILDABLE AREA—The area of a lot remaining after the minimum yard and open space requirements of this Zoning Ordinance have been met

BUILDING—Any structure having a roof supported by columns or walls intended for the shelter, housing, or enclosure of any individual, animal, process equipment, goods, or materials of any kind

BUILDING, ACCESSORY—A subordinate structure on the same lot as a main building in which is conducted a use that is clearly incidental and subordinate to the lot's principal use. Accessory buildings and structures are further defined in §197-52

BUILDING, MAIN OR PRINCIPAL—A structure in which is located the primary use of the lot on which it is located

BUILDING CODE—Chapter 170 of the *Code of the City of Lewes*

BUILDING HEIGHT, ESTABLISHED—Subject to approval by the Historic Planning Commission (HPC) pursuant to Article 6 of this Ordinance, the height of any single family dwelling located in the Historic District may be increased to the same height as any other existing single family dwelling within a hundred (100) feet of the front property line, on the same side of the street and within the same block. An exception to the height limit of 30.5 feet may be granted by the HPC to accommodate architectural features of a roof or roof line. A flat roof line beyond the 30.5 foot limit shall not be grounds for granting an exception. No structure shall exceed the height of thirty-six (36) feet.

BUILDING LINE—A line parallel to the street line touching that part of a building closest to the street

BUILDING LINE, ESTABLISHED, "EBL"—Where there are established buildings, the structure (excluding open porches or decks, screened or unscreened) which is closest to the street on the same side of said street within the same block. Corner lots shall not determine the established building line

BULK STORAGE—A warehousing and wholesaling operation involving the storage of chemicals, petroleum products, grains, and other materials in structures for subsequent resale to distributors, retail dealers, or outlets

CELLAR — A space in a building below the first floor joists with at least half of the clear ceiling height being below the main level of the adjacent ground and which shall not be used for human habitation.

CEMETERY—Property used for the interment of the dead

CITY—“The City of Lewes” as exists pursuant to Section 1 of the *Lewes City Charter* as existing or amended subsequently

CITY COUNCIL—The governing body of the City of Lewes consisting of the mayor and 4 council persons as described in Section 4 of the *Lewes City Charter* as existing or amended subsequently

CLUBS AND FRATERNAL AND SOCIAL ORGANIZATIONS —Groups of people, organized for a social, educational, or recreational purpose, operating primarily neither for profit nor to render services customarily carried on by commercial businesses

COLLEGES AND UNIVERSITIES —Institutions authorized by the State to award associate, baccalaureate, or higher degrees

COMMUNITY CENTER—A facility used for recreational, social, educational, and cultural activities, open to the public or a designated part of the public

- A. **COMMUNITY CENTER, PRIVATE**— A community center owned and operated by other than a public or nonprofit group or agency
- B. **COMMUNITY CENTER, PUBLIC**— A community center owned and operated by either a public or nonprofit group or agency

COMMUNITY GARDEN—Land used for agricultural uses (as defined herein) by organized groups of community members.

COMPREHENSIVE PLAN—A document in text and maps prepared and adopted by the municipality in accordance with Title 22, Section 702 of the *Delaware Code*

COUNTRY CLUB—A recreational facility, usually restricted to members and their guests, which generally includes a clubhouse, dining and eating establishments, and recreational facilities such as golf courses, tennis courts, and swimming pools

COUNTY—Sussex County, Delaware

CONDOMINIUM—A legal form of real estate ownership—not a type of dwelling unit or building style—where a building, or group of buildings, in which dwelling units, offices, or floor area are owned individually, and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis

DAY-CARE CENTER—An establishment providing for the care, supervision, and protection of persons away from their homes

DAY-CARE CENTER, ADULT—An establishment providing health, social, and related support services for the elderly and/or functionally impaired adults in a protective setting for part of a day, including, but not limited to, those facilities licensed and regulated by the State Department of Health and Social Services pursuant to Title 16, Chapter 4402 of the *Delaware Administrative Code*

DAYCARE, CHILD—Child day care includes the following types of facilities.

- A. **FAMILY CHILD-CARE HOME**—A private home in which care, education, protection, supervision, and guidance is provided on a regular basis for 1 to 6 children, including, but not limited to, those

facilities licensed by the State Department of Services for Children, Youth and Their Families pursuant to Title 9, Chapter 100 of the *Delaware Administrative Code*

- B. LARGE FAMILY CHILD-CARE HOME—A private home in which care, education, protection, supervision and guidance is provided on a regular basis for 7 to 12 children, including, but not limited to, those facilities licensed by the State Department of Services for Children, Youth and Their Families pursuant to Title 9, Chapter 101 of the *Delaware Administrative Code*
- C. CHILD DAY-CARE CENTER—A place that provides care, protection, supervision and guidance for 7 or more children, including, but not limited to, those facilities licensed by the State Department of Services for Children, Youth and Their Families pursuant to Title 9, Chapter 103 of the *Delaware Administrative Code*

DEVELOPMENT—Development means any of the following:

- A. Subdivision pursuant to Chapter 170 of the Code of the City of Lewes
- B. The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure
- C. Any mining excavation, landfill, or land disturbance
- D. Any use or extension of the use of land
- E. Any action requiring “Development-Plan Approval” as provided for in this Zoning Ordinance

DISTRIBUTION CENTER—An establishment that stores and distributes goods, products, cargo, and materials, including shipment by boat, rail, air, or motor vehicle

DISTRICT—See “Zoning District”

DWELLING—A building used as a place of residence, containing sleeping, cooking, and sanitary facilities, excluding commercial lodging facilities

DWELLING, ATTACHED—A single-family dwelling that is attached to or shares a common vertical wall with 1 or more single-family dwellings

DWELLING, DETACHED—A building containing 1 dwelling unit that is not attached to any other dwelling by any means, is surrounded by open space or yards, and does not have any roof, wall, or floor in common with any other dwelling unit

DWELLING, MANUFACTURED HOME—A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly at a building site and bearing a label certifying that it is built in accordance with Federal Manufactured Home Construction and Safety Standards, which became effective on June 15, 1976

DWELLING, MOBILE HOME—A transportable dwelling unit fabricated in an off-site manufacturing facility, designed to be a permanent residence and built prior to June 15, 1976, on which the Federal Home Construction and Safety Standards became effective

DWELLING, MODULAR—A dwelling fabricated in an off-site manufacturing facility in accordance with the City of Lewes, Delaware Residential Code (IRC). Modular homes also include, but are not limited to, panelized, pre-fabricated, and kit homes

DWELLING, MULTIPLE-FAMILY—A building containing 3 or more attached dwelling units, not to exceed eight units, with shared hallways and egress.

DWELLING, SINGLE-FAMILY DETACHED—A building containing 1 dwelling unit and that is not attached to any other dwelling by any means and is surrounded by open space or yards

DWELLING, TOWNHOUSE—A single-family dwelling in a row of at least 3 but no more than 7 such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by 1 or more vertical fire-resistant walls.

DWELLING, 2-FAMILY—A building containing 2 dwelling units arranged side-by-side, where each unit is totally separated from the other by an unpierced wall extending from ground to roof.

DWELLING UNIT—One (1) or more rooms, designed occupied or intended for occupancy as a separate living quarter, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household

DWELLING UNIT, APARTMENT IN CONJUNCTION WITH COMMERCIAL USE AND ONLY ON FLOOR ABOVE STREET LEVEL – One or more apartments located only above a commercial use and only located on floors above street level

EASEMENT—Authorization by a property for another to use the owner’s property for a specified purpose

EDUCATIONAL INSTITUTION—See “Colleges,” and “Schools.”

ENGINEER—An individual licensed to practice the profession of engineering by the State of Delaware

EROSION—Detachment and movement of soil or rock fragments or the wearing away of the land surface by water, wind, ice, or gravity

ESTABLISHED BUILDING HEIGHT (EBH)—See BUILDING HEIGHT, ESTABLISHED

ESTABLISHED BUILDING LINE (EBL)—See BUILDING LINE, ESTABLISHED

FAMILY—A single person occupying a dwelling unit and maintaining a household or two or more persons related by blood or marriage or adopting occupying a dwelling unit, living together and maintaining a common household, or not more than three unrelated persons occupying a dwelling unit and maintaining a common household.

FAST-FOOD RESTAURANT—See “Restaurant, Fast-Food.”

FILL—Sand, gravel, earth, or other materials of any composition whatsoever placed or deposited by humans usually to form an embankment or raise the elevation of the land surface

FLOODPLAIN—Any land area susceptible to being inundated by flood waters from any source

FLOOR AREA—Definitions are as follows.

- A. FLOOR AREA, GROSS—The sum of the gross horizontal areas of the several floors of a building or structure from the exterior face of exterior walls, or from the centerline of a wall separating 2 buildings, but excluding any space where the floor-to-ceiling height is less than 7 feet
- B. FLOOR AREA, NET—The total of all floor areas of a building, excluding stairwells and elevator shafts, equipment rooms, interior vehicular parking or loading; and all floors below the first or ground floor, except when used or intended to be used for human habitation or service to the public
- C. FLOOR-AREA RATIO (FAR)—The gross floor area of all buildings or structures on a lot divided by the total lot area

GARAGE—A deck, building, structure of part thereof, used for the parking and storage of vehicles

GASOLINE STATION

- A. Shall include any building, land area, premises, or portion thereof, where gasoline or other petroleum products or fuels are sold and light maintenance activities such as engine tune-ups, lubrication, incidental repairs and carburetor cleaning may be conducted
- B. Shall not include premises where heavy motor vehicle maintenance activities such as engine overhaul, motor vehicle painting, and body or fender work are conducted

GASOLINE STATION AND CONVENIENCE CENTER—A gasoline station (see “Gasoline Station”), fast-food restaurant (see “Restaurant, Fast-Food”), and convenience store (see “Retail Store,

Convenience”) located on the same lot and planned, operated, and maintained as an integrated planned development

GAZEBO – A freestanding structure with a roof which shall come to an apex at the ridge with eave heights not to exceed eight feet and a maximum height of 15 feet as measured from the midpoint of the building at the grade to the midpoint of the apex, and which structure will be open on its sides, such that all areas of the building above four feet shall consist of either windows or screening. A gazebo shall not exceed 200 square feet. The structure shall not contain any of the following: sleeping facilities, restrooms, shower facilities, kitchen.

GEOLOGIST—An individual who is registered in the State of Delaware to practice the profession of geology.

GOLF COURSE—A tract of land laid out for at least 9 holes for playing the game of golf that may include a clubhouse, dining and snack bars, pro shops, and practice facilities.

GOVERNMENT FACILITIES AND SERVICES—Definitions are as follows.

- A. Local— Provided by the Mayor and Council of the City of Lewes or the Board of Public Works to promote the health, welfare, and public safety of the citizens of Lewes.
- B. Non-Local— Provided by a governmental entity other than the Mayor and City of Lewes or the Board of Public Works subject to the review and approval of Mayor and Council.

HEALTH CARE FACILITY—A facility or institution, whether public or private, principally engaged in providing services for health maintenance and the treatment of mental or physical conditions including, but not limited to general or specialty hospitals, public health centers, diagnostic centers, treatment centers, rehabilitation centers, extended care facilities, long-term care facilities, residential health care facilities, outpatient clinics, and dispensaries and customary accessory uses such as, laundries, restaurants, gift shops, laboratories, pharmacies, and medical offices

HEIGHT— The vertical distance of a building measured from a point where the center line of a building to be erected intersects with the center line of the street on which the building will face to the highest point of the highest roof. See §197-55.

HOME-BASED BUSINESS—Any business, occupation, or activity undertaken for gain and conducted entirely within a dwelling unit by the residents thereof which is clearly incidental and secondary to the use of the structure for dwelling purposes. The home-based business shall be conducted entirely within either the dwelling or an accessory building, but not both. See §197-45.

HOSPITAL—A place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care, for not less than 24 hours in any week, of 4 or more non-related individuals suffering from illness, disease, injury, or deformity or a place devoted primarily to providing for not less than 24 hours in any week of obstetrical or other medical or nursing care for 2 or more non-related individuals requiring a license under license being issued under Title 16, Chapter 10, Section 1003, of the *Delaware Code*, but does not include sanatoriums, rest homes, nursing homes, or boarding homes

HOTEL OR MOTEL – A building having six or more rental rooms, which may include individual cooking facilities, for transient guests. An office for the renting and management of accommodations and a restaurant designed primarily for the use of overnight guests may be included

IN PUBLIC VIEW—That portion of a structure that is visible, or could be visible but for a fence or landscaping, from a public right-of-way or public or private street

INDUSTRY—Those fields of economic activity including: forestry, fishing, hunting, and trapping, mining, construction, manufacturing, transportation, communication, electrical, gas, and sanitary services, and wholesale trade

LANDSCAPE ARCHITECT—An individual licensed to practice the profession of landscape architecture by the State of Delaware

LAND SURVEYOR—An individual licensed to practice the profession of land surveying by the State of Delaware

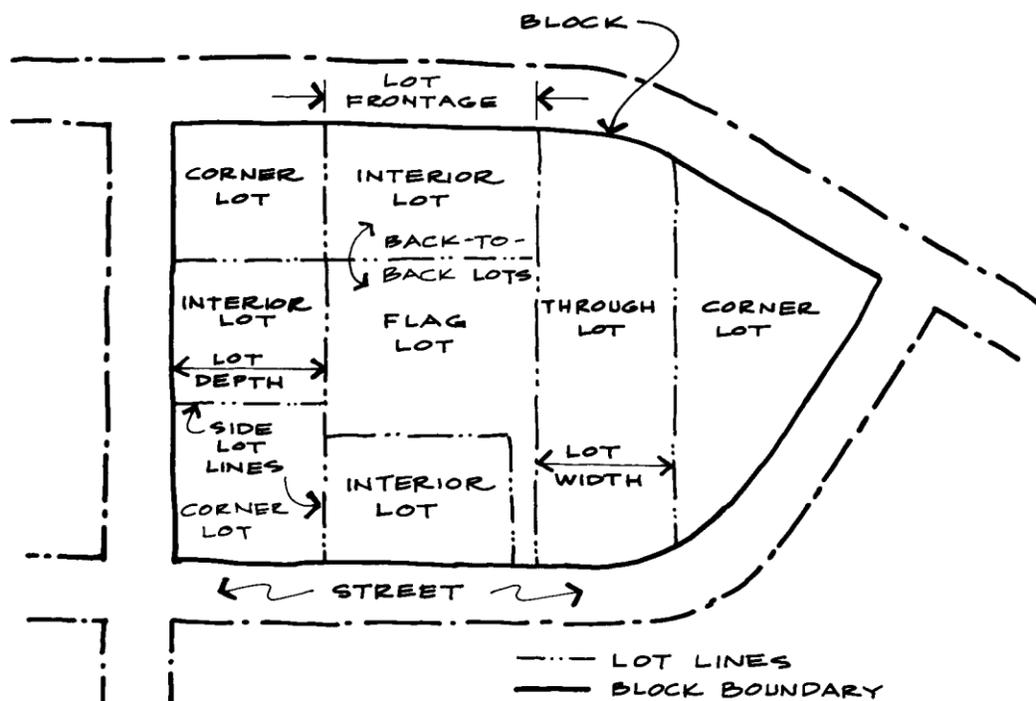
LOT—A designated parcel, tract, or area of land established either by plat, subdivision, or considered as a unit of property by virtue of a metes-and-bounds description, to be separately owned, used, developed, or built upon.

- A. **LOT, CORNER**—A lot or parcel of land abutting upon 2 or more streets at their intersection or upon 2 parts of the same street forming an interior angle of less than 135 degrees
- B. **LOT, FLAG**—A lot where access to the public road is by a private right-of-way or driveway
- C. **LOT, INTERIOR**—A lot other than a corner lot
- D. **LOT LINE**—A line of record bounding a lot that divides 1 lot from another lot, a public street, or any other public space
 - (1) **LOT LINE, FRONT**—The lot line separating a lot from a street right-of-way
 - (2) **LOT LINE, REAR**—The line opposite and most distant from the front lot line
 - (3) **LOT LINE, SIDE**—Any lot line other than a front or rear lot line
- E. **LOT, THROUGH**—A lot that fronts on either 2 parallel streets or two streets that do not intersect at the boundaries of the lot, i.e., a corner lot; also called a double-frontage lot

LOT COVERAGE—The percent of a lot which is covered, or planned to be covered, with impervious surfaces. “Lot coverage” shall include off-street parking areas and driveways, but not public streets.

LOT DEPTH—The average distance measured from the front lot line to the rear lot line

LOT FRONTAGE—The length of front lot line measured at the street right-of-way line



Source: *The New Illustrated Book of Development Definitions*, ©1993 by Rutgers-The State University of New Jersey.

LOT WIDTH—The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line, i.e., the buildable width of a lot

LOT of RECORD—A lot that exists either by virtue of a metes and bounds description or by depiction on a plat or deed recorded in the Office of the Sussex County Recorder of Deeds

MANUFACTURING

- A. Establishments engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins, or liquors
- B. Includes all mechanical or chemical transformations regardless of whether the new product is finished or is semi-finished as a raw material for further processing

MARINA—A facility for the storing, servicing, fueling, berthing, and securing of boats or providing services to boats and the occupants thereof, and sale of fuel and supplies. If the marina is in an Open Space District the following uses and services shall not be permitted:

- A. On-land storage of boats
- B. On-land boat repair
- C. Fuel sales
- D. Retail sales of items other than ice and soft drinks

MEDICAL CLINIC—An establishment where patients are admitted for examination and treatment on an outpatient basis by 1 or more physicians, dentists, other medical personnel, psychologists, or social workers and where patients are not lodged overnight

MOBILE HOME—See “Dwelling, Mobile Home.”

MODULAR HOME—See “Dwelling, Modular.”

MOTOR VEHICLE—A self-propelled device licensed as a motor vehicle used for transportation of people or goods over roads

MUSEUM – A museum is a permanent institution or building in the service of society open to the public, which acquires, conserves, researches, communicates and exhibits the tangible and intangible heritage of humanity and its environment, for the purposes of education, study, and enjoyment.

NURSING AND SIMILAR CARE FACILITIES—Residential facilities providing shelter and food to more than 1 person who:

- A. Because of physical and/or mental condition, require a level of care and services suitable to their needs to contribute to their health, comfort, and welfare; and
- B. Are not related within the second degree of consanguinity to the controlling person or persons of the facility
- C. Include, but are not limited to, facilities licensed and regulated pursuant to Title 16, Chapter 11 of the *Delaware Code*, such as, nursing facilities (commonly referred to as nursing homes), assisted living facilities, intermediate care facilities for persons with mental retardation; neighborhood group homes; family care homes; and rest residential facilities

NURSING HOME—A facility offering in-patient beds and medical services, including continuous nursing services, to provide various levels of treatment for patients who do not currently require continuous hospital services and including, but not limited to, facilities licensed and regulated by the State Department of Health and Social Services pursuant to Title 16, Chapter 11 of the *Delaware Code*

- A. NURSING HOME, INTERMEDIATE CARE—A nursing home that provides care to residents who may need a minimum of medical care but require a great deal of physical and emotional support to return them to a previous level of, or a new stage of, independence or to prevent regression; can involve direct aide given in getting out of bed, walking, bathing, dressing, feeding and administration of medications, and similar forms of assistance on a regular basis, including those licensed and regulated by the State Department of Health and Social Services, Division of Long

Term Care Residents Protection, pursuant to Title 16, Chapter 3205 of the *Delaware Administrative Code* and whose characteristics include the following:

- (1) Patients require fewer services than provided by Skilled Care Nursing Homes, but more than Residential Rest Homes (3230) or Family Care Rest Homes (3315)
 - (2) Care is given in accordance with physician's orders, updated at least every 60 days.
 - (3) Service may be provided by nursing aides under the supervision of a registered professional nurse or licensed practical nurse.
- B. NURSING HOME SKILLED CARE—A nursing home that provides the highest level of non-hospital care, including those licensed and regulated by the State Department of Health and Social Services, Division of Long Term Care Residents Protection, pursuant to Title 16, Chapter 3201 of the Delaware Administrative Code and whose characteristics include the following
- (1) Care is given in accordance with a physician's orders, updated at least every 30 days.
 - (2) Twenty-four (24) hour nursing service is provided under the direction of a full-time registered professional nurse.

OFFICE—A room or group of rooms uses for conducting the affairs of a business, profession, service, industry, or government and generally furnished with desks, tables, files, and communications equipment

100-YEAR FLOOD—Same as “Base Flood”

OVERLAY ZONE—A zoning district that encompasses 1 or more underlying (i.e., base) zones and that imposes additional requirements above those required by the underlying zone

PARKING FACILITY

- A. PARKING LOT – A collection of five (5) or more parking spaces (as defined herein) at-grade with an all-weather surfaced area and connected with a street or alley by a paved driveway that affords ingress and egress for a motor vehicle without requiring another motor vehicle to be moved.
- B. PARKING GARAGE – A collection of parking spaces (as defined herein) that is on more than one level with an all-weather surfaced area and connected with a street or alley by a paved driveway that affords ingress and egress for a motor vehicle without requiring another motor vehicle to be moved.

PARKING SPACE – That area required to park one vehicle. The minimum requirement is 162 square feet, measured with a minimum width of 9 feet and a minimum length of 18 feet

PARKS – Land, a playground, recreation center, or any other public area in the city owned or used by a public entity and devoted to active or passive recreation

PERMANENT OPEN SPACE –A parcel or parcels of land or an area of water, or a combination of land and water, which is permanently protected, by legal means, from development. “Permanent open space” may be public or common space or may be part of a private lot.

PLACE of WORSHIP—A building or structure, or groups of buildings or structures, that by design and construction are primarily intended for conducting organized religious services and associated accessory uses

PLANNING COMMISSION—A body appointed by the Mayor and Council to oversee the City Subdivision ordinance and advise Mayor and Council on Zoning matters, among other duties. See §197-18.

PREMISES—A lot, parcel, tract, or plot of land together with the buildings and structures on them

PUBLIC BUILDING—A building, owned or leased, occupied and used by an agency or political subdivision of the Federal, State, County, or City government

PUBLIC SAFETY FACILITY—A building or structure used for the provision of public safety services, such as fire protection, emergency medical service, and rescue operations

PUBLIC SERVICE ORGANIZATION— An organization that helps furnish, maintain, or protect the public's health, safety, welfare or education. The goals of public service organizations foster the core values of the City of Lewes.

PUBLIC UTILITY SERVICE—The generation, transmission, and/or distribution of electricity, gas, steam, communications, and water; the collection and treatment of sewage and solid waste; and the provision of mass transit to the public

- A. **PUBLIC UTILITY SERVICE FACILITY**—Any use or structure associated with the provision of utility services
- B. **PUBLIC UTILITY SERVICE LINES**—The system of lines, pipes, wires, or tracks that distributes, transmits, or provides a utility service. This includes equipment that is incidental and necessary to the lines and that is located on the lines

PUBLIC WATER AND SEWER SYSTEMS—Any system, other than an individual septic tank, tile field, or individual well, that is operated by the City, a governmental agency, a public utility, or a private individual or corporation approved by the City and licensed by the appropriate State agency, for the collection, treatment, and disposal of wastes and the furnishing of potable water

RECORDER OF DEEDS—The Recorder of Deeds for Sussex County, Delaware

RECREATION FACILITY—A place designed and equipped for the conduct of sports and leisure-time activities

- A. **RECREATION FACILITY, COMMERCIAL**—A recreation facility operated as a business and open to the public for a fee
- B. **RECREATION FACILITY, PERSONAL**—A recreation facility provided as an accessory use on the same lot as the principal permitted use and designed to be used primarily by the occupants of the principal use and their guests.
- C. **RECREATION FACILITY, PRIVATE**—A recreation facility operated by a nonprofit organization and open only to bona fide members and guests of such nonprofit organization
- D. **RECREATION FACILITY, PUBLIC**—A recreation facility open to the general public

RESEARCH AND DEVELOPMENT – Discovering new knowledge about concepts, methods, processes, materials, products, and services, and then applying that knowledge to create new and improved methods, processes, materials, products, and services that fill market needs. This can include the design, development, and testing of biological, chemical, electrical, magnetic, mechanical, and/or optical components in advance of product manufacturing. The accessory development, fabrication, and light manufacturing of prototypes, or specialized machinery and devices integral to research or testing may be associated with these uses.

RESIDENTIAL PLANNED COMMUNITY (RPC) – A large scale development, not less than or equal to 30 acres creating a suitable living environment through a combination of dwelling types, and may have amenities such as community buildings, recreational facilities (tennis courts, swimming pool, bike or multi-use trails) and may support commercial establishments. The RPC shall adhere to the goals of the Comprehensive Land-Use Plan. Commercial uses of convenience and necessity to the development may be allowed. Such uses and accessory off-street parking and loading spaces incident to such commercial uses shall not exceed one acre for each 100 dwelling units in the planned community.

RESTAURANT—(1) Establishments where food and drink are prepared, served, and sold primarily for consumption within the principal building; and (2) Establishments where food and/or beverages are sold in a form ready for consumption, where all or a significant portion of the consumption takes place or is designed to take place outside of the confines of the restaurant, and where ordering and pickup of food may take place from a motor vehicle

RESTAURANT, FAST-FOOD—An establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building, in vehicles on the premises, or off the premises

RETAIL SALES—Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods and whose characteristics include the following: (1) Usually business places engaged in activity to attract the general public to buy; (2) Buy and receive as well as sells merchandise; (3) May process or manufacture some products—a jeweler or a bakery—but processing is secondary to principal use; and (4) Generally sell to customers for personal or household use

- A. **RETAIL STORE, CONVENIENCE**—Any retail sales establishment consisting of 5,000 square feet or fewer selling primarily food products, household items, newspapers, magazines, candy, and beverages, and a limited amount of freshly prepared foods, such as sandwiches and salads, for off-premises consumption
- B. **SHOPPING CENTER**—A group of commercial establishments planned, constructed, and managed as a total entity in accordance with an approved plan, with customer and employee parking provided on-site, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements, and landscaping and signage
- C. **SHOPPING MALL**—A shopping center with stores on both sides of an enclosed or open pedestrian walkway

RIGHT-OF-WAY—Land occupied or intended to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or another special use

SCENIC BYWAY—A transportation route designated by the Delaware Department of Transportation (DelDOT) which is adjacent to or travels through an area that has particular intrinsic scenic, historic, natural, cultural, recreational, or archeological qualities. It offers an alternative route to major highways, while telling a story about Delaware’s heritage, recreational activities, or beauty. A Scenic Byway can also be called a “Scenic and Historic Highway.”

SCHOOLS—Any building, or part thereof, that is designed, constructed, or used for education or instruction in any branch of knowledge, other than a college or university; includes, but is not limited to, elementary, secondary, vocational, business, arts, and culture

SEDIMENT—Deposited silt (see definition in this Article) that is being or has been removed by water, ice, wind, gravity, or other means of erosion

SEDIMENTATION—(1) The depositing of earth or soil that has been transported from its site of origin by water, ice, wind, gravity, or other means as a natural product of erosion; (2) in wastewater treatment, the settling out of solids by gravity

SELF-STORAGE FACILITY—A building or group of buildings containing separate, individual, and private storage spaces of varying sizes leased or rented on individual leases for varying amounts of time

SERVICES—Establishments primarily engaged in providing assistance, as opposed to products, to individuals, businesses, industry, government, and other enterprises, including hotels and other lodging places; personal, business, repair, and amusement services; health legal, engineering, and other professional services’ educational services; membership organizations; and other miscellaneous services

- A. **SERVICES, BUSINESS**—Establishments primarily engaged in rendering services to business establishments on a fee or contract basis, such as advertising and mailing; building maintenance; employment services; management and consulting services; protective services; equipment rental and leasing; commercial research; development and testing; photo finishing; and personal-supply services

- B. SERVICES, HEALTH CARE—Establishments providing support to medical professionals and their patients, such as medical and dental laboratories, blood banks, oxygen, and miscellaneous types of medical supplies and services
- C. SERVICES, PERSONAL—Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel
- D. SERVICES, RETAIL—Establishments providing services or entertainment, as opposed to products, to the general public for personal or household use, including eating and drinking places, hotels and motels, finance, real estate and insurance, personal service, motion pictures, amusement and recreation services, health educational, and social services, museums, and galleries
- E. SERVICES, SOCIAL—Establishments providing assistance and aid to those persons requiring counseling for psychological problems, employment, learning disabilities, and physical disabilities

SETBACK LINE—The line that is the required minimum distance from any lot line and that establishes the area within which the principal structure must be placed. See also “Yard.”

SILT—finely divided particles of soil or rock, often carried in cloudy suspension in water and eventually deposited as sediment

STADIUM—A large open or enclosed place used for games and major events and partly or completely surrounded by tiers of seats for spectators

STATE—The State of Delaware

STORY—That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between such floor and the ceiling next above it. A basement shall be counted as a story for the purpose of height measurement if its ceiling is over 5 feet above the level from which the height of the building is measured or if it is used for business purposes other than storage

STORY, Half—A partial story under a gable, hip, or gambrel floor, the wallplates of which on at least 2 opposite sides are not more than 2 feet above the floor of each story

STREET—Any vehicular way that is: (1) an existing State, County, or City roadway; (2) shown upon an approved plat; (3) approved by other official action; (4) shown on a plat duly filed and recorded in the Office of the Sussex County Recorder of Deeds prior to the grant of power to review plats. A street includes the land between the right-of-way lines, whether improved or unimproved.

- A. STREET, ACCESS—A street designed to provide vehicular access to abutting property and to discourage THROUGH TRAFFIC
- B. STREET, ALLEY—A service roadway providing a secondary means of public access to abutting property and not intended for general traffic circulation
- C. STREET, CENTERLINE OF—The center line of any street shown on any official City, County, or State records
- D. STREET, COLLECTOR—A street that collects traffic from local streets and connects with minor and major arterials.
- E. STREET, CUL-DE-SAC—A street with a single common ingress and egress with a turnaround at the end.
- F. STREET, DEAD-END—A street with a single common ingress and egress
- G. STREET, PRIVATE—A street that has not been accepted by the City or the State
- H. STREET, SERVICE—A street running parallel to a freeway or an expressway that serves abutting properties, but restricts access to the freeway or expressway

STREET FRONTAGE—See “Frontage.”

STREET LINE—The line between a lot, tract, or parcel of land and an adjacent street

STRUCTURE—A combination of materials to form a construction for use, occupancy, or ornamentation including but not limited to, buildings, sheds, outbuildings, fences, storage tanks; signs; bulkheads; jetties; groins, whether installed on, above, or below the surface of land or water

SUBDIVISION—See Chapter 170 of the Code of the City of Lewes.

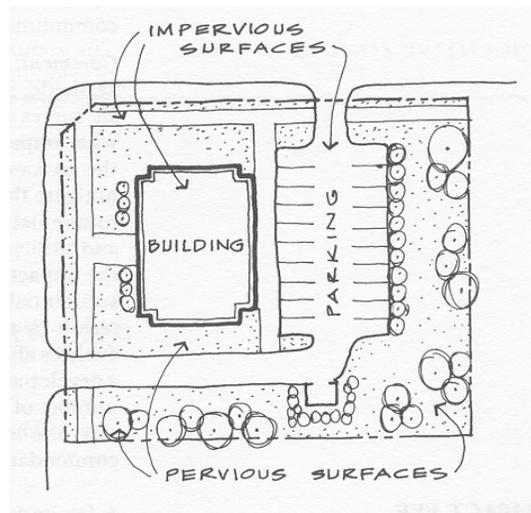
SUPERMARKET—a retail establishment primarily selling food and convenience or household goods

SUPPORT COMMERCIAL—“Neighborhood shopping” provides sites for convenient retail and personal service establishments for a small area, with a minimum impact upon adjoining or surrounding residential development. Preferably, each portion of the district should be small and compact in area. Permitted uses include a retail store or shop for the performance of personal services; provided that:

- A. No manufacturing, wholesaling or jobbing shall be carried on therein
- B. There shall be no restaurant or lunchroom/ and retail food sales
- C. No merchandise shall be carried other than that intended to be sold at retail on the premises
- D. Operations shall be limited to the hours between 6:00 a.m. and midnight.
- E. Motor vehicle parking for occupants or customers of the building permitted are subject to the provisions of Article 7
- F. Any sign is subject to compliance with Article 8

SURFACE, IMPERVIOUS—A surface providing negligible infiltration such as pavement, buildings, recreational facilities (by example, but not by limitation, tennis courts, swimming pools) and covered driveways

SURFACE, PERVIOUS—Any material that permits full or partial absorption of stormwater into previously unimproved land



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SURGICAL CENTER—A facility where outpatients come for simple surgical procedures and are not lodged overnight

THEATER—A building or part of a building used to show motion pictures or for drama, dance, musical, or other live performances

UNIVERSITY—See “College.”

USE—The purpose or activity for which land or buildings are designed, arranged, or intended or for which land or buildings are occupied or maintained

A. USE, ACCESSORY—A use of land, or a building, or portion thereof, customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use

B. USE, PRINCIPAL—The primary or predominant use of any lot or parcel

VARIANCE—A variance from the strict application of the provisions of this code and granted by the Board of Adjustment. See Article 2. §197-19.C(3) and Article 12. §197-91.D.

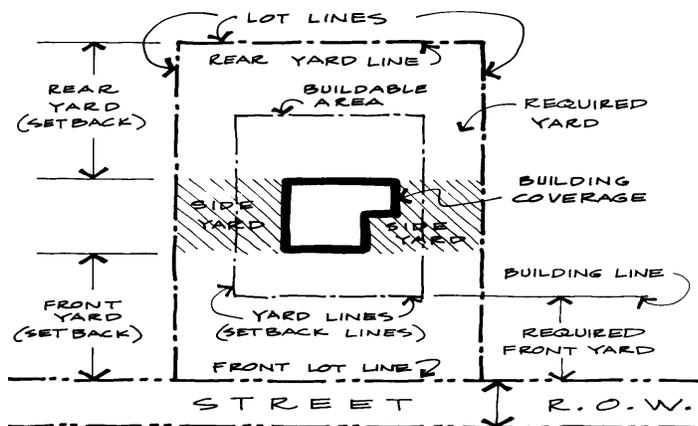
VETERINARY HOSPITAL—A place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use

WAREHOUSE—A building used primarily for the storage of goods and materials

WHOLESALE TRADE—Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies

YARD—An open space that lies between the principal building or buildings and the nearest lot line.

- A. YARD, FRONT—A space extending the full width of the lot between any building and the front lot line and measured perpendicular to the building to the closest point of the front lot line
- B. YARD, REAR—A space extending across the full width of the lot between the principal building and the rear lot line and measured perpendicular to the building to the closest point of the rear lot line
- C. YARD, SIDE—A space extending from the front yard to the rear yard between the principal building and the side lot line and measured perpendicular from the side lot line to the closest point of the principal building



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ZONING DISTRICT—A specifically delineated area in the City within which uniform regulations and requirements govern the use, placement, spacing, area, height, and bulk of land and buildings