

1 **AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF LEWES,**
2 **CHAPTER 197 ZONING, TO CREATE 197-78.1 TREE DENSITY, AS IT RELATES TO**
3 **TREE DENSITY REGULATIONS.**

4
5 **WHEREAS**, the Mayor and City Council deem it appropriate to consider the question of
6 whether it is in the public interest to amend Chapter 197, Zoning, of the Municipal Code of the
7 City of Lewes, Delaware, as amended, by creating tree density regulations;

8
9 **WHEREAS**, Title 22, Chapter 3, Section 301 of the Delaware Code provides that “[f]or
10 the purpose of promoting health, safety, morals or the general welfare of the community, the
11 legislative body of cities and incorporated towns may regulate and restrict the height, number of
12 stories and size of buildings and other structures, percentage of lot that may be occupied, the size
13 of yards, courts and other open spaces, the density of population, and the location and use of
14 buildings, structures, and land for trade, industry, residence or other purposes”;

15
16 **WHEREAS**, Section 38 of the City's Charter provides that “[f]or the purpose of protection
17 against fire, promoting health, safety, morals or the general welfare of the community, the City
18 Council is hereby empowered to adopt ordinances to regulate and restrict the height, number of
19 stores [sic], size of buildings and other structures, the density of population and the location and
20 use of buildings, structures, and lands for trade, industry, residence or other purposes”;

21
22 **WHEREAS**, Article XV, Chapter 197, Section 104, Text and map amendments, of the
23 Municipal Code of the City of Lewes provides that any amendment to the Zoning Ordinance shall
24 be made after a public hearing following fifteen (15) days’ notice by publication in an official
25 paper or a paper of general circulation in the City;

26
27 **WHEREAS**, a public hearing was conducted on October 2, 2023;

28
29 **WHEREAS**, at least fifteen (15) days notice of such hearing was provided by publishing
30 notice of the time and place of such hearing in an official paper or newspaper of general circulation
31 in the City; and

32
33 **WHEREAS**, the proposed amendment will promote the health, safety, and general welfare
34 of the Lewes community.

35
36 **BE IT ORDAINED** by the Mayor and City Council, in session met, a quorum pertaining
37 at all times thereto, in the manner following to-wit:

38
39 **Section 1.** Chapter 197 Zoning, 197-78.1 Tree Density of the Municipal Code of the City
40 of Lewes, Delaware, be the same and is hereby amended by adding the underlined text.

41 197-78.1 Tree Density

42
43 **A. Purpose: To require a minimum number of trees on parcels of land.**

44
45 **B. Applicability:**
46

47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91

1. The tree density requirements shall apply to major subdivisions, minor subdivisions, site development plans, and new construction of residential dwellings.
2. Interior renovations and building additions are exempt.

C. General Requirements

1. There shall be at least one (1) tree for every 2,500 square feet of land area on a parcel or portion thereof.
2. Existing trees count towards the tree density requirement.
3. Trees located within the right-of-way do not count towards the tree density requirement.
4. Invasive species shall not be planted, as identified in the State Code Title 3 Agriculture Ch. 29 Invasive and Potentially Invasive Plant.
5. The trees should be selected with the “right tree in the right place” best practices.
6. The minimum size of the tree at the time of planting shall be 1 ½ inch caliper or 5-6 ft. in height.
7. This requirement is separate from any other required landscape buffer or tree planting requirement as required in Ch. 170.
8. The planting of native trees is encouraged.

Section 2. If any provision of this Ordinance shall be deemed or held to be invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not affect any other provision of this Ordinance which may be given effect without such invalid or unenforceable provision, and to this end, the provisions of this Ordinance are hereby declared to be severable.

Section 4. This Ordinance shall take effect immediately upon its adoption by the Mayor and City Council of the City of Lewes.

Adopted by the Mayor and City Council
of the City of Lewes
November 13, 2023

I, Timothy Ritzert, Secretary of the City Council of the City of Lewes, do hereby certify that the foregoing is a true and correct copy of the ordinance passed by the Mayor and City Council at its regular meeting on November 13, 2023, at which a quorum was present and voting throughout and the same is still in full force and effect.



Secretary

SYNOPSIS: This Ordinance amends the regulations regarding tree density regulations.