

1 **AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF LEWES,**
2 **CHAPTER 70 BUILDING CODE, AND CHAPTER 197 ZONING BY AMENDING**
3 **SECTIONS 70-12, 70-52 AND 70-54 AND SECTION 197-73 FLOODPLAINS AND**
4 **ATTACHMENT 2 - TABLE 1 OF DIMENSIONAL REGULATIONS, AND**
5 **ATTACHMENT 3 - TABLE 2 OF DIMENSIONAL REGULATIONS REGARDING**
6 **FREEBOARD AND BUILDING HEIGHT ASSOCIATED WITH FREEBOARD**

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8 **WHEREAS**, the Mayor and City Council deem it appropriate to consider the
9 question of whether it is in the public interest to amend Chapter 70 Building Code and Chapter
10 197, Zoning, of the Municipal Code of the City of Lewes, Delaware, as amended, by amending
11 the freeboard regulations and associated building height;

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

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

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

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31 **WHEREAS**, a public hearing was conducted on February 5, 2024;

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

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37 **WHEREAS**, the proposed amendment will promote the health, safety, and general welfare
38 of the Lewes community.

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

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43 **Section 1.** Chapter 70 Building Code of the Municipal Code of the City of Lewes,
44 Delaware, as amended be and the same is hereby further amended by removing the strikethrough

45 text and by adding the underlined text:

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47 §70-12 Amendment to Section 1612 Flood Loads of the Building Code of the City of Lewes is
48 amended by creating a new Section 1612.5 as follows:

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50 **1612.5 Elevation requirements.** The minimum elevation requirements shall be as
51 specified in ASCE 24 (American Society of Civil Engineers) or the base flood elevation
52 plus ~~18~~ 36 inches, whichever is higher, and by inserting the following:

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54 **(1) Special Flood Hazard Areas (1% annual chance, Zone AE, and Zone VE)**

55 **(a) Residential structures located within the 1.0% annual flood chance**
56 **(Zone AE) shall be elevated and anchored to or above the base flood**
57 **elevation plus 36 inches. The first-floor elevation shall be measured at the**
58 **top of the lowest finished floor height. Houses may have a maximum height**
59 **of 35.5 ft.**

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61 **(b) Residential structures located within the 1.0% annual flood chance**
62 **(Zone VE) shall be elevated and anchored to or above the base flood**
63 **elevation plus 36 inches. The first-floor elevation shall be measured at the**
64 **bottom of the lowest horizontal structure member. Houses may have a**
65 **maximum height of 35.5 ft.**

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67 **(2) Non-Special Flood Hazard Areas (0.2% Zone X (shaded))**

68 **(a) Residential structures located within the 0.2% shall be elevated and**
69 **anchored to or above the base flood elevation plus 18 inches. The first-floor**
70 **elevation shall be measured at the top of the lowest finished floor height.**
71 **Houses may have a maximum height of 34 ft. This requirement shall go into**
72 **effect 2 years from the adoption of the ordinance.**

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74 **(3) Outside a Regulated Flood Area (Zone X (unshaded))**

75 **(a) Residential structures outside a regulated floodplain are encouraged**
76 **to elevate and anchor to or above the finished floor an elevation plus 18**
77 **inches. The base elevation shall be determined by applying the definition**
78 **of Building Height. Houses using this option may have a maximum height**
79 **of 34 ft.**

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81 §70-52 Amendment to Section R322.2 Flood hazard areas (including A Zones)

82 Section R322.2.1 Elevation requirements of the Residential Code of the City of Lewes is amended
83 by striking “1 foot (305 mm)” and inserting “~~18~~ 36 inches” in items 1, 2 and 3, and by inserting
84 the following:

85 **(1) Special Flood Hazard Areas (1% annual chance, Zone AE)**

86 **(a) Residential structures located within the 1.0% annual flood chance (Zone AE)**
87 **shall be elevated and anchored to or above the base flood elevation plus 36 inches.**
88 **The first-floor elevation shall be measured at the top of the lowest finished floor**

89 height. Houses may have a maximum height of 35.5 ft.
90

91 §70-54 Amendment to Section R322.3 Coastal high-hazard areas (including V Zones and Coastal
92 A Zones, where designated.

93 Section R322.3.2 Elevation requirements of the Residential Code of the City of Lewes is amended
94 by striking “1 foot (305 mm)” and “~~18~~ 36 inches.”, and by inserting the following:

95 (1) Special Flood Hazard Areas (1% annual chance, Zone VE)

96 (a) Residential structures located within the 1.0% annual flood chance (Zone VE)
97 shall be elevated and anchored to or above the base flood elevation plus 36 inches.
98 The first-floor elevation shall be measured at the bottom of the lowest horizontal
99 structure member. Houses may have a maximum height of 35.5 ft.

100
101 Section 322.4 Flood Elevation 0.2% and Outside Regulated Flood Area (Zone X unshaded))
102

103 Flood Elevation (Freeboard)
104

105 (1) Non-Special Flood Hazard Areas (0.2% Zone X (shaded))

106 (a) Residential structures located within the 0.2% shall be elevated and anchored to
107 or above the base flood elevation plus 18 inches. The first-floor elevation shall be
108 measured at the top of the lowest finished floor height. Houses may have a maximum
109 height of 34 ft. This requirement shall go into effect 2 years from the adoption of the
110 ordinance.

111
112 (2) Outside a Regulated Flood Area (Zone X (unshaded))

113 (a) Residential structures outside a regulated floodplain are encouraged to elevate
114 and anchor to or above the finished floor an elevation plus 18 inches. The base
115 elevation shall be determined by applying the definition of Building Height. Houses
116 using this option may have a maximum height of 34 ft.
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118 **Section 2.** Chapter 197 Zoning Section 73 Floodplain of the Municipal Code of the City
119 of Lewes, Delaware, as amended be and the same is hereby further amended by removing the
120 strikethrough text and by adding the underlined text:

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122 § 197-73 **Floodplains.**

123 C. Administration

124 (5) Review, approval, or disapproval.

125 (c) Expiration of permit. A permit is valid, provided the actual start of construction
126 occurs within ~~180~~ 365 days of the date of permit issuance. If the actual start of construction
127 is not within ~~180~~ 365 days of the date of permit issuance, requests for extensions shall be
128 submitted in writing. Upon reviewing the request and the permit for continued compliance
129 with these regulations, the Floodplain Administrator may grant, in writing, one or more
130 extensions of time, for periods not more than ~~180~~ 365 days each.

131
132 D. Requirements in all special flood hazard areas.

- 133 (8) Gas or liquid storage tanks.
- 134 (b) Aboveground tanks in special flood hazard areas shall be elevated and anchored to
- 135 or above the base flood elevation plus ~~18~~ 36 inches or shall be anchored at grade and
- 136 designed and constructed to prevent flotation, collapse, or lateral movement resulting
- 137 from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during
- 138 conditions of the base flood.
- 139 (c) In special flood hazard areas, tank inlets, fill openings, outlets and vents shall be:
- 140 [1] At or above the base flood elevation or fitted with covers designed to prevent
- 141 the inflow of floodwater or outflow of the contents of the tanks during conditions
- 142 of the base flood.
- 143 [2] Anchored to prevent lateral movement resulting from hydrodynamic and
- 144 hydrostatic loads, including the effects of buoyancy, during conditions of the
- 145 base flood.
- 146 (9) Manufactured homes.
- 147 (a) Elevation. All new and replacement manufactured homes to be placed or
- 148 substantially improved in a flood hazard area shall be elevated such that the bottom of the
- 149 lowest horizontal structural supporting member of lowest floor of the manufactured home
- 150 is elevated to or above the base flood elevation plus ~~18~~ 36 inches.
- 151 (10) Critical facilities. New critical facilities shall, to the extent feasible, be located outside of
- 152 the special flood hazard area and outside of the 0.2% annual chance flood hazard area
- 153 (five-hundred-year floodplain). If documentation is provided that feasible sites outside of
- 154 the special flood hazard area are not available that satisfy the objectives of a proposed
- 155 critical facility, then the critical facility shall:
- 156 (a) Have the lowest floor elevated to or above the 0.2% annual chance flood hazard
- 157 area (five-hundred-year floodplain) elevation plus ~~one foot~~ 18 inches (305 mm) or to the
- 158 design flood elevation, whichever is higher; and
- 159 (b) Meet the applicable flood-resistant requirements of the Building Code and ASCE
- 160 24, and where elevation requirements are specified, the minimum elevation shall be the
- 161 0.2% annual chance flood hazard area (five-hundred-year floodplain) elevation plus one
- 162 foot (305 mm) or to the design flood elevation, whichever is higher.
- 163
- 164 E. Requirements in special flood hazard areas other than coastal high hazard areas.
- 165 **[Amended 2-5-2015]**
- 166 (2) Accessory structures. Accessory structures shall meet the requirements of these
- 167 regulations. Accessory structures that have a footprint of no more than 200 square feet
- 168 may be allowed without requiring elevation or floodproofing, provided such structures
- 169 meet all of the following requirements:
- 170 (a) Usable only for parking or limited storage.
- 171 (b) Constructed with flood damage-resistant materials below the base flood elevation.
- 172 (c) Constructed and placed to offer the minimum resistance to the flow of floodwaters.
- 173 (d) Firmly anchored to prevent flotation, collapse, and lateral movement.
- 174 (e) Electrical service and mechanical equipment elevated to or above the level of the
- 175 base flood elevation plus ~~18~~ 36 inches.
- 176 (f) Equipped with flood openings that meet the requirements of Section R322.2.2 of the

177 Residential Code.

178 (g) For guidance, see FEMA Technical Bulletin No. 7, Wet Floodproofing
 179 Requirements.

180 **I. Freeboard**

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182 **(1) Special Flood Hazard Areas (1% annual chance, Zone AE, and Zone VE)**

183 **(a) Residential structures located within the 1.0% annual flood chance (Zone AE)**
 184 **shall be elevated and anchored to or above the base flood elevation plus 36 inches.**
 185 **The first-floor elevation shall be measured at the top of the lowest finished floor**
 186 **height. Houses may have a maximum height of 35.5 ft.**

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188 **(b) Residential structures located within the 1.0% annual flood chance (Zone VE)**
 189 **shall be elevated and anchored to or above the base flood elevation plus 36 inches.**
 190 **The first-floor elevation shall be measured at the bottom of the lowest horizontal**
 191 **structure member. Houses may have a maximum height of 35.5 ft.**

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193 **(2) Non-Special Flood Hazard Areas (0.2% Zone X (shaded))**

194 **(a) Residential structures located within the 0.2% shall be elevated and anchored**
 195 **to or above the base flood elevation plus 18 inches. The first-floor elevation shall be**
 196 **measured at the top of the lowest finished floor height. Houses may have a**
 197 **maximum height of 34 ft. This requirement shall go into effect 2 years from the**
 198 **adoption of the ordinance.**

199

200 **(3) Outside a Regulated Flood Area (Zone X (unshaded))**

201 **(a) Residential structures outside a regulated floodplain are encouraged to elevate**
 202 **and anchor to or above the finished floor an elevation plus 18 inches. The base**
 203 **elevation shall be determined by applying the definition of Building Height. Houses**
 204 **using this option may have a maximum height of 34 ft.**

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206 **Section 3.** Chapter 197 Zoning Attachment 2 Table 1 of Dimensional Regulations of the
 207 Municipal Code of the City of Lewes, Delaware, as amended be and the same is hereby further
 208 amended by removing the strikethrough text and by adding the underlined text:
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Zoning Code	OS	R-1	R-2 and R-2(H)	R-3 and R-3(H)	R-4 and R-4(H)
Zoning Description	Open Space	Suburban	Residential Low-Density and Residential Low-Density (Historic)	Residential Beach and Residential Beach (Historic)	Residential Medium-Density and Residential Medium-Density (Historic)

Dwelling Unit Type	All Structures	All Structures	All Structures	All Structures	Dwelling, Detached	Dwelling, Two-Family
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 and VE	N/A	34 <u>35.5</u>	34 <u>35.5</u> or EBH	34 <u>35.5</u> or EBH	34 <u>35.5</u> or EBH	34 <u>35.5</u>
<u>0.2% flood area</u>	<u>N/A</u>	<u>34</u>	<u>34</u>	<u>34</u>	<u>34</u>	<u>34</u>
<u>All other locations with freeboard</u>	<u>N/A</u>	<u>34</u>	<u>34</u>	<u>34</u>	<u>34</u>	<u>34</u>
All other locations of - no freeboard	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
Maximum lot coverage	N/A	60%	65%	65%	65%	60%
Main structure (up to)	N/A	50%	50%	50%	50%	50%

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Section 4. Chapter 197 Zoning Attachment 2 Table 2 of Dimensional Regulations of the Municipal Code of the City of Lewes, Delaware, as amended be and the same is hereby further amended by removing the strikethrough text and by adding the underlined text:

Zoning Code	R-5					LC and LC(H)
Zoning Description	Mixed Housing					Limited Commercial and Limited Commercial (Historic)
Dwelling Unit Type	Dwelling Attached	Dwelling, Detached	Dwelling, Multiple-Family	Dwelling, Townhouse ⁷	Dwelling Two-Family	All Structures
Tract standards						
Tract area (acres)	2.5 acres	None	2.5	2.5	2.5	None
Street frontage (feet)	N/A	75	N/A	20	50	50
Lot standards						
Lot area (square feet)	N/A	10,000	N/A	NA	NA	5,000
Square feet per dwelling unit	1,250	10,000	1,250	1,250	3,000	1,500
Lot width (feet)	N/A	75	N/A	NA	50	50

Lot depth (feet)	N/A	100	N/A	NA	75	75
Setbacks (feet)						
Front yard	30	30 or EBL	30	20 ⁶	20	Minimum: EBL Maximum: EBL + 10 No EBL: 15
Side yard	15	8	20	8 ⁶	10	8
Rear yard	15	15	30	15 ⁶	15	15
Maximum building height (feet)						
FEMA flood zones AE and VE	34 <u>35.5</u>	34 <u>35.5</u>	34 <u>35.5</u>	34 <u>35.5</u>	34 <u>35.5</u>	34 <u>35.5</u>
<u>0.2% flood area</u>	<u>34</u>	<u>34</u>	<u>34</u>	<u>34</u>	<u>34</u>	<u>34</u>
<u>All other locations with freeboard</u>	<u>34</u>	<u>34</u>	<u>34</u>	<u>34</u>	<u>34</u>	<u>34</u>
All other locations with <u>no freeboard</u>	30.5	30.5	30.5	30.5	30.5	30.5

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Section 5. This Ordinance shall take effect immediately upon its adoption approval by the Mayor and City Council.

Section 6. 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.

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 Mayor and City Council at its regular meeting on _____, at which a quorum was present and voting throughout and the same is still in full force and effect.

 Secretary

Synopsis: This ordinance is to amend the freeboard regulations and building height.