

1 **AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF LEWES,**  
2 **CHAPTER 197 ZONING, SECTION 197-106 DEFINITIONS, AS IT RELATES TO THE**  
3 **DEFINITIONS OF PERVIOUS SURFACE AND IMPERVIOUS SURFACE.**  
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 amending the definitions of pervious surfaces and  
8 impervious surfaces;  
9

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

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

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

27  
28 **WHEREAS**, a public hearing was conducted on \_\_\_\_\_;

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

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

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

39  
40 **Section 1.** Chapter 197 Zoning, 197-106 Definitions of the Municipal Code of the City of  
41 Lewes, Delaware, be the same and is hereby amended by removing the strikethrough text and by  
42 adding the underlined text.

43 **SURFACE, IMPERVIOUS**

44 ~~A surface providing negligible infiltration such as pavement, buildings, recreational~~  
45 ~~facilities (by example, but not by limitation, tennis courts, swimming pools) and covered~~  
46 ~~driveways.~~  
47

A surface composed of any material that significantly impedes or prevents the natural infiltration of rainfall into the soil. This includes, but is not limited to roofs, concrete surfaces, asphalt surfaces, structures, non-pervious pavers, sidewalks, swimming pools, and multi-purpose courts; and any material that does not meet the definition of pervious.

SURFACE, PERVIOUS

~~Any material that permits full or partial absorption of stormwater into previously unimproved land.~~

Any material or surface that allows rainfall to infiltrate into the soil. This includes, but is not limited to, grass, meadows, planting beds, mulch, 1/4” spaced decking above pervious surfaces, washed\* gravel and stones greater than 3/8” diameter, shells, pervious pavers, porous pavement, and/or any material that when tested has an infiltration rate greater than 2” per hour.

\*After the raw gravel product is crushed and sized, a special machine gives it a thorough scrubbing to remove all traces of dust and debris. Washed gravel provides the perfect environment for rainwater to naturally flow, reducing the risk of puddling and oversaturation. (Tigard Sand & Gravel 2023)

**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 3.** 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

\_\_\_\_\_  
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 \_\_\_\_\_, 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 definitions of pervious surfaces and impervious surfaces