

**AN ORDINANCE
TO AMEND CHAPTER 128, MERCANTILE LICENSING, CHAPTER 197, ZONING,
SECTION 197-45(A), “HOME-BASED BUSINESSES”, AND SECTION 197-106,
“DEFINITIONS” OF THE MUNICIPAL CODE OF THE CITY OF LEWES TO UPDATE
REGULATIONS GOVERNING HOME-BASED BUSINESSES**

WHEREAS, the City of Lewes recognizes the importance of fostering economic opportunities for residents while maintaining the character and integrity of residential neighborhoods; and

WHEREAS, home-based businesses contribute to the local economy by providing employment opportunities, supporting entrepreneurship, and reducing the need for commuting; and

WHEREAS, it is in the public interest to clarify existing regulations to ensure that home-based businesses operate in a manner that is compatible with the residential nature of the community and do not create adverse impacts such as excessive traffic, noise, or environmental concerns; and

WHEREAS, the City of Lewes seeks to balance the rights of residents to conduct business from their homes with the need to preserve neighborhood aesthetics, safety, and the peaceful enjoyment of residential properties; and

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

WHEREAS, Section 38 of the Charter of The City of Lewes provides that the above-referenced grant of power “shall embrace new buildings or additions to or alterations of existing structures of every kind; to condemn buildings or structures, or portions thereof, that constitute a fire menace and to require or cause same to be torn down, removed or so altered as to eliminate the menace of fires; to prescribe the height and thickness of any building and the kind and grade of materials used in the construction thereof”; and

WHEREAS, Chapter 197, Zoning, Section 197-104, Text and map amendments, of the Municipal Code of the City of Lewes provides that any amendment to the Zoning Ordinance shall be made after a public hearing following fifteen (15) days’ notice by publication in an official paper or a paper of general circulation in the City. *Accord 22 Del. C. § 304*; and

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

WHEREAS, properly noticed public hearings on the proposed amendments were conducted on July 7, 2025, and April 6, 2026.

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

Section 1. Chapter 128, Mercantile Licensing, is hereby further amended by inserting a new Section 128-6, "Home-Based Business Licensing," as follows:

§ 128-6 Home-Based Business Licensing.

- A.** Determination of impact level. Each applicant for a new or renewed annual license under this Chapter for a home-based business, as defined in § 197-45, shall provide information regarding the characteristics of the business necessary for the City to determine the applicable impact level of home-based business (low-impact or high-impact) as classified under Chapter 197.
- B.** Fire Marshal review. A new or renewed annual license under this Chapter for a home-based business shall not be issued unless the City has received a written determination and any required approval from the Delaware State Fire Marshal. Exception: a Low-Impact Home-Based Business at which no non-resident employees are present, and no customers, clients, or patients visit the premises is exempt from this requirement, provided that the business does not use or store hazardous materials. This exemption applies only to the City's review requirements and does not affect any obligations arising under the authority of the Delaware State Fire Marshal.
- C.** Change in operations. If, after issuance of an annual license under this Chapter, the operations of a home-based business change in a manner that increases its level of impact from a low-impact to a high-impact category, including the addition of any employee, whether part-time, temporary employees, or otherwise performing work for the home-based business, who do not reside in the principal dwelling or an ADU on the property, the licensee shall notify the City in writing prior to, or concurrently with applying for any required revised home-based business approval under Chapter 197, but no later than 30 days prior to the change. Nothing in this section shall permit a prohibited home-based business, and the licensee shall comply with all applicable provisions of Chapter 197. Issuance or renewal of a license following such change shall not occur unless the City has received a written determination and any required approval from the Delaware State Fire Marshal.

- D.** Grounds for denial, suspension, or revocation. Failure to disclose the correct impact level of a home-based business, failure to obtain or maintain any required approval from the Delaware State Fire Marshal, or failure to report a material change in operations as required by this section, shall constitute grounds for denial, suspension, or revocation of an annual license issued under this Chapter.
- E.** Operation inconsistent with zoning approval. Operation of a home-based business in a manner that is otherwise inconsistent with, or in violation of, § 197-45 shall constitute grounds for denial, suspension, or revocation of an annual license issued under this Chapter.
- F.** Penalties. Any violation of this § 128-6(A)–(D), or any other provision of this Chapter, shall be subject to the penalties set forth in § 128-18. Enforcement under this Chapter is in addition to, and not in lieu of, any remedies or penalties available under Chapter 197 for zoning violations.

Section 2. Chapter 197, Zoning, Section 197-45(A), is hereby amended in its entirety. Except as amended herein, all other provisions of Chapter 197, Zoning, Section 197-45 remain in full force and effect.

Section 3. Section 197-45(A) is hereby amended to read as follows:

§ 197-45 Home-Based Businesses.

A. Home-Based Businesses.

(1) Regulations applying to all Home-Based Businesses.

- (a)** No more than 10% of the total living floor area of the dwelling or accessory building, or 300 square feet of the total living floor area of the dwelling or accessory building, whichever is greater, shall be used for the Home-Based Business.
- (b)** No change shall be made to the residential character/exterior of the building.
- (c)** Interior structural changes shall be limited to those that do not alter the primary purpose of the structure as a residence.
- (d)** A City of Lewes Business License/Home-Based Business Form shall be obtained.
- (e)** No business signs allowed.
- (f)** A Home-Based Business shall obtain a written determination from the Delaware State Fire Marshal prior to the commencement or continuation of operations. A Low-Impact Home-Based Business at which no non-resident employees are present, and no customers, clients, or patients visit the premises is exempt from this requirement, provided that the business does not use or store hazardous materials. This exemption applies only to the City's review requirements and does

not affect any obligations arising under the authority of the Delaware State Fire Marshal.

(2) Types of Home-Based Businesses

(a) Low-Impact Home-Based Businesses

[1] No persons other than residents of the principal dwelling or an ADU on the property shall be employed by, or otherwise perform work for, the Home-Based Business.

[2] No outdoor storage areas for goods and materials.

[3] No more than one (1) customer, client, or patient shall be on-site at any time.

[4] The Home-Based Business shall not create vibrations, heat, glare, dust, odors, smoke, or noise discernible at the property lines, and shall not use or store hazardous materials.

(b) High-Impact Home-Based Businesses

[1] Persons who do not reside in the principal dwelling or an ADU on the property may be employed or otherwise perform work on-site for the home-based business, including part-time or temporary employees, provided that no more than three (3) such employees are present at any time; however, one (1) off-street parking space shall be provided for each such non-resident employee, in addition to any other parking spaces required elsewhere in this Chapter.

[2] Outdoor storage areas for goods and materials shall be screened by an opaque barrier or either a fence or vegetation. Compliance with this requirement does not relieve an applicant of the obligation to obtain HPARC approval or comply with the standards contained in Chapter 197, Zoning, Article VI.

[3] May have customers, clients, or patients by appointment only, Monday through Friday.

[4] No vehicle exceeding Class 5 of the Federal Highway Administration Vehicle Classification System shall be used for deliveries or pickups associated with the business.

[5] Hours of operation are limited to 7:00 a.m. to 7:00 p.m.

[6] All High-Impact Home-Based Businesses are also subject to the administrative review and approval process set forth in § 197-45(A)(4)(b).

[7] High-Impact Home-Based Businesses shall not be located within any dwelling unit that shares a wall with another dwelling unit (e.g., Townhouse, Two-Family Dwelling, or Multiple-Family Dwelling) in order to protect public health and safety and to minimize fire risk, noise, odor, vibration, and operational impacts on adjoining dwelling units.

[8] An applicant who cannot satisfy one or more of the operational standards set forth in § 197-45(A)(2)(b)[1] through [7] may nonetheless apply for approval as a High-Impact Home-Based Business through the conditional use process set forth

in § 197-45(A)(4)(b). Such application shall, in addition to the information required under § 197-45(A)(4)(a), include a written statement identifying the specific standard or standards the applicant cannot satisfy and describing in detail the measures the applicant proposes to mitigate the impacts associated with the deviation. The Planning Commission and Mayor and City Council shall consider such mitigation measures in applying the required findings under § 197-96 and may attach conditions of approval to address any impacts arising from the deviation from the applicable standard or standards. This section does not guarantee approval, and the Mayor and City Council retain full discretion to deny any such conditional use application.

(3) Categorically Prohibited Home-Based Businesses

- (a)** Adult entertainment establishments;
- (b)** Restaurants, bars, and nightclubs;
- (c)** Medical clinics, and hospitals;
- (d)** Nursing care facilities;
- (e)** Automotive repair, sales, and gas stations;
- (f)** Rooming and boarding houses;
- (g)** Kennels, stables, veterinary clinics, and animal hospitals;
- (h)** Manufacturing; and
- (i)** Funeral homes and undertaking facilities.

(4) Administrative Process

(a) Submission of Application. A person intending to operate a Home-Based Business shall submit to the City Manager or their designee a completed Home-Based Business application form setting forth the name of the owner, location, type of business, proposed hours of operation, number of employees and whether those employees reside at the Property, provide information demonstrating compliance with § 197-45 and § 128-6, and shall pay an application fee as determined by the Mayor and City Council on the Fee Schedule.

(b) High-Impact Home-Based Businesses Review Process.

[1] If a complete application is submitted and determined by the City Manager or their designee to be a High-Impact Home-Based Business, it shall be treated as a Conditional Use application under Chapter 197, Zoning, Article XIII, for review and recommendation by the Planning Commission and final action by the Mayor and City Council. Notice of the public hearing for the conditional use shall be posted in accordance with § 197-95(B), including a yellow or other highly visible sign placed prominently on the property. Nothing in this subsection authorizes approval of a use that is otherwise prohibited under the Code. In reviewing a Conditional Use application under this subsection, the Planning Commission and

the Mayor and City Council shall apply the required findings in § 197-96, including but not limited to, whether the proposed Home-Based Business will not cause objectionable noise or adversely affect the health of City residents or visitors in the area.

Section 4. Chapter 197, Zoning, Section 197-106, Definitions, is hereby further amended by making insertions as shown by underlining and deletions as shown by strikethrough as follows:

ANIMAL KENNEL

Any structure or premises in which animals are boarded overnight, groomed, bred, reared or raised, or trained for commercial gain.

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HOME-BASED BUSINESS

Any business, business activity, profession, 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. Working remotely for a company/firm from a person's residence is not considered a Home-Based Business and is permitted in all zoning districts. See § 197-45.

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MEDICAL CLINIC

An establishment where patients are admitted for examination and treatment on an outpatient basis by one or more ~~physicians, dentists, other medical personnel, psychologists, or social workers~~ licensed health professionals and where patients are not lodged overnight. A medical clinic may include walk-in or urgent care services, diagnostic imaging, or outpatient surgery typical of outpatient care. A medical clinic does not include routine medical offices limited to scheduled appointments and routine treatment.

MEDICAL OFFICE

An outpatient facility or office used by a licensed health professional, limited to routine treatment and no overnight stays. Medical offices do not include urgent care centers, walk-in services, outpatient surgery centers, medical clinics, nursing care facilities, and hospitals.

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~~PET-GROOMING~~

An establishment where pets are bathed, clipped, or combed for the purpose of maintaining their aesthetic appearance or health.

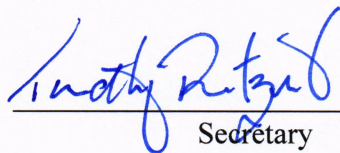
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Section 5. Chapter 197, Zoning, Attachment 1, Table of Permitted Uses and Structures, is hereby amended by making insertions as shown by underlining and deletions as shown by strikethrough as shown in Exhibit A attached hereto and made a part hereof.

Section 6. If any provision of this Ordinance shall be deemed or held to be invalid or unenforceable for any reason whatsoever, 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 7. This Ordinance shall take effect on April 13, 2026.

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 April 13, 2026, at which a quorum was present and voting throughout and the same is still in full force and effect.


Secretary

SYNOPSIS: This Ordinance amends Chapter 128, “Mercantile Licensing,” to establish disclosure and reporting requirements for Home-Based Business licenses, and Chapter 197, Zoning, Sections 197-45(A) “Home-Based Businesses,” and 197-106 “Definitions” of the Municipal Code to update and clarify regulations governing home-based businesses.