

The City of Lewes



**Report and Recommendation of the Ad Hoc
Committee to Combine the
Historic Preservation Commission
and the
Commercial Architectural Review Commission**

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Approved by committee on 11/11/18

Report and Recommendation of the Ad Hoc Committee to Combine the Historic Preservation Commission and the Commercial Architectural Review Commission

Introduction

This is the report and recommendation of the Ad Hoc Committee (AHC) charged with combining the Historic Preservation Committee (HPC) and the Commercial Architectural Review Commission (CARC) into a new City commission. The AHC recognizes the vital role that the HPC and the CARC have played in the City's development and is confident that the new commission proposed by the AHC will continue this fine work.

Background

At its December 11, 2017 regular meeting, Mayor and Council received the report of the Committee to Review Standing Committees Ad Hoc Committee and took action on the report's recommendations. In one such action, Mayor and Council voted unanimously to combine the HPC and the CARC into a new commission. Mayor and Council further voted to appoint an ad hoc committee to determine how to effect this combination and to draft an appropriate ordinance. Mayor and Council directed Deputy Mayor Fred Beaufait and Councilperson Bonnie Osler to work on this issue and to make a recommendation about the membership of the ad hoc committee.

At Mayor and Council's regular meeting on January 8, 2018, Deputy Mayor Beaufait and Councilperson Osler recommended that the AHC consist of themselves, the chairs of the HPC and the CARC, and Brenda Jones. Mayor and Council approved this recommendation.¹

The AHC met in public session, after appropriate public notice, on January 22, February 6, February 20, May 3, May 22, May 29, June 14, July 31, August 15, August 28, September 13, and October 15. Henry Baynum and Robin Davis of the Building Official's Office and City Planner Tom West made invaluable contributions to the AHC's work.

Recommendation

The AHC voted unanimously at its October 15th meeting to recommend that Mayor and Council adopt the attached ordinance combining the HPC and the CARC into the HPARC. This ordinance largely mirrors and marries the current HPC and CARC ordinances (197-56 through 197-59 and 70-9 through 70-17, respectively). The AHC endeavored to avoid addressing substantive changes to the HPC and the CARC ordinances, instead focusing on how best to combine the commissions' processes and procedures.² The principal new features of the proposed ordinance are:

1. New commission: The HPC and the CARC should be combined to form a new commission titled Historic Preservation & Architectural Review Commission (HPARC).
2. Jurisdiction
 - a. Except as provided in subsections 2(b) and 2(c), the HPARC should have exclusive jurisdiction over the exterior design of all structures located in the City of Lewes.
 - b. The HPARC should not have jurisdiction over:
 - i. residential structures located outside the Historic District unless the residential structure is subject to a recognized historic designation, (e.g., inclusion on the National Register of Historic Places); or
 - ii. major subdivisions, as defined in Chapter 170, Article III.
 - c. To provide for a comprehensive, integrated process, the HPARC and the Lewes Planning Commission, through a special joint committee, should have jurisdiction over projects subject to site development plan review under Chapter 170, Article V.

¹ Ms. Jones participated in several AHC meetings but, due to scheduling conflicts, ultimately resigned from the AHC.

² The HPARC should, of course, review its substantive authority and propose any appropriate changes to Mayor and Council.

Respectfully Submitted:

Fred Beaufait

Bonnie Osler

Barbara Warnell

James Edwards

ATTACHMENT

**Proposed Ordinance
Establishing the
Historic Preservation Architectural Review Commission
And
Joint Site Development Ad-Hoc Review Committee**

Zoning Ordinance Amendments

Historic Preservation Architectural Review Commission (Zoning)

§197-56. Purpose, establishment, composition meetings and definitions

- A. Purpose. The purpose of this article is to create and authorize the **Historic Preservation Architectural Review Commission** (HPARC) to accomplish the following:
- (1) To safeguard and enhance the historic heritage of the City by preserving the elements which reflect the cultural, social, economic, political or architectural history of the City.
 - (2) To stabilize and improve property values in the City through historic preservation and appropriate development.
 - (3) To foster the safety, health and general welfare of the residents and property owners of the City.
 - (4) To strengthen the local economy.
 - (5) To promote the use and preservation of the City of Lewes's values as established by the Lewes Comprehensive Plan.
 - (6) To assist in preserving the historic character and the historic fabric of the City of Lewes.
 - (7) To recommend rehabilitation rather than demolition of contributing structures or historic properties.
 - (8) To encourage the proper maintenance, preservation and, when necessary, alteration of structures in the Historic District.
- B. Establishment. There is hereby established a commission to be called the "Historic Preservation & Architectural Review Commission".
- C. Composition, qualifications, appointment, elections.
- (1) The **Historic Preservation Architectural Review Commission** shall consist of seven voting 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. At least three members shall be residents in the Historic District, and at least six members shall be residents of the City of Lewes. Recognizing the benefits of having HPC members with professional and/or academic backgrounds related to historic preservation, the seventh member may be an architect or other professional with related experience, who is not required to be a City of Lewes resident. Appointments shall be made with consideration of the diverse talents and communities represented in Lewes and should to the maximum extent possible include residents with the following expertise:
 - (a) At least one representative of the field of architectural and/or building design;
 - (b) At least one representative with knowledge and/or experience in historic preservation;
 - (c) At least one representative with knowledge and/or experience in building construction; and
 - (d) One member of the Lewes Planning Commission.
 - (2) The following ex officio members shall participate with all rights of membership except voting rights;
 - (a) One member of City Council;
 - (b) The Building Official (or his or her designee);
 - (c) The City Planner.
 - (3) Members of HPARC (with the exception of ex officio members), shall serve for three-year terms, except that initial appointments shall be staggered.
 - (4) HPARC shall elect annually a Chair, a Vice Chair, and a Secretary from among its own members and may utilize experts, clerks, and such other assistance that **its** fiscal appropriations may permit. HPARC 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
 - (5) HPARC shall make and adopt rules and/or bylaws necessary for the conduct of its work.

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D. Meetings; records.

- (1) HPARC shall determine the times and frequency of its meetings, which shall be held at least monthly; however, if no agenda items are available or requested ten working days prior to the time of a regularly scheduled monthly meeting, the Chair may cancel the regularly scheduled monthly meeting.
- (2) Except as provided otherwise with respect to executive session, financial need, and chair and staff review, all meetings of HPARC shall be open to the public.
- (3) The Chair will establish the meeting agenda for reviewing applications and other business, and has the right to modify the sequence when necessary and, in unusual circumstances has the right to call special meetings with seven days prior public notice.
- (4) An agenda item 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 chair may cancel the meeting.
- (5) Any interested person, or his or her representative, is entitled to appear and be heard before the Historic Preservation & Architectural Review Commission before a decision on any matter is rendered.
- (6) The Historic Preservation & Architectural Review Commission shall comply with Delaware and City of Lewes statutes, ordinances, and rules governing public meetings and public record.

E. Definitions. In this article, the following definitions shall be applicable unless the context clearly indicates to the contrary:

ACTION NOTICE - A notice issued by Historic Preservation & Architectural Review Commission (HPARC) indicating its decision to either- approve the plans submitted, approve the plans with conditions, or deny the plans - for construction, alteration, reconstruction, rehabilitation, restoration, moving, or demolition of a structure within the Historic District.

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 one location to another.

BUILDING HEIGHT, ESTABLISHED -- Subject to approval by HPARC pursuant to this Article, 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 HPARC, if recommended by the Building Official, 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 residential structure shall exceed the height of thirty-six (36) feet.

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 HP & ARC, 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 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 structure. Demolition also pertains to any process that disassembles a structure, even if the intent is to put that structure back together again.

DEMOLITION BY NEGLIGENCE - Any neglect in the maintenance or repair of a contributing structure, or a site within the designated historic district, which results in conditions such as, but not limited to: A. The deterioration of the foundations, exterior walls, roofs, chimneys, doors, or windows, so as to create or permit a hazardous or unsafe condition to exist; or B. The deterioration of the foundations, exterior walls, roofs, chimneys, doors, or windows, the lack of adequate waterproofing, or the deterioration of interior

105 features, which will or could result in permanent damage, injury, or loss of or loss to foundations, exterior
106 walls, roofs, chimneys, doors or windows.

107 **EXTERIOR FEATURES** - The architectural style, design, and general arrangement of the exterior of an
108 historic structure, including the nature and texture of building material, and the type and style of all
109 windows, doors, light fixtures, signs or similar items found on or related to the exterior of all structures.

110 **HISTORIC DISTRICT** - An area of the City of Lewes identified and designated as having historic
111 importance. The Historic District is shown on the City of Lewes Zoning Map as a series of zoning districts
112 characterized as "Historic."

113 **HISTORIC PROPERTIES** - structures and sites, public rights-of-way or areas designated by City
114 Council as having importance in the history of The City of Lewes. A list of historic properties is on file in
115 the City offices. These properties may be within or not within the designated "Historic" zoning districts .

116 **INFILL** - Construction of a completely new structure on a previously vacant lot.

117 **IN PUBLIC VIEW** - That portion of a structure that is visible, or could be visible in the absence of a
118 fence or landscaping, from the section of a public right-of-way or public street upon which the structure
119 fronts. If the structure is located on more than one street, then that portion of a Structure that is visible, or
120 could be visible in the absence of a fence or landscaping, from any section of a public right-of-way or
121 public street abutting a property line of the property on which the Structure exists.

122 **MAINTENANCE** - Work that does not alter the exterior fabric or features of a site or structure and has no
123 material effect on the historical, archaeological, or architectural or cultural significance of the site or
124 structure.

125 **MAINTENANCE/REPAIR** - Ordinary repairs and maintenance, including design, materials, features or
126 finishes of a structure which do not alter the exterior appearance of the structure and have no material
127 effect on the historical, archaeological or architectural significance of the structure. Paint color is included
128 in this definition regardless of the effect on exterior appearance.

129 **MASS** - Bulk or three-dimensional size of an object.

130 **MASSING** - The relationship of the structure's various parts to each other. The combination of several
131 masses to create a structure's volume; organization of the shape of a structure, as differentiated from wall
132 treatment, fenestration, etc.

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

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

139 **NEW CONSTRUCTION** - Construction which is characterized by the introduction of new elements,
140 sites, buildings, or structures or additions to existing buildings and structures in the Historic District.

141 **ORDER** - In architecture order refers to the arrangement and relationships of the parts of a building.

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

143 **PRESERVATION** - Actions taken to prevent or keep a structure from decay or degradation.

144 **RECONSTRUCTION** - The process of reproducing, by new construction, the exact form and detail of a
145 vanished structure, or part thereof, as it appeared at a specific period of time.

146 **REHABILITATION** - The act or process of returning a property or building to usable condition through
147 repair, renovation, and/or preservation of its features which are significant to its historical, architectural,
148 and cultural values.

149 **RENOVATION** - Any activity requiring a building permit, the approval of the Lewes Building Official,
150 and/or any change in the exterior appearance (other than maintenance) or structural change, including but
151 not limited to construction, reconstruction, modification, alteration, moving or demolition of a structure
152 within the Historic District of the City of Lewes.

153 **REPAIR** - The process of rehabilitation which warrants additional work beyond simple maintenance.
154 Repair includes patching, piecing in, splicing, consolidating or otherwise, reinforcing materials according
155 to recognized preservation methods.

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

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

161 **SCALE** - Scale is the relationship of the architectural mass of the structure in the context of the
162 streetscape. Scale may be thought of as the relationship of the parts to a whole. Scale in architecture is a
163 measure of the relative or apparent size of a building or building component in relation to a known unit of
164 measure or a familiar size for such a component.

165 **SITE DEVELOPMENT PLAN** - A properly certified plan, prepared by a land surveyor registered with
166 the State of Delaware Board of Professional Land Surveyors or by a professional engineer registered with
167 the Delaware Association of Professional Engineers, describing how a property will appear if the proposed
168 development application is approved, including detailed drawings of proposed improvements. A site
169 development plan shall conform to the specific requirements outlined in this chapter.

170 **SKETCH PLAN** - An informal plan, not necessarily to exact scale, indicating topographic and other
171 salient existing features of a tract and its surroundings and general layout of the proposed subdivision or
172 land development.

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

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

178 **WINDOW** - Windows have two main components, the frame and the sash. The frame is the outermost
179 area, or casing of the window, and inside it are the sash and the glass. Historic windows have specific
180 details and proportions. Windows are among the most noticeable and recognizable features of a building.
181 They are the means for providing air and light into a building. Significant characteristics of a window
182 include their materials, shape, pane arrangement, moldings, and hoods. In terms of a review all parts of a
183 window will be taken into consideration including the frame, crown, head, glass, grilles, muntin/mullion,
184 stiles, sash, jamb, rails, sill and apron.
185

186 §197-57. Jurisdiction and Procedures

187 A. Jurisdiction

188 (1) The Historic Preservation & Architectural Review Commission shall have jurisdiction over all
189 structures in the City of Lewis except as stated in subsection (3). This jurisdiction includes all
190 existing and new structures (including structures that have been or are proposed to be relocated) and
191 encompass development, development plans, construction, alteration, renovation, modification,
192 building remodeling and any other changes that may be made to a structure.

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194 (2) The Historic Preservation & Architectural Review Commission will participate with the Lewes
195 Planning Commission on a joint ad-hoc site development plan review committee as established in
196 **Subdivision and Land Development Ordinance Amendments Chapter 170.**
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198 (3) The Historic Preservation & Architectural Review Commission shall not have jurisdiction over:
199 i. Residential structures and associated outbuildings located outside the historic district or
200 not otherwise defined as historic properties;
201 ii. Any aspect of the design or construction of the interior of structures that will not alter the
202 exterior appearance of the structure;
203 iii. Repair and or replacement of existing windows and doors using the same material,
204 including the installation of storm windows that will not alter the exterior appearance of
205 the structure;
206 iv. Maintenance repair and or replacement of existing roof material, involving no change in
207 the design, scale, material, or appearance of the structure;

- v. Repair and or replacement of roof structures such as Cupolas, Dormers, and chimneys, using the same material that will not alter the exterior appearance of the structure;
- vi. Repairs and or replacement of existing shingles, clapboards, or other siding, using the same materials, and maintaining the exterior appearance of the structure;
- vii. Replacement or repairs to existing shutters, fences, or retaining walls, using the same materials for those items being repaired or replaced; or
- viii. Repainting or change of paint color except when required as part of a plan application.

B. Procedures

(1) Application and approval procedures

- i. Applicants must contact the Building Official to review the application process prior to preparing a building application;
- ii. After coordinating with a Building Official, the applicant shall proceed with submitting an application form as described by the Building Official;
- iii. Following submission of an application, the Building Official will advise the applicant on the review process, depending on the type of proposal and its location, a proposal would be reviewed as follows:
 - 1. Any project located within the Historic District or defined as a Historic Property shall be subject to the Historic District or Properties review process under this Section.
 - 2. Any land development project that requires review and approval as defined by the Site Plan Review process, under Article V of the Subdivision and Land Development Ordinance, must be reviewed and approved by HPARC for compliance with those regulations prior to issuance of any building permits.

§197-58. Historic District or Properties review process

- A. For projects located in the Historic District or defined as a Historic Property, the Building Official shall notify the applicant that his/her project must be approved by HPARC using the procedures in this Section and shall give him/her an HPARC application and a brochure describing the application process.
- B. For the initial application, the applicant shall complete the application form, and attach the required supporting documents. An application is deemed complete when all required items have been submitted. After the review process is completed, the Building Official will retain two copies of the application for City records. When the application is for demolition of all or part of a structure, a report from a licensed professional engineer is strongly recommended.
- C. HPARC will meet at regular intervals to ensure timely consideration of all applications pending before the Commission. 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 the HPARC meeting at the time their application(s) is heard.
- D. HPARC shall endeavor to arrive at a decision at the first meeting at which the application is presented; however, if the Commission 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. HPC/ARC 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 (below); 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.
 - (1) 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

257 members, HPARC shall consider that information, evidence or testimony before addressing the
258 application.

- 259 (2) If the members of the Commission, by vote of the Commission, determine that additional time is
260 needed to digest the new information, the decision will be postponed for one meeting and the
261 requirement for a decision at the end of the second meeting at which the application is considered
262 shall be suspended.

- 263 E. If, after review of the application by the Building Official, he/she determines that the proposed activity will
264 require a variance, the Building Official shall notify the applicant and provide information on the process
265 for application to the Board of Adjustment. If no application to the Board of Adjustment is made by the
266 applicant within 30 days after notice has been given by the Building Official, the application shall be
267 deemed to have been withdrawn. However, if the applicant desires to have HPARC review an application
268 prior to applying to the Board of Adjustment, the applicant shall request the Building Official to forward
269 the application to HPARC.
- 270 F. HPARC may either grant approval, grant approval with conditions, or deny the application. A denial shall
271 include the reasons that the proposal does not meet the criteria in the Criteria; Standards Section (below).
272 The applicant shall have the opportunity to resubmit his/her application with modifications; such
273 resubmissions shall meet the same requirements as the original. If the second submission of the application
274 is denied, the applicant may either modify the application for another submission or appeal the denial to
275 the Board of Adjustment. In no event may HPARC make recommendations for changes that will require
276 violation of other requirements of this chapter.
- 277 G. Written notice of the decision of HPARC will be forwarded promptly by the Commission to the applicant
278 and to the Building Official. The notice will inform the applicant to meet with the Building Official to
279 complete the application for a building permit. Approval shall be valid for one year for the approved
280 project; if the project is commenced but not completed before the end of that period, the owner shall apply
281 to the Building Official for an extension that may not exceed an additional period of one year.
- 282 H. Changes to an HPARC approved project prior or during construction shall require review and approval by
283 HPARC. For such changes, the applicant shall submit one copy of the original application and a
284 description of the proposed changes as well as any supporting documentation to illustrate the effect or
285 noneffect of such proposed changes. Consideration of such changes shall be placed at the top of HPARC's
286 agenda at the next regularly scheduled meeting or may be considered for approval by a Chair/staff review.
- 287 I. Demolition or removal. If the structure or any part thereof is deemed to be "contributing" and therefore has
288 historic and/or architectural significance, no demolition or removal of the structure from the premises may
289 take place until after a public hearing. Presentation and approval of an application for construction,
290 renovation, alteration, or reconstruction at the property shall be required prior to the approval to move
291 and/or demolish the structure. Efforts may be taken to either mitigate or to eliminate the demolition or
292 removal through informal discussions among the applicant, the Chair of HPARC, and the City Building
293 Official. In addition, HPARC may delay its final decision for up to an additional 60 days over and above
294 the usual two-meeting requirement for a decision in order to obtain an independent opinion from a licensed
295 professional engineer regarding the structural integrity of the property. A final decision on demolition or
296 removal must be rendered no later than 120 days after the initial application unless delayed by federal,
297 state or local holidays, severe weather or other natural disasters, emergencies, or unless an extension is
298 agreed to by the applicant and HPARC. If the structure is noncontributing, HPARC may address the
299 application for demolition or removal without a hearing.
- 300 J. Interior features. HPARC shall consider only exterior features and shall not consider interior arrangements
301 except to the extent that an interior alteration affecting the exterior is required by law or disability of owner
302 or tenant.
- 303 K. Designation of historic properties. Owners of property outside the boundaries of the Historic District may
304 request his/her/their property be designated an historic property. Before any such designation may be
305 assigned, specific procedures, information required, and recordation procedures and requirements shall

306 have been determined. Such procedures shall include reference to the guidelines of the United States
307 Department of the Interior (see HPARC bylaws and procedures).

308 L. Appeals. Any person aggrieved by a decision rendered by HPARC shall have the right to appeal to the
309 Board of Adjustment of the City of Lewes.

310 M. Chair/staff review. In certain circumstances, the HPARC Chairman (or HPARC commissioner appointed
311 by the Chairman), Building Official, and the Assistant Building Official may decide to approve an HPARC
312 application without a formal hearing. A Chair/staff review shall be used for routine and minor Historic
313 District construction applications whose costs are estimated at less than \$50,000. The requests may
314 include such items as the addition or replacement of fences, window replacements, and other projects
315 where HPARC (or its predecessors, the Commercial Architecture Review Commission or the Historic
316 Preservation Commission) has a history of approving similar projects using the same materials.

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318 N. Financial Hardship

319 1) Purpose: Preservation of structures in its historic district is very important to the citizens of Lewes. The
320 Commission may, however, in exceptional circumstances, grant reasonable relief from compliance with
321 the Lewes Historic Preservation Ordinance to applicants demonstrating financial hardship through reliable
322 evidence.

323 2) Burden of Proof for Financial Hardship Claims: The burden of submitting competent, credible evidence
324 of financial hardship and of proving financial hardship rests with the applicant.

325 3) Eligibility Criteria: To determine financial hardship, the Commission will apply a two-step process.
326 First, using the applicant's gross annual income, as reported on the applicant's two previous federal
327 income tax returns, the Commission will apply the current United States Department of Housing and
328 Urban Development (HUD) Section 8 income limits for Sussex County. Depending on whether the
329 applicant qualifies as an individual or as part of a family, the applicant's individual or family gross annual
330 income must be no more than 50% of HUD's Sussex County's median income in both of the two previous
331 years to qualify for relief from the Historic Preservation Ordinance. Second, if an applicant qualifies for
332 relief under the gross annual income standard, the applicant must submit a statement of individual or
333 family net worth form to be provided) which the Commission will review to make a final determination of
334 financial hardship. In exceptional cases, however, the Commission may consider financial hardship claims
335 from applicants who do not meet either or both criteria.

336 4) Submission. After applying for a building permit, the applicant shall submit a completed confidential
337 city application (form to be provided) for financial hardship to the building official along with the HPARC
338 application.

339 5) Additional Submission Requirements: In addition to submission of the applicant's two previous federal
340 income tax returns and statement of net worth, the applicant must submit:

341 a) Cost estimates for the proposed project.

342 b) A written explanation of why the applicant cannot financially comply with the Historic
343 Preservation Regulations.

344 c) All appraisals of the property obtained within the two years preceding the year of the
345 application by the applicant.

346 d) All listings of the structure for sale or rent, including the price asked and offers received, during
347 the current year and two years preceding the year of the application, together with the reasons for
348 not selling or renting the structure.

349 e) If multiple parties have rights to ownership of the structure, e. g., multiple heirs, financial
350 information about all such parties shall be submitted. Failure to provide such information may
351 result in denial of the claim.

352 f) The form of ownership or operation of the structure sole proprietorship, for-profit corporation,
353 limited partnership, joint venture, etc.) and financial information for the two years preceding the
354 year of the application for any such entity.

355 g) Evidence or a statement of whether the structure under review is the applicant's primary
356 residence.

357 h) Any other relevant information requested by the Commission.

358 6) The Building Official's Office shall evaluate the submission for completeness and shall discuss with the
359 applicant possible methods and materials to achieve the maximum possible compliance with the Historic
360 Preservation Ordinance. The Building Official's Office shall submit a recommendation to the Commission
361 concerning possible resolution of the claim for financial hardship, including granting or denying the claim
362 in whole or in part.

363 7) Order of Commission review

364 a) The Commission shall hold a hearing to receive public comment prior to the regularly
365 scheduled meeting at which the commission will consider the application in open session. If the
366 specifics of the applicant's financial situation must be further reviewed, the Commission may go
367 into executive session; however, the Commission shall provide a public summary of its
368 deliberations in executive session.

369 b) The Commission may request additional financial information and additional information about
370 the cost of compliance with the Historic Preservation Ordinance, particularly if the applicant
371 requests permission to demolish a contributing structure partially or totally.

372 c) The Commission shall consider any evidence of self- created financial hardship.

373 d) The Commission shall consider financial resources available to the applicant through federal,
374 state, municipal, or private programs.

375 e) The Commission shall consider the significance of a contributing structure in terms of its
376 prominence in City history, its age, its significance to streetscape and nearby contributing
377 structures, and any other factors relevant to the structure as the Commission deems appropriate.

378 f) The Commission shall consider whether the proposed work will have irreversible effects on the
379 structure.

380 g) The Commission may approve or deny the application for financial hardship or approve the
381 application with conditions. The Commission shall recognize the applicant's needs and resources,
382 while basing its decisions on historical, architectural, aesthetic, and legal considerations as set
383 forth in § 197- 59. The Commission may work with the applicant to find the most cost-effective
384 design solution that will promote achieving the purpose and the intent of the requirements of this
385 Article. Although not required, the HPARC will attempt to arrive at a financial hardship
386 application decision in one meeting.

387 h) A determination of financial hardship shall be applicable to the proposed project application
388 pending before the Commission and does not automatically extend to additional applications for
389 the alteration of the structure.

390 i) A determination of financial hardship under this section is applicable to the property owner(s)
391 and does not run with the property. Any change in ownership of the property voids a determination
392 of financial hardship and it is the responsibility of the applicant to notify the Building Official's
393 Office of any change in ownership. The right of any new owner(s) to apply for a financial
394 hardship exception shall be without prejudice.

395 j) Approval of an application for financial hardship shall be valid for one year.
396

397 **§197-59. Historic District or Properties Criteria; Standards.**
398

399 A. Criteria. In reviewing the plans for any construction, change, or demolition, HPARC shall give
400 consideration to:

401 1) Historic or architectural value and significance of the structure and its relationship to the historic value
402 of the surrounding area.

403 2) Relationship of the exterior architectural features of the structure to the remainder of the structure and
404 to the surrounding neighborhood. Distinctive stylistic features or examples of skilled craftsmanship
405 shall be preserved, if possible.
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- 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 an 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 HPARC 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 is also the relationship of the different elements of the building itself, including but not limited to additions, porches, windows, and doors.
 - (d) Rhythm. The rhythm of the streetscape and building with 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 “noncontributing” make application to the HPARC for approval for alteration or demolition, the HPARC 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 HPARC for alteration or demolition, preserving the property will be the HPARC’s primary criterion in evaluating the application. HPARC 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 HPARC, consistent with its purpose [§ 197-56A 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, HPARC 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 be reviewed by HPARC for the purpose of ensuring historic character.
 - (11) The HP & ARC 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.

462 (12) The HPARC shall not deny any reasonable accommodation for a disability, compatible with this
463 chapter; however, the HPARC may suggest reasonable alternative design and/or placement.
464

465 B. Standards. The following standards shall be used by the HPARC in preserving the district's architectural
466 integrity and insuring the compatibility of new construction and alterations with the existing body of
467 distinctive Lewes historic building styles. All materials used shall be consistent with and appropriate in design,
468 texture and other visual qualities to the style and period of the structure. (The Secretary of the Interior's
469 regulations, "Standards For Rehabilitation," including reference drawings, as designated in Appendix C,
470 include broad guidelines covering rehabilitation projects of historic buildings and should be referred to in a
471 reasonable manner, taking into consideration economic and technical feasibility.) (NOTE: See Appendix C on
472 file and available for inspection in the City Manager's office.)
473

474 (1) Roofs, pitch, dormers and types. The roof and pitch of the roof shall be in keeping with traditional roof
475 types and styles in use in Lewes in new structures and alterations.
476

477 (a) The roof types traditionally found in Lewes include: [1] Gable, including such variations as the
478 "clipped gable" and the "saltbox"; [2] Gambrel or "barn roof"; [3] A traditionally framed mansard
479 with dormers incorporated into the roof design; and [4] Hip, including variations on hip roofs such
480 as "gable on hip."
481

482 (b) Any of these traditional roof types is acceptable without the need to duplicate the predominant
483 roof type of a specific neighborhood since part of the charm of the Lewes streetscape lies in the
484 variation of roof styles and pitches within these basic roof types. Modern variations of these roof
485 types that clearly bear no resemblance to the traditional styles and pitches will not be approved.
486 (Reference Drawings Nos. 1, 2 and 3.)
487

488 (2) Roofing materials. Acceptable materials include wood, slate, metal, asphalts, and fiberglass shingles.
489 Repair materials shall be compatible with the existing roofing material. When a flat roof is otherwise
490 consistent with the design criteria established in this article, i.e., porches, decks, widow's walks or cupolas,
491 then rubber membrane or similar material may be used.
492

493 (3) Siding materials.
494

495 (a) By definition, contributing structures demonstrate unique and desirable design and materials that define
496 the Lewes Historic District. Therefore, contributing structures shall be held to a higher standard than
497 noncontributing structures and buildings.

498 (b) All reasonable efforts shall be made to preserve the original siding and materials of a contributing
499 structure.
500

501 (c) If the HPARC determines that it is reasonable for original siding to be replaced (either partially or
502 completely) on a contributing structure, the HPARC strongly recommends that natural
503 materials of the same type and appearance be used to replace original siding and materials. The HPARC
504 may approve wood shingles, horizontal clapboard siding, vertical board-and-batten, and brick, stone, or
505 stucco for siding replacement and repairs for contributing structures.

506 (d) Natural materials matching or substantially similar to the original siding shall be used on the front
507 elevations of contributing structures.

508 (e) While natural materials on all applications and elevations of a contributing structure are strongly
509 recommended, the HPARC may approve the use of fiber cement siding and other appropriate modern
510 siding material on side and rear elevations of contributing structures. Any fiber cement siding or other
511 appropriate modern material shall be consistent with original siding in profile, reveal, appearance, design,
512 and texture. The smooth, not the textured, side of fiber cement siding or other appropriate modern material
shall be used.

513 (f) Regardless of the type of replacement siding material used, replacement siding must be consistent in
514 appearance and style with the original materials or with the period of significance to which the structure or
515 building is being restored.

516 (g) No vinyl or aluminum or other metal material may be used as replacement siding on any contributing
517 or noncontributing structure unless it is demonstrated by the applicant that vinyl or aluminum or other
518 metal material was originally used for the structure. No vinyl or aluminum or other metal siding material
519 may be used in the construction of any addition to an existing contributing or noncontributing structure
520 unless vinyl or aluminum or other metal material was originally used for the structure and is currently in
521 use on the structure.

522 (h) No vinyl or aluminum or other metal siding material may be used in the construction of any new
523 noncontributing structure.

524
525 (4) Foundation material. The traditional type of foundation in use in the Lewes Historic District is brick or
526 ballast stone. The use of brick, or a brick veneer over a block foundation, is strongly recommended. Other
527 acceptable materials are natural stone and pargeting (stucco) sufficient to disguise the block joints.

528
529 (5) Chimney styles and materials. Chimneys in public view should be of brick or pargeting (stucco). Metal
530 chimneys are acceptable for use in nonpublic view.

531
532 (6) Porches. All materials shall be consistent with and appropriate in design, texture and other visual
533 qualities to the style and period of the structure. Vinyl or aluminum or other metal railings and trim are
534 prohibited; provided, however, that if such vinyl or aluminum or other metal railings and trim exist on a
535 contributing or noncontributing structure, it may continue but cannot be used on a new noncontributing
536 structure in the Historic District. If a porch is to be included in new construction or alteration, it shall
537 adhere to the height line and average depth of other porches in the surrounding neighborhood. When
538 existing structures with traditional porches, either one- or two-story, are renovated, owners are encouraged
539 to preserve both the porch and its architectural detailing. An open porch in public view that encroaches
540 into the setback shall not be converted into living space. Areas under porches or decks shall not be open to
541 view.

542
543 (7) Windows.

544 (a) Restoration. If the windows are original to the historic contributing structure, every reasonable
545 effort shall be made to rehabilitate rather than replace them. Repair materials shall duplicate the
546 old in composition, design, and texture, and shall match as closely as possible the existing historic
547 window elements.

548
549 (b) Replacement. In the event the original historic windows cannot be restored, every reasonable
550 effort shall be made to replace them in kind using the same sash and pane configuration. The
551 replacement sash shall fit the window opening and not noticeably change the character-defining
552 components of the original window, including the depth of the sill and reveal, mullion profile and
553 configuration, appearance of the frame, reflective qualities of the glass panes, exterior trim, and
554 other design details.

555
556 (c) New construction. New structures in the historic district and alterations to existing historic
557 structures shall have windows compatible with existing and surrounding structures.

558
559 (8) Architectural details. The term “architectural details” applies to such building features as window and
560 door trim styles, cornices, ornamental brackets, porch and entrance balustrades, porch pillars, corner
561 pilasters, gable peak ornamentation, lattice work, traditional paneled and louvered wooden shutters and
562 similar details. If consistent with the period, shutters added to a structure shall present the appearance of
563 working shutters, i.e., set out from the siding surface, covering the window casing, and of proper size and
564 proportion in relation to the window. Decorative shutters should not be installed on a building unless there
565 is clear evidence that such decorative shutters were used at some point in the structure's period of

566 significance. The applicant is encouraged to extend the design motif of the existing structure to any
567 addition, and in the case of alteration of an existing structure, the architectural details on the exterior shall
568 be preserved. (Reference Drawings Nos. 5 and 6).
569

570 (9) Walls, fences and gates. Materials shall be of a type compatible with the architecture of the Historic
571 District and historic properties. Chain link, vinyl, and concrete block are prohibited. (Reference Drawing
572 No. 7. [NOTE: See Appendix C on file and available for inspection in the City Manager's office.]
573

574 (10) Garages.

575 (a) General. The standards in this section for the design, location, and orientation of garages will
576 help to maintain the character of the Lewes Historic District. Homes built before 1900 typically
577 had carriage houses to house horses, carriages, and related items. When co-located with a home,
578 carriage houses were nearly always detached from the home and located as far as possible from the
579 home towards the rear of the lot. Garages were not introduced until the early 20th Century when
580 automobiles became prevalent.
581

582 (b) Design. As stated in the Secretary of Interior's Standards new construction such as detached
583 garages must blend with the historic building in terms of rhythm, massing and scale, but it should
584 be clear that they are modern additions. Garages also should be consistent with the style and
585 period of the home. Design elements intended to hide or disguise overhead and rolling doors are
586 encouraged.
587

588 (c) Location and Orientation.

589 [1] Detached garages. A garage should be detached and located towards the rear of the property.
590

591 [2] Attached garages. If a detached garage is not possible because of setback requirements,
592 physical constraints on the lot, lack of lot size, or other design factors, an attached garage may be
593 approved. The proposed design should be distinct from and less prominent than the dwelling. If
594 the home is on the corner of two streets, an attached garage should be accessed and oriented
595 towards the secondary street. Attached garages should not face the same street as the home.
596 Exceptions will be considered for contributing homes built in the 20th Century, in-fill, and
597 noncontributing homes where the applicant demonstrates that the garage cannot practically face
598 any direction other than the same street as the home. An attached garage facing the same street as
599 the home will only be approved in rare and exceptional cases of demonstrated substantial hardship.
600 The applicant must demonstrate the hardship with supporting documentation for the Historic
601 Preservation Commission to consider the approval.
602
603

604 (11) Nonresidential and multi-family residential buildings
605

- 606 (a) Large mechanical equipment or other utility hardware on the roof, ground or buildings shall be
607 screened from public view with materials harmonious to the building;
608 (b) Exterior lighting shall be part of the architectural concept. Fixtures, standards and all exposed
609 accessories shall be harmonious with the building design;
610 (c) Refuse and waste removal areas, service yards, storage area, yards and exterior work areas shall
611 be screened from public view with materials harmonious with the building.
612 (d) Minimize the public view of large parking areas and service facilities; provide a continuous
613 edge along the street;
614 (e) Visually enclose and define public street space that is comfortable to pedestrians in proportion
615 and scale;

- 616 (f) Design and place buildings in order to preserve and enhance special street views. In particular,
617 views of important buildings and natural features, focal points at T-intersections and views
618 along curbs and roadways should be encouraged;
- 619 (g) Position new buildings to insure the adjacent properties have visual privacy and sunlight as
620 well as protection from the new development's site illumination, noise and odor;
- 621 (h) Design landscaping and buildings adjacent to historic properties that are complementary to the
622 significant historical features;
- 623 (i) Design and position buildings to screen unsightly elements, such as shipping and loading areas,
624 transformers, dumpsters and meters from public view;
- 625 (j) Design the building roof to screen mechanical equipment from view and contribute to an
626 attractive visual setting; and
- 627 (k) Design the building to ensure adequate blending of the storm drainage requirement with the
628 local environment.

629

630 **Subdivision and Land Development Ordinance Amendments**

631

632 170-33 **Site Development Review Applicability**

633

A. Every new building or structure and every change in an existing building or structure, shall be
634 subject to the site development plan requirements outlined in this section unless the building or
635 structure is an approved detached dwelling, two-family dwelling, gazebo, dock

636

B. Prospective applicants are urged to contact Building Department officials to discuss proposal
637 specifics and if advised schedule a pre-application meeting as defined in §170- 35.A. If there
638 exists any lack of clarity as to the intent of this Article, the review of any site development plans
639 for construction within the City of Lewes will be referred to the joint ad hoc committee (§170-
640 33.C) . for consideration.

641

C. Site Development Review Authority

642

1. Development subject to the site development review authority under Chapter 170, Article V,
643 are among the most significant building projects in the City. To ensure that the City brings
644 the expertise and authorities of both the HPARC and LPC are applied to these projects, a joint
645 ad hoc committee, referred to as the Joint Site Development Review As Hoc Committee
646 (JSDRC) consisting of representatives of these two commissions is required.

647

2. The JSDRC will consist of three members each of HPARC and LPC and shall review all
648 projects subject to site development review under Chapter 170, Article V.

649

3. Upon notification by the City Planner that an application for approval of a project subject to
650 Chapter 170, Article V, has been filed with the City, HPARC and LPC shall designate their
651 three respective members to serve on the JSDRC. These representatives shall have all rights
652 of membership and shall represent their respective commissions. HPARC and LPC shall have
653 no authority over or participation in site development review after designation of their
654 respective representatives to the JSDRC. In the event that HPARC or LPC does not designate
655 representatives to the Joint Ad Hoc Committee, City Council will appoint such representatives
656 either from the commissions or from the citizenry.

657

4. The Joint Site Development Review Ad Hoc Committee shall be chaired by a member of City
658 Council, nominated by the Mayor and confirmed by a majority of City Council. The Chair
659 shall manage the meetings, agenda, and proceedings of the JSDRC. The Chair shall remain
660 neutral and have no vote.

661

5. Non-voting ex officio members. The City Manager, City Planner, and a representative of the
662 Building Official's Office shall serve as ex-officio members with all rights of membership
663 except the right to vote.

664

6. The JSDRC shall endeavor to complete its review as expeditiously as possible.

665

7. The JSDRC shall make recommendations to the City Council, as provided in Chapter 170, Article
666 V.

- 667 D. Site development plans shall be subject to review by the JSDRC and approval by City Council if
668 they meet the following thresholds:
669 (1) New structures that collectively consist of 5,000 square feet or greater in floor area;
670 (2) Additions to existing structures where additional floor area is greater than 5,000 square
671 feet; or
672 (3) Additions of impervious surface where new or additional impervious surfaces (1)
673 constitute 15% or more of the existing impervious surface area and (2) are equal to or
674 greater than 5,000 square feet of impervious surface; or
675 (4) Adjacent to residential. Nonresidential site plans with site disturbance greater than 2,500
676 square feet and adjacent (within 50 feet) to residential uses or residential zones.
677 E. Administrative site development plan review. Any development that does not meet the thresholds
678 for a JSDRC review described above shall be processed as administrative site development plan.
679 F. If a proposed use or development requires Planning Commission review under the land
680 subdivision regulations of the City of Lewes as set forth in Chapter 170, the application for
681 preliminary consent, under Section 170-19, of the ordinance, and the application for site
682 development plan approval shall be submitted and reviewed concurrently.
683

684 **§170- 34 Site Development Review Objectives.**
685

686 A site development plan review is conducted for the purposes outlined in §170-2 (Purpose) of this Chapter.
687 In considering and acting upon site development plans, the following objectives shall be taken into
688 consideration and appropriate conditions and safeguards shall be prescribed to ensure that the objectives
689 are satisfied, and the proposed development complies with the expressed purpose:

- 690 A. All street and circulation patterns will provide for the safe, efficient and convenient movement of
691 vehicular and pedestrian traffic. Vehicular and pedestrian traffic shall be functionally separate,
692 wherever possible. Adequate parking, as applicable, should be designed so as to limit the use of
693 each street or circulation path to that use for which it is designated, insofar as possible. Within the
694 context of overall community development, the internal circulation should promote and encourage
695 the increased use of pedestrian and bicycle movement among residential, local shopping, schools
696 and other areas, through the use of connecting open space, bicycle/pedestrian ways and other
697 design techniques and devices. Final plans shall comply with defined standards (§170-27
698 (Streets)), particularly with respect to their connections with public streets.
699 B. The provision of adequate access to all proposed structures, equipment, or material within the site
700 for fire, ambulance, police, and other emergency services.
701 C. The provision of adequate off-street parking and loading to accommodate the vehicles of persons
702 connected with or visiting the site and to obviate the parking of such vehicles in public streets.
703 D. An assessment of compatibility between the proposed development with adjacent area land uses
704 should be conducted. Site design provisions that seek 1) to connect or extend compatible locations
705 or 2) screen or separate areas where conflicts are anticipated should be utilized as part of the site
706 plan. Applicants should incorporate design criteria defined in §170-26 A (General considerations)
707 as it pertains to the proposed development.
708 E. A site layout along with identified strategies that demonstrates minimal impacts to adjacent
709 properties and local resources including:
710 (1) the location, power, direction, type and time of any outdoor lighting of the site (follow
711 standards in §170-26 D (Lighting));
712 (2) wetlands and floodplain along with proposals that outline how the proposed development
713 will alleviate any problems associated with increased flooding and runoff;
714 (3) any proposed open space or adjacent areas of protected open space (use criteria defined in
715 §170-26 B (Open Space requirements));
716 (4) locations that have been identified as scenic (Byways), natural and historical features in
717 the Lewes Comprehensive Plan.

- 718 F. Landscaping of the site in a manner that is in character with that generally prevailing in the
719 neighborhood and which minimizes tree removal and provides reasonable screening, at all seasons
720 of the year, of all playgrounds, parking areas, and service areas from the view of adjacent
721 residential properties and streets. Final plans shall comply with defined standards (§170-26 C
722 (Landscaping)) for the development.
- 723 G. In applicable cases, a storm water drainage system and layout which would afford the best solution
724 to any drainage problems. Final plans shall comply with defined standards (§170-30 (Stormwater
725 management system)) for the development.
- 726 H. Nonresidential and multi-family residential buildings shall comply with the following standards,
727 where applicable:
- 728 i. Large mechanical equipment or other utility hardware on the roof, ground or buildings
729 shall be screened from public view with materials harmonious to the building.
 - 730 ii. Exterior lighting shall be part of the architectural concept. Fixtures, standards and all
731 exposed accessories shall be harmonious with the building design.
 - 732 iii. Refuse and waste removal areas, service yards, storage area, yards and exterior work areas
733 shall be screened from public view with materials harmonious with the building.
 - 734 iv. Locate the building at a minimum setback line with the maximum length of the building
735 facing along the street to provide frequent and convenient pedestrian connections between
736 buildings and public sidewalks;
 - 737 v. Minimize the public view of large parking areas and service facilities; provide a
738 continuous edge along the street;
 - 739 vi. Visually enclose and define public street space that is comfortable to pedestrians in
740 proportion and scale.
 - 741 vii. Design and place buildings in order to preserve and enhance special street views. In
742 particular, views of important buildings and natural features, focal points at T-
743 intersections and views along curbs and
744 roadways should be encouraged.
 - 745 viii. Position new buildings to insure the adjacent properties have visual privacy and sunlight
746 as well as protection from the new development's site illumination, noise and odor.
 - 747 ix. In terms of shape, style, roof lines, color and materials, buildings shall be designed to
748 complement and contribute to a desirable community character.
 - 749 x. Design landscaping and buildings adjacent to historic properties that are complementary to
750 the significant historical features.
 - 751 xi. Design and position buildings to screen unsightly elements, such as shipping and loading
752 areas, transformers, dumpsters and meters from public view.
 - 753 xii. Design the building roof to screen mechanical equipment from view and contribute to an
754 attractive visual setting.
 - 755 xiii. Design the building to insure adequate blending of the storm drainage requirement with
756 the local environment.
- 757 I. Ensure that large scale development projects involving phased construction periods are planned
758 and implemented in accordance with an approved site development master plan.

759 **§170- 35 Site Development Review Application procedure.**

- 760 A. Pre-application meeting. Prior to the submission of a site development plan, the applicant or his
761 representative shall meet in person with a Building Department Official to review a sketch plan
762 and discuss application requirements. The purpose of this meeting shall be to discuss proposed
763 uses or developments in order to determine how to proceed with the application. Depending on
764 the type of proposal the meeting shall determine if the site development plan should be submitted
765 for processing as 1) an administrative site plan or 2) referred to the JSDRC The Building Official

766 shall provide the applicant with a copy of the Site Development Plan application form which will
767 identify required plan contents. In addition, applicants submitting commercial use or proposals
768 that fall within an adopted historic district will be advised on review processes that may be
769 applicable to the proposal.

770 B. For applications to be processed as an administrative site review under §170- 36 the applicant shall
771 be informed at the pre-application meeting which items from the Site Development Plan
772 Requirements checklist will be needed for determination of conformity with the provisions and
773 intent of this section, along with any other comments and suggestions to ensure a complete
774 application.

775 C. For applications to be referred to the JSDRC under §170- 37 the applicant shall be advised at the
776 pre-application meeting which items from the Site Development Plan Requirements checklist will
777 be needed for determination of conformity with the provisions and intent of this section, along
778 with any other comments and suggestions to ensure a complete application. The JSDRC may
779 request any additional plan details from §170- 40 if they determine the information is needed as
780 part of the application review.

781 D. Fees

782 (1) The applicant shall pay a nonrefundable site plan review application fee upon submitting
783 an initial application as follows:

784 (a) For Administrative site development plan review:

785 [1] Residential: \$500 plus \$250 per proposed dwelling unit over three.

786 [2] Nonresidential: \$500 plus \$250 per 5,000 square feet of nonresidential
787 land.

788 (b) For JSDRC site development plan review

789 [1] Residential: \$1,500 plus \$250 per proposed dwelling unit over three.

790 [2] Nonresidential: \$1,500 plus \$250 per 5,000 square feet of nonresidential
791 land.

792 (2) The City may charge other unspecified fees necessary to review the site development plan
793 application if the City expects to incur costs in retaining outside technical support, to
794 consider, examine, review and make reports and recommendations concerning the plan, as
795 submitted.

796 **§170- 36 Administrative site development plan review.**

797 A. Process for administrative site plan application. If, as a result of the preapplication meeting as
798 described in subsection §170- 35.A, it is determined that the proposed uses or development is of a
799 type that may be approved by a Building Department official, the applicant shall submit the
800 application for site development plan approval to the Building Department official with the
801 required documentation as defined in §170- 40 (Site development plan submission requirements)
802 to the extent required by the Building Official. If a party other than the owner of record is making
803 application, a letter of permission from the owner of record must be submitted designating that
804 applicant as an authorized agent. Upon submission of a site development plan to the Building
805 Official and prior to consideration of such plan by the Building Official, the applicant shall make a
806 deposit in an amount defined in §170- 35.D (Fees). The Building Official shall coordinate the
807 reviews of the various administrative departments of the City of Lewes and outside regulatory
808 agencies and review the application within 30 days of the date of submission.

809 B. Final plans and working drawings. Following initial review and comment by the Building Official,
810 the applicant shall develop final site development plans for approval by the Building Department.
811 The Building Official shall determine that all necessary approvals have been issued by city
812 departments and outside regulatory agencies prior to issuing final plan approval. No building
813 permit shall be issued until such time that the Building Official has issued final site plan approval.

- 814 C. Expiration. Administrative site development plan approval shall expire 12 months from the date of
815 final approval by the Building Official if construction of the work authorized or use permitted has
816 not started or unless an extension of time is applied for by the applicant and granted by the
817 Building Department. Approval shall also expire if the construction of work authorized has
818 stopped for a period of one year unless an extension of time is applied for and granted by the
819 Building Department.
- 820 D. Circumventing ordinance requirements. Administrative site plans shall not be used to circumvent
821 the requirement of JSDRC/City Council site plan review. If the Building Official determines that
822 cumulative administrative site plans on a property are being used to circumvent the requirements
823 of the ordinance or other provisions of the Lewes Code of Ordinances, the Building Official shall
824 refer the application to the Historic Preservation & Architectural Review Commission, subject to
825 the requirements of subsection §170- 37.

826
827 **§170- 37 Joint Site Development Ad-Hoc Review Committee**

- 828 A. Site development plan. If, as a result of the pre-application meeting as described in subsection
829 §170- 35.A, it is determined that the proposed uses or development are of a type that would be
830 evaluated by the Joint Site Development Ad-Hoc Review Committee for review, and referral to
831 City Council for approval or disapproval, the applicant shall submit an application as described in
832 this Section.
- 833 B. Initial application. Any individual, firm, association, syndicate, co-partnership, corporation, trust,
834 or any other legal entity interested in applying for approval of a land development located wholly
835 or partially within the City of Lewes shall submit, in writing, to the Building Department official
836 for review by the JSDRC, complete copies of a site development plan as described in of §170- 40
837 (Plan requirements) to the extent required by the Building Official including an electronic version,
838 of the following:
- 839 (1) Identity of applicant.
- 840 (2) If a party other than the owner of record is making application, a letter of permission from
841 the owner of record must be submitted designating that applicant as an authorized agent.
- 842 (3) If the applicant is a partnership, the applicant shall identify the name and address of each
843 individual composing the partnership, including all limited partners.
- 844 (4) If the applicant is a corporation, the applicant shall identify:
- 845 (a) The name and address of each stockholder owning more than 10% of the stock of
846 the corporation;
- 847 (b) The name and address of each officer; and
- 848 (c) The name and address of each member of the Board of Directors or other
849 governing body.
- 850 (5) If the applicant is a limited liability company, the applicant shall identify the name and
851 address of each member.
- 852 (6) If the applicant is an individual, the applicant shall identify his/her name and address.
- 853 C. The application for site development plan approval shall be submitted to the Building Department
854 at least 30 days prior to the JSDRC meeting for its review.
- 855 D. The application for site development plan approval shall be accompanied by a fee as defined in
856 §170- 35.D (Fees). The applicant shall make a deposit in an amount to be determined by the City
857 of Lewes for the purpose of covering the costs, if the City expects to incur costs in retaining
858 outside technical support, to consider, examine, review and make reports and recommendations
859 concerning the plan, as submitted. Upon final disposition of the plan, as submitted, the City of
860 Lewes shall determine the cost which has been incurred in considering, examining, reviewing and
861 making reports and recommendations concerning the plan and shall deduct that cost from the
862 deposit made by the applicant. If the deposit exceeds the cost incurred by the City of Lewes, the
863 remaining amount shall be refunded to the applicant by the City without interest. If the deposit is

864 less than the cost incurred by the City, the applicant shall pay such deficiency prior to any final
865 approval being issued by the City Council.

- 866 E. The applicant shall submit a letter from the Board of Public Works indicating whether utilities are
867 existing and available. Such letter shall further identify the status of the capacity of the utility
868 systems for the project and the limitations and notations which the Board of Public Works has
869 placed on the review and approval of plans.
- 870 F. Public meeting. The JSDRC shall review the site plan application, as part of a public meeting at a
871 regular or special meeting subject to the following public notification procedures:
- 872 (1) The applicant shall advertise the public meeting in a newspaper of general
873 circulation at least 15 days prior thereto. Said notices shall state the date, time and place of
874 the meeting, the site location, a brief description of the site plan and shall state that a copy
875 of the site plan application and plan is filed with the planning office for public review.
 - 876 (2) The applicant shall notify, by certified mail with return receipt requested, all
877 property owners within 200 feet of the extreme limits of the site plan property as their
878 names appear on the municipal tax record at least 15 days prior thereto. The applicant
879 shall provide the planning office with a copy of the notice, verification of newspaper
880 publication, and post office mail receipts including the date of mailing for all letters on or
881 before the meeting date.
 - 882 (3) The City shall post a notice outlining the date, time, place, and nature of the public
883 meeting in a conspicuous location on the property. Such notice shall be designed in
884 accordance with standards set forth in §170- 9. Notice Requirements.
- 885 G. Joint Site Development Ad-Hoc Review Committee recommendation. The JSDRC shall evaluate
886 the proposed site development plan using the objectives defined in §170- 34 to reach a decision to
887 recommend approval, approval subject to conditions or disapproval. Said recommendation shall be
888 forwarded to the Mayor and City Council within 30 days following the review by the JSDRC.
889
890

891 **§170- 38 Mayor and City Council Site Development Plan Review and Action**

- 892 A. Mayor and City Council review. Within 60 days of receiving the Joint Site Development Ad-Hoc
893 Review Committee's report and recommendations on the site development plan application, the
894 Mayor and City Council shall consider the application at a public hearing, as follows:
- 895 (1) Public Hearing Notification.
 - 896 (a) At least 15 days' notice of the public hearing shall be published by the applicant
897 in an official newspaper of the City or a newspaper of general circulation in the
898 City.
 - 899 (b) The notice shall provide information about the proposed site development and
900 announce the date, time, and place of the public hearing.
 - 901 (c) A copy of the newspaper notice shall also be given to the property owners,
902 certified by the petitioner to be the property owners within 200 feet of the
903 boundaries of the subject property.
 - 904 [1] Such notice shall be given by certified mail with return receipt requested.
 - 905 [2] Such notice shall be sent to the property owners within 200 feet of the
906 boundaries of the subject property at least 15 days prior to the public
907 hearing.
 - 908 (2) Conduct of Public Hearing
 - 909 a) The Joint Site Development Ad-Hoc review Committee's recommendation shall
910 be presented at the public hearing and made a part of the hearing record.
 - 911 b) All interested parties and citizens shall be given an opportunity to be heard.
 - 912 (3) Mayor and City Council action. The Mayor and City Council may take any of the
913 following actions upon reviewing the site development application following the public
914 hearing:
 - 915 (a) Approve the site development application, subject to the standard conditions
916 outlined in this chapter.

- 917 (b) Approve the site development application, subject to the standard conditions
918 outlined in this chapter and such special conditions as may be imposed or directed.
919 (c) Deny the site development application. Should the Mayor and City Council deny
920 the site development application, the applicant may recommence the process by
921 submitting a site development application and paying the costs and fees required
922 for a new application. Such new application shall be subject to any changes in
923 ordinances, regulations, and procedures since the original application was filed.
924 (d) Remand the site development application to the Joint Site Development Ad-Hoc
925 Review Committee for further review, along with an explanation of the reason for
926 remanding the application.
927 (e) Suspend review of the site development application pending one of the following:
928 [1] Further consideration by the Mayor and City Council.
929 [2] Receipt of certain additional information.
930 [3] In the case of a development or subdivision to be completed in sections or
931 phases, grant or deny provisional approval of the site development plan
932 showing the proposed land development in its entirety, and grant or deny
933 a supplemental application for the section or phase to be developed.
934 [4] In the case of a development or subdivision to be completed in sections or
935 phases where provisional approval has already been granted by the Mayor
936 and City Council, grant or deny a supplemental application.
937 (4) Notice of decision. Notification, in writing, of approval taken by the Mayor and
938 City Council will be transmitted promptly to the applicant, along with copies of such
939 approval to the Historic Preservation & Architectural Review Commission and Board of
940 Public Works (BPW).
941

942 **§170- 39 Final Site Development Plans.**

- 943 A. Following approval, the applicant shall develop final site plans for processing by the Building
944 Department. The Building Department shall determine that all necessary approvals have been
945 issued by city departments and outside agencies regulating street access and stormwater
946 management, prior to issuing final plan approval. No building permit shall be issued until such
947 time that the Building Department has issued final site plan approval.
948 B. The Building Official may approve minor changes in site plans after approval by City Council and
949 approve issuance of building or zoning permits accordingly if, in his/her opinion, such changes do
950 not substantially affect the original approval of conditions attached thereto.
951 C. Amendments. The Building Department shall review proposed amendments to determine if they
952 are substantial in nature. Amendments that are deemed substantial may be referred to the JSDRC
953 for consideration at the discretion of the Building Department official. The procedure for
954 amendment of the site development plan shall be the same for a new application, except that
955 amendments of an approved site development plan or of conditions attached to an approved plan
956 may be approved by the JSDRC at a regular meeting after receiving written reports by the
957 Building Department official provided that such change or amendment:
958 (1) Does not alter a recorded plat.
959 (2) Does not conflict with the specific requirements of this chapter.
960 (3) Does not change the general character or content of an approved development
961 plan or use.
962 (4) Applies to an approved condition originating with the JSDRC and not the Mayor
963 and City Council.
964 (5) Has no appreciable effect on adjoining or surrounding property.
965 (6) Does not result in any substantial change of major external access points.
966 (7) Does not increase the approved number of dwelling units, square footage or height
967 of buildings.
968 (8) Does not decrease the minimum specified yards and open spaces or minimum or
969 maximum specified parking and loading spaces.

970 (9) For any other changes the applicant would be required to resubmit a site
971 development plan for review and approval.

972 D. Expiration of site development plan approval.

973 (1) Site development plan approval shall expire 12 months after the date of final or
974 conditional approval of the Mayor and City Council if construction of the work authorized
975 or use permitted has not started or unless an extension of time is applied for by the
976 applicant and granted by the Mayor and City Council. Approval shall also expire if the
977 construction of work authorized has stopped for a period of one year unless an extension
978 of time is applied for and granted by the Mayor and City Council.

979 (2) Request for extension of approval shall be made no later than 30 days prior to the
980 final approval expiration date. Upon receipt of such request, the matter shall be considered
981 at the next regularly scheduled meeting of the Mayor and City Council.

982 (3) In considering a request for an extension of approval, the Mayor and City Council
983 shall consider, but not be limited to, the following:

984 (a) Whether the project has been delayed for reasons beyond the control of the
985 applicant, excluding economic or financial reasons.

986 (b) Whether the applicant has made substantial progress toward obtaining final
987 approvals.

988 (c) Whether there have been any significant changes in the surrounding
989 neighborhood.

990 (d) Whether there has been any related amendments to the zoning map or text, or the
991 comprehensive plan, or if any waivers or variances have been granted.

992 (e) Requests for extensions shall be submitted in writing to the Building Department.

993 (f) Under no circumstances shall the City grant extensions beyond 36 months from
994 the date of first approval.

995
996 **§170- 40 Site development plan submission requirements.**

997 The applicant shall cause a site development plan to be prepared by a civil engineer, surveyor, land
998 planner, or architect. The applicant shall submit copies of the site development plan to the Building
999 Department at the time of filing the formal application for site development plan approval under the
1000 provisions of §170- 36 (Administrative site development plan review) or §170- 37 (Joint Site Development
1001 Ad-Hoc Review Committee site development plan review).

1002
1003 Prior to creating a site development plan the applicant(s) shall have met with the Building Official as
1004 required by §170- 35 to discuss the process and review requirements for a complete plan submission using
1005 the Site Development Plan Application Form. The site development plan shall include those items
1006 selected from the Site Development Plan Requirements checklist that were defined by the Building
1007 Official during the pre-application meeting.

1008
1009 Final site development plan requirements - The final site development plan shall comply with all existing
1010 laws, regulations and ordinances governing the approval of subdivisions or land developments and provide
1011 sufficiently accurate dimensions and construction specifications to provide the data necessary for the
1012 issuance of construction permits. The Mayor and City Council may establish additional requirements for
1013 final site plans and may waive a particular requirement if, in its opinion, the inclusion of that requirement
1014 is not essential to a proper decision on the project. If a preliminary site plan is approved by the Mayor and
1015 City Council without the inclusion of a particular requirement, the Mayor and City Council is deemed to
1016 have waived that requirement.