

1           **AN ORDINANCE TO AMEND ARTICLES I, III, IV, V AND XIII OF**  
2           **CHAPTER 197, ZONING, OF THE MUNICIPAL CODE OF THE CITY**  
3           **OF LEWES, DELAWARE, SECTIONS 197-10, 197-30, 197-31, 197-44, 197-**  
4           **49, 197-51, AND 197-96 RELATING TO THE OFFICIAL ZONING MAP,**  
5           **ZONING DISTRICT PURPOSE STATEMENTS, PERMITTED USES,**  
6           **DIMENSIONAL REGULATIONS, LOT STANDARDS, LOT AVERAGING**  
7           **AND CONDITIONAL USES.**

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9           **WHEREAS**, the Mayor and City Council of the City of Lewes have deemed it desirable  
10          to amend zoning provisions relating to the R-2 (Residential Low-Density Zone), R-2(H) and R-4  
11          (Residential Medium-Density Zone), R-4(H) zoning districts;

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13          **WHEREAS**, at a public meeting on July 15, 2020, the Lewes Planning Commission  
14          reviewed and took public comment on the proposed amendments to the City of Lewes Zoning  
15          Ordinance and forwarded Recommendations to the Mayor and City Council for consideration;

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17          **WHEREAS**, at a public meeting on November 27, 2018, the Lewes Planning  
18          Commission reviewed and took public comments on the proposed amendments to the City of  
19          Lewes Zoning Ordinance and forwarded Recommendations to the Mayor and City Council for  
20          consideration;

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22          **WHEREAS**, at a public hearing on January 15, 2019, the Mayor and City Council  
23          reviewed and took public comment on the proposed amendments and referred back to the Lewes  
24          Planning Commission for additional information the R-4 and R-4(H) portion of the proposed  
25          amendments.

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

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

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41          **WHEREAS**, the Mayor and City Council deem it appropriate to consider the question of  
42          whether it is in the public interest to amend Chapter 197, Zoning, of the Municipal Code of the  
43          City of Lewes, Delaware, as amended, by amending provisions related to attached dwellings,  
44          two-family dwellings and lot standards for detached dwellings the definitions;

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

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51           **WHEREAS**, a public hearing was conducted on [INSERT DATE];

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

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

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

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63           **Section 1.** Chapter 197, Section 197-10, of the Municipal Code of the City of Lewes,  
64 Delaware, be and the same is hereby further amended by identifying the Burton Subdivision on  
65 the official Zoning Map of the City referenced in Section 197-10.

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67           **Section 2.** Chapter 197, Section 197-30, of the Municipal Code of the City of Lewes,  
68 Delaware, be and the same is hereby further amended by making insertions as shown by  
69 underline and deletions as shown by strikethrough to subsection 197-30(B) as follows:

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71           (B) Purposes:

- 72  
73           (1) Provide for residential development adjacent to the City's ~~town-center~~  
74 Town Center Zoning District.  
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76           (2) Preserve face-to-face intimacy in an urban setting.  
77  
78           (3) Preserve architecturally diverse but harmonious streetscapes.  
79  
80           (4) Encourage a residential development pattern that is:  
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82           (a) Appropriate for older, densely settled sections of the City and also  
83 provides for light, air, and private open space.  
84  
85           (b) Compact and urban so that nearby commercial and public services  
86 are available to residents by walking or bicycling.  
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88           **Section 3.** Chapter 197, Section 197-31, of the Municipal Code of the City of Lewes,  
89 Delaware, be and the same is hereby further amended by making insertions as shown by  
90 underline and deletions as shown by strikethrough to subsection 197-31(B) as follows:  
91

92 (B) Purposes:

- 93
- 94 (1) Provide for residential development adjacent to the City's ~~town-center~~  
95 Town Center Zoning District.
- 96
- 97 (2) Preserve face-to-face intimacy in an urban setting.
- 98
- 99 (3) Preserve architecturally diverse but harmonious streetscapes.
- 100
- 101 (4) Encourage a residential development pattern that is:
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- 103 (a) Appropriate for older, densely settled sections of the City and also  
104 provides for light, air, and private open space.
- 105
- 106 (b) Compact and urban so that nearby commercial and public services  
107 are available to residents by walking or bicycling.
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109 **Section 4.** Chapter 197, Section 197-44, of the Municipal Code of the City of Lewes,  
110 Delaware, be and the same is hereby further amended by amending Attachment 1, Table of  
111 Permitted Uses and Structures, as follows:

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- 113 • Within the row identified as “Dwelling, attached<sup>2</sup>”, delete “P” from the  
114 column identified as R-4 and R-4(H)
  - 115 • Within the row identified as “Dwelling, two-family<sup>2</sup>”, delete “P” from the  
116 column identified as R-4 and R-4(H) and insert in lieu thereof “CU”
- 117

118 **Section 5.** Chapter 197, Section 197-49, of the Municipal Code of the City of Lewes,  
119 Delaware, is hereby amended by renaming the Section to Dimensional Regulations and making  
120 insertions as shown by underline and deletions as shown by strikethrough as follows:

121 § 197-49 Dimensional Regulation ~~OS, R-1, R-2, R-2(H), R-3, R-4, R-4(H), R-5, LC,~~  
122 ~~LC(H), AX-RES, and AX-MIX Zones.~~

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124

125 [~~The Table of Dimensional Regulations for the OS, R-1, R-2, R-2(H), R-3, R-4, R-~~  
126 ~~4(H), R-5, LC, LC (H), AX-RES, and AX-MIX Zones is included as an~~  
127 ~~attachment to this chapter.]~~

128

129 A. Residential and Residential Mix Zone - The Table of Dimensional Regulations  
130 for the OS, R-1, R-2, R-2(H), R-3, R-3(H) R-4, R-4(H), R-5, LC, LC(H), AX-  
131 RES, and AX-MIX Zones is included as an attachment to this chapter.

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133 B. Nonresidential Zones - The Table of Dimensional Regulations for  
134 Nonresidential Zones is included as an attachment to this chapter.

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136 [~~1] Editor's Note: This ordinance also deleted the former listing of zones in §~~  
137 ~~197-50 and added them to this section.~~

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**Section 6.** Chapter 197, Section 197-49, of the Municipal Code of the City of Lewes, Delaware, is hereby amended by updating Attachment 2, Table of Dimensional Regulations for OS, R-1, R-2, R-2(H), R-3, R-4 and R-4(H) Zones, as follows:

- Rename the row identified as “Tract area (acres)” to “Tract area (square feet)”
- Within the row currently identified as “Tract area (acres)”, delete “5” from the column identified as R-1 and insert in lieu thereof “None”
- Within the row currently identified as “Tract area (acres), delete “2.5” from the column identified as Dwelling, Two-Family, within the R-4 and R-4(H) column, and insert in lieu thereof “6,000”
- Add a new footnote #7 stating, “7. Dimensional requirements for proposals in the R-2 Zone, using the Lot Averaging Option, can use the minimum standards identified for lot area, street frontage, lot width or lot depth when used in accordance with the provisions of Section 197-51”.

**Section 7.** Chapter 197, of the Municipal Code of the City of Lewes, Delaware, be and the same is hereby further amended by deleting Section 195-51 in its entirety and inserting a new Section 197-51 as follows:

§ 197-51 **Lot Averaging**

**A. Eligibility regulations**

- (1) Applicable districts. Lot averaging is permitted in R-2 Residential Low Density District as a major subdivision only when all requirements of this section have been satisfied.
- (2) Ownership. The lot shall be held in single and separate ownership or, in the case of multiple ownership, shall be developed according to a single plan with common authority and responsibility.
- (3) Minimum number of lots. A minimum of four lots must be proposed to be eligible for this design option.
- (4) Dwelling type permitted. The lot averaging regulations of this article are permitted only for the development of single-family detached dwellings.

**B. Lot Averaging Requirements**

- (1) The average lot size for all lots within a development using this design option shall be equal to or greater than the required minimum lot size (10,000 sq. ft.) for detached dwellings in the R-2 District.

183 (2) Any applicable floodplain, critical area zones, wetland or buffers  
184 requirements that are in place for R-2 will also be applicable to a  
185 development using the lot averaging development option.

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187 (3) The remainder of the lots shall comply with the lot area and other  
188 dimensional requirements specified below for lot averaging in the R-2  
189 District (all other dimensions from the Table of Dimensional  
190 Requirements remain if not listed below):

- 191
- 192 (a) Minimum lot area (square feet) 7,500
- 193 (b) Minimum street frontage (feet) 60
- 194 (c) Lot width (feet) 60
- 195 (d) Lot depth (feet) 75
- 196

197 (4) No lot of such size as to be capable of further subdivision shall be  
198 included in determining the number of lots within the development lot to  
199 be developed using the lot averaging regulations of this article, unless its  
200 further subdivision is precluded by a deed restriction or restrictive  
201 covenant in form and content acceptable to the City Solicitor, and  
202 recorded contemporaneously with the recording of the final plan and such  
203 preclusion is noted on the face of both the preliminary plan and the final  
204 plan approved by City Council.

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206 C. Review Procedures for Lot Averaging Development  
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208 (1) Preliminary subdivisions approved utilizing lot averaging shall not be  
209 recorded by phases unless such phases individually or together as  
210 cumulative, contiguous parcels, satisfy the requirements of this section.

211  
212 (2) Roadways and surface detention/retention facilities shall not count toward  
213 the calculations for lot size averaging.

214  
215 **Section 8.** Chapter 197, Section 197-96 J Additional requirements for certain conditional  
216 uses of the Municipal Code of the City of Lewes, Delaware, be and the same is hereby further  
217 amended by inserting a new Section 197-96 J (4) Two family dwelling in the R-4 and R-4(H)  
218 zones as follows:

219  
220 (4) Two family dwelling in R-4 and R-4(H) Zones  
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- 222 (a) The exterior of the building shall be designed and constructed to look  
223 as one building.
- 224 (b) There should be a separation distance of 600 ft. between two family  
225 dwellings along the same side of the street.
- 226 (c) The two family dwellings should be in keeping with the proportion,  
227 rhythm, balance and scale of the houses within a 600 ft. radius.
- 228 (d) Two family dwellings are limited to 1 attached garage per unit.

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**Section 9.** Chapter 197, Section 197-96 Duration; expiration of the Municipal Code of the City of Lewes, Delaware, be and the same is hereby further amended by inserting a new Section 197-96 A (1) as follows and renumbering the current provisions accordingly:

(1) Conditional use applications for two family dwellings are exempt from annual conditional use permit renewal.

**Section 10.** If any provision of this Ordinance shall be deemed or held to be invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not affect any other provision of this Ordinance which may be given effect without such invalid or unenforceable provision, and to this end, the provisions of this Ordinance are hereby declared to be severable.

**Section 11.** This Ordinance shall take effect immediately upon its adoption by the Mayor and City Council of the City of Lewes.

Adopted by the Mayor and City Council  
of the City of Lewes  
\_\_\_\_\_, 2020

I, [INSERT NAME], Secretary of the City Council of the City of Lewes, do hereby certify that the foregoing is a true and correct copy of the ordinance passed by the Mayor and City Council at its regular meeting on \_\_\_\_\_, at which a quorum was present and voting throughout and the same is still in full force and effect.

\_\_\_\_\_  
Secretary

**SYNOPSIS:** This Ordinance makes a variety of amendments to the residential zoning regulations relating to the official zoning map, zoning district purpose statements, permitted uses, dimensional regulations, lot standards, and lot averaging.