

1 **AN ORDINANCE TO AMEND ARTICLES IV USE REGULATIONS OF CHAPTER 197,**
2 **ZONING, OF THE MUNICIPAL CODE OF THE CITY OF LEWES, DELAWARE, BY**
3 **AMENDING 197-51 NONRESIDENTIAL ZONES AND ATTACHEMENT 4 RELATING TO**
4 **BUILDING HEIGHT IN THE COMMUNITY FACILITIES (EDUCATIONAL) ZONE (CF(E))**
5

6 **WHEREAS**, the Mayor and City Council deem it appropriate to consider the question of
7 whether it is in the public interest to amend Chapter 197, Zoning, of the Municipal Code of the
8 City of Lewes, Delaware, as amended, by amending provisions related to height of buildings in
9 the Community Facilities (Educational) Zoning District;

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

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

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

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

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

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

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

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41 **Section 1.** Chapter 197, Section 197-51, of the Municipal Code of the City of Lewes,
42 Delaware, be and the same is hereby further amended by amending Attachment 4, Table of
43 Dimensional Regulations for Nonresidential Zones, as follows:

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45 *197 Attachment 4*
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City of Lewes

Table of Dimensional Regulations for Nonresidential Zones

Zoning Code	TC and TC(H)	MC	GC	I	C/H	CF(HC)	CF(E)	CF
Zoning Description	Town Center and Town Center (Historic)	Marine Commercial	General Commercial	Industrial	Cultural/Historic	Community Facilities (Health Care)	Community Facilities (Educational)	Community Facilities
Lot area (square feet)	5,000	5,000	5,000	10,000	5,000	20,000	20,000	10,000
Lot width (feet)	None	None	None	Same as adjacent zone	50	100	100	75
Lot depth (feet)	None	None	None	Same as adjacent zone	100	100	100	100
Setbacks (feet)								
Front yard	None	None	25	40	25 or EBL	40 or EBL	40 or EBL	40
Side yard	None	None	None	20 or twice the required adjacent setback	8	15	10	10
Rear yard	None	None	None	20 or twice the required adjacent setback	15	20	20	15
Maximum building height (feet)								
FEMA flood zones AE and VE	40	40	40	40	34	40 <u>5</u>	40	40
All other locations	40	40	40	40	30.5	40 <u>5</u>	40	40

51 NOTES:

- 52 1. All dimensions are minimum standards unless specified otherwise.
53 2. "N/A" means not applicable.
54 3. "EBL" means established building line. See Article XVI, Definitions.
55 4. Stories shall be above the FEMA floodplain elevation in all flood zones.
56 5. [Building height may be 50 feet, as long as those sections that exceed 40 feet are set back a](#)
57 [minimum of 50 feet from the property line.](#)

58
59 **Section 2.** This Ordinance is subject to the Pending Ordinance Doctrine. Upon its
60 introduction at the August 10 Mayor and City Council meeting, the City shall thereafter reject any
61 new application that is inconsistent with the amendments to Chapter 197 provided in the Ordinance

62 until such time as the Mayor and City Council take action on the Ordinance to either approve or
63 reject the Ordinance, with or without amendments.
64

65 **Section 3.** If any provision of this Ordinance shall be deemed or held to be invalid or
66 unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not affect
67 any other provision of this Ordinance which may be given effect without such invalid or
68 unenforceable provision, and to this end, the provisions of this Ordinance are hereby declared to
69 be severable.
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71 **Section 4.** This Ordinance shall take effect immediately upon its adoption by the Mayor
72 and City Council of the City of Lewes.
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74 Adopted by the Mayor and City Council
75 of the City of Lewes
76 _____, 2020
77

78
79 I, [INSERT NAME], Secretary of the City Council of the City of Lewes, do hereby certify that the
80 foregoing is a true and correct copy of the ordinance passed by the Mayor and City Council at its
81 regular meeting on _____, at which a quorum was present and voting throughout and the
82 same is still in full force and effect.
83

84
85 _____
86 Secretary
87

88 **SYNOPSIS:** This Ordinance amends the building height in the CF(E) Zoning District to allow
89 for up to 50 feet in height with increased setbacks.
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