



ORDINANCE REVIEW AD-HOC COMMITTEE
Thursday, July 9, 2026, 11:00 AM
Council Chambers, City Hall
Regular Meeting
AGENDA

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D.2. Continued discussion and possible action regarding proposed revisions to §197-73- Floodplain definitions of substantial damage and substantial improvement. (Staff) Points of Discussion - Substantial Improvement and Damage Floodplain & SI/SD Procedures Substantial Improvement Worksheet FAQ DRAFT Substantial Improvement Summary DRAFT Sample Letter to Property Owner DRAFT Proposed Ordinance - Three-Year Cumulative Review Period - 2026 06 18 Ord Review Ad Hoc Meeting Contractor Affidavit Substantial Improvement Proposed Ordinance - Appendix G - 2026 06 18 Ord Review Ad Hoc Meeting SI SD Admin Procedures Adoption Resolution - Presented 06 18 2026	36 - 102
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Committee

F. PUBLIC COMMENT:

G. ADJOURNMENT:

<https://us02web.zoom.us/j/81636312139?pwd=wwkA7jM3D5fKe34Lj6YkAgOaAbfww8.1>

Join via audio:

+1 301 715 8592 US (Washington DC)

Webinar ID: 816 3631 2139

Passcode: 956123

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City Hall is located at 114 E. Third Street Lewes DE

Agenda Posted: 07/02/2026 Posted By: BJ

City of Lewes
ORDINANCE REVIEW AD-HOC COMMITTEE
Thursday, June 18, 2026
MINUTES

The ORDINANCE REVIEW AD-HOC COMMITTEE met on Thursday, June 18, 2026 in Council Chambers at Lewes City Hall, in accordance with proper notification, with the following members present: Committee Chair Dennis Reardon, Vice Chair Barbara Curtis, and Committee Members Julia Carey, Greg Cirillo, and Alan Roth (attending virtually). Building Official Jon Ward was also present.

A. CALL TO ORDER AND ROLL CALL *The meeting of the Ordinance Review Ad-Hoc Committee was called to order on Thursday, June 18, 2026, at 11:31 AM in Council Chambers, City Hall, Lewes, DE.*

B. ANNOUNCEMENTS AND UPDATES
No announcements or updates were offered.

C. APPROVAL OF MINUTES:

2026 05 28 Ordinance Review Ad-Hoc Committee Minutes

Two amendments to the May 28, 2026 minutes were identified. First, Greg noted that under item D.2, the language crediting "the committee" for receiving FEMA's commendation should more accurately reflect that FEMA was commending Jon or the city, not the committee itself. Jon indicated he had no objection to the correction. Second, Barbara noted that under D.2, Page 9, Other Sources, the minutes incorrectly stated that "Board of Public Works" should be corrected to "Department of Public Works," when in fact the opposite was true — the correct name is "Board of Public Works."

Motion:

Motion to approve the minutes of May 28, 2026, as amended, was made by Barbara and seconded by Greg. The motion carried with all members voting in favor, including Alan Roth via remote attendance.

D. OLD BUSINESS:

D.1. Update, continued discussion regarding feedback from Parks and Recreation including proposed revisions to Chapter 63 - Beaches.

Dennis noted that no response had been received from Parks and Recreation since the committee's last revised draft was submitted for their review. He observed that the committee lacks a formal written policy governing the referral process — including expectations for input and guidance from referring parties — and suggested it would be prudent to develop one. He noted that the remaining open issues with Parks and Rec are narrow: the definition of a "special event" and the question of whether 12-inch holes in the ground should be restricted across all beach areas. The committee had previously recommended limiting the 12-inch hole restriction to the restricted beach area where enforcement is feasible, and had concluded it would be impractical to enforce such a restriction across the balance of the beach.

Dennis requested that Alan draft a short memo to Kay Carnahan, acting chair of Parks and Recreation, summarizing the outstanding issues and what the committee is asking them to review. Alan agreed to prepare a draft for Dennis to review before sending.

Dennis also asked Greg to collaborate with him on drafting a referral process policy, to

be ready for the next meeting.

Barbara raised a concern regarding Section 63-6.D of the draft, which governs hours of beach access. She noted that the current language makes no exception for individuals wishing to observe astronomical events — such as northern lights, eclipses, or meteor showers — during nighttime hours, and suggested this was inconsistent with the city's interest in being considered a "night sky city." Alan proposed adding language at the beginning of the relevant provision along the lines of "except for observations of astronomical events, it shall be unlawful," as a straightforward fix. Greg added that it would also be appropriate to include a qualifier such as "provided it does not require a permit," so as not to inadvertently authorize large, unpermitted gatherings. Jon suggested that any such language should be run by Parks and Recreation before being finalized. Dennis asked Alan to draft the proposed language, and the two agreed to discuss it further following the meeting. The committee agreed not to continue substantive discussion on Chapter 63 until a response is received from Parks and Recreation.

D.2. Continued discussion and possible action regarding proposed revisions to §197-73 — Floodplain definitions of substantial damage and substantial improvement.

Jon introduced a draft resolution titled *"A Resolution to Adopt the City of Lewes Substantial Improvement/Substantial Damage Administrative Procedures,"* prepared with the assistance of the city's summer intern, Andrew, who incorporated all changes discussed at the prior meeting. Jon explained that the resolution is structured so that any future amendments to the SI/SD procedures would require Mayor and City Council approval, thereby preserving the integrity and legacy of the document. An authorized copy would be maintained at the City Clerk's office. Jon characterized the resolution as a cost-saving rough draft intended to minimize the city solicitor's drafting work.

Jon noted that the packet also includes a draft ordinance to adopt Appendix G of the International Building Code (IBC), which incorporates higher floodplain standards under ASCE 24 (American Society of Civil Engineers) — a recommendation made by FEMA. This proposed ordinance would amend Chapter 197, Zoning, Section 197-73, Floodplains.

Dennis confirmed that the resolution encompasses all previously discussed changes, including the one-year and three-year cumulative review period definitions. He noted that he had not yet had an opportunity to review the materials in full, and the committee agreed that the matter should be carried to the next meeting to allow all members adequate review time. Jon expressed that his goal would be to bring the committee to a final decision at the next meeting, noting that the committee has been working on this matter for nearly a year.

D.3. Continued discussion and possible action regarding the use of the term "imprisonment" within the Lewes City Code including consideration for Section 13 - [Disqualification](#) and Section 18 - [Alderman and Assistant Alderman](#) of the City Charter.

Julia reported on her prior discussions with Lieutenant Azato of the Lewes Police Department, who was unavailable for this meeting but is expected to attend the next one. She reviewed the categorization of the ten ordinances identified as containing the term "imprisonment" that fall within the police department's purview.

The first item, a charter provision, was agreed to be left untouched, as the committee's scope does not extend to amending the charter. Items 2, 3, and 4—covering malicious mischief (§149), interference with officers (§140-13), and unlicensed vehicles (§186-3)—were determined to be duplicative of Delaware State Criminal Code and the recommendation is to remove those sections from the city ordinances entirely. Items 5 through 10, covering speed limits, traffic control devices, preservation of peace and good order, firearms and explosives, noise, and truck exclusions, were recommended to be retained but require modification for accuracy and general updating.

A substantive discussion then developed around the civil versus criminal enforcement distinction. Alan observed that the ordinances in question were written as criminal provisions, meaning any person charged under them is entitled to full criminal due process protections. He emphasized that these are not equivalent to civil code violations, and that either the committee must decide to convert them to civil infractions or accept that they will be prosecuted as criminal matters under state law. Julia noted that under the current structure, police have no mechanism to issue civil citations—their only tool is issuing a summons to appear in Justice of the Peace Court, with the fine revenue going to the state and officers required to appear in court.

Jon spoke from the building department's perspective, noting that his office achieves strong compliance through a letter-based process without the need for a civil citation system. He expressed reservations about pursuing an electronic ticketing or civil fine mechanism, having consulted with counterparts in Kent and Sussex counties who reported the process to be burdensome, time-consuming, and often requiring former law enforcement personnel to administer. Jon stated he sees more cost than benefit in that approach, at least for code enforcement purposes.

Julia noted that Lieutenant Azato had indicated some openness to a civil citation tool for police use, as it could reduce the burden on officers who currently must attend court proceedings for relatively minor infractions. However, she acknowledged that no decision on the viability of such a system had been reached. Barbara raised the practical question of whether there is meaningful overlap between building code enforcement and police enforcement for certain types of violations, such as unlicensed soliciting on public property, and whether the existing penalty structure is functional for the police in those scenarios.

The committee agreed that the core question of civil versus criminal enforcement authority for the police requires Lieutenant Azato's participation to resolve. Additionally, Julia raised the broader strategic question of how the committee intends to approach the larger body of ordinances that need updating—whether to pursue a comprehensive overhaul of each ordinance as it is reviewed, or to address only the imprisonment language and move on. The committee consensus was to do the work properly and comprehensively, even if it takes significantly longer. Julia offered to prepare a presentation for the next meeting outlining several options for how to sequence and structure that broader initiative.

The items to be taken up at the next meeting under D.3 are: (1) the civil versus criminal enforcement discussion with Lieutenant Azato present, and (2) Julia's presentation of options for structuring the broader ordinance update initiative.

D.4. Discussion regarding proposed revisions to language within the City Code

regarding Ch. 197 Article VIII Signs and Billboards.

Jon distributed two documents that had not been uploaded to the packet in advance, as they were completed immediately prior to the meeting: a synopsis of relevant court cases (with several additions beyond those previously referenced) and a red-line draft showing proposed revisions to the signs and billboards ordinance. Jon noted that the current sign and billboard code requires significant overhaul, particularly in light of First Amendment case law. Barbara noted that she appreciated the framing of the revised purpose section.

Alan briefly indicated that after reviewing the relevant cases, he agreed the current ordinance presents legal problems. The committee agreed to review both documents before the next meeting and to defer substantive discussion until July 9th, at which point Jon anticipated the committee would be ready for a thorough review. Jon also agreed to forward the materials to Alan and Bob.

E. PUBLIC COMMENT:

No public comment was offered by members of the public attending in person or remotely.

F. ADJOURNMENT:

*The next meeting was scheduled for **July 9, 2026, at 11:00 AM**, with a planned duration of two hours to accommodate the volume of business, particularly the floodplain items under D.2.*

Motion:

Motion to adjourn was made by Greg and seconded by Barbara. The motion carried unanimously and the meeting adjourned at 12:31 PM.

Minutes submitted by: Jeffery Coover, Administration Support Specialist

Minutes generated by HeyGov.ai

Transcripts available upon request

Ordinances Committee- Imprisonment Ordinance Update May 13

List of All Imprisonment Ordinances and Charter segmented by stakeholder

City Charter

Section 13 Disqualifications. – Charter

If any Council Person or Mayor during his term of office shall be found guilty of any crime or misdemeanor and sentenced to imprisonment for any term whatever or shall for any reason cease to be resident of said city, he shall forthwith be disqualified to act as a member of Council or Mayor, and **his** office shall be deemed vacant and shall be filled by Council, as aforesaid.

Section 18 Alderman and Assistant Alderman. – Charter

The Alderman and the Assistant Alderman shall have jurisdiction and cognizance of all breaches of the peace and other offenses committed within the corporate limits of The City of Lewes, so far as to arrest and hold for bail or fine and imprison offenders for any offense, penalty or forfeiture prescribed by the Charter of The City of Lewes and any ordinance enacted thereunder, and of all neglects, omissions or defaults of any city officer, agent or employee; provided, however, that neither the Alderman nor the Assistant Alderman shall impose any fine in excess of five hundred dollars (\$500.) nor imprison any offender for more than sixty (60) days, except as otherwise provided in the Charter of The City of Lewes. The Alderman and the Assistant Alderman may, in addition to any fine or term of imprisonment permitted to be assessed or imposed, impose and collect such costs as are set by ordinance by the City Council of The City of Lewes; provided, however, that no cost shall be imposed which is in excess of that which may be imposed by a Justice of the Peace for like service.

Section 29 Enumeration of Powers. – Charter

To provide for the punishment of a violation of any ordinance of the city by fine or imprisonment, or both, not exceeding five hundred dollars (\$500.) or sixty (60) days, and for working any person sentenced to such imprisonment or any person who shall refuse to so work when ordered.

Section 31 Remedies for Collection of Taxes, Assessments and Other Charges. – Charter

The City Manager may make a complaint under oath before any Justice of the Peace that the tax of any taxable is due and unpaid and that he has been unable to make collection of the tax, assessment, license fee, warrant, rental or other charge by any of the methods for the recovery of taxes prescribed by this Charter, and thereupon a warrant shall be issued for the arrest of such taxable and if, after hearing, it shall be found that the tax, assessment, license fee, warrant, rental or other charge of the person arrested is due and unpaid and if the taxable shall thereon fail to pay the tax, assessment, license fee, warrant, rental or other charge, together with accrued costs, he shall be committed to the jail of Sussex County, or city lockup until the tax, assessment, license fee, warrant, rental, penalty, cost and charges are paid, but in no event shall the term of his imprisonment exceed thirty (30) days.

General Ordinances containing imprisonment

§ 63-3 Violations and penalties. – General Restrictions.

§ 172-14 Violations and penalties. – Property Transfer Tax

Any person who violates any of the provisions of this article shall be deemed to be guilty of a misdemeanor and, upon conviction in a court of competent jurisdiction, shall be fined not less than \$50 nor more than \$200 or, and shall pay the costs of prosecution.

Board of Public Works

§ 158-1 Prohibited discharges; violations and penalties. – Discharge of Certain Materials Prohibited

Whoever shall permit blood, carrion, feathers, filth or other refuse derived or resulting from the cleaning, canning, processing or grading of fruit, vegetables or any other farm products and/or the keeping, slaughtering, dressing or feeding of hogs, swine, fowl, poultry or other animals to flow or escape into the municipal sewerage system, or any part of the municipal sewerage system within the corporate limits of the City of Lewes shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$200 and imprisonment for a term of not less than 10 days nor more than 30 days for the first such conviction. For a second or subsequent conviction, any person, firm or corporation shall, upon conviction, be subject to a fine of not less than \$50 nor more than \$500 and imprisonment for a term of not less than 20 days nor more than 60 days for each such conviction. Each day that a violation of any of the provisions of this article continues shall be deemed and taken to be a separate and distinct violation.

Police Dept. Imprisonment OrdinancesRemove

Section 24 Police Force. – Charter

§ 140-9 Violations and penalties. – Malicious Mischief

§ 140-13 Violations and penalties. – Interference With Officers Covered under DE law

Retain and rewrite

§ 183-27 Violations and penalties. – Speed Limits Needs Police revision

§ 183-28.10 Violations and penalties. – Traffic Control Devices Needs Police revision

*** Code Enforcement § 186-3 Violations and penalties. – Vehicles, Unlicensed

§ 92-2 Violations and penalties. – Preservation of Peace and Good Order

Any person, firm or corporation violating any of the provisions of this article shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$200 and imprisonment for a term of not less than 10 days nor more than 30 days for the first such conviction. For a second or subsequent conviction, any person, firm or corporation shall, upon conviction, be subject to a fine of not less than \$50 nor more than \$500 and imprisonment for a term of not less than 20 days nor more than 60 days for each such conviction. Each day that a violation of any of the provisions of this article continues shall be deemed and taken to be a separate and distinct violation.

§ 97-8 Violations and penalties. Firearms and Explosives

Any person, firm or corporation violating any of the provisions of this chapter shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$200 and imprisonment for a term of not less than 10 days nor more than 30 days for the first such conviction. For a second or subsequent conviction, any person, firm or corporation shall, upon conviction, be subject to a fine of not less than \$50 nor more than \$500 and imprisonment for a term of not less than 20 days nor more than 60 days for each such conviction. Each day that a violation of any of the provisions of this chapter continues shall be deemed and taken to be a separate and distinct violation.

§ 132-7 Violations and penalties. Noise

Any person, firm or corporation violating any of the provisions of this chapter shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$200 and imprisonment for a term of not less than 10 days nor more than 30 days for the first such conviction. For a second or subsequent conviction, any person, firm or corporation shall, upon conviction, be subject to a fine of not less than \$50 nor more than \$500 and imprisonment for a term of not less than 20 days nor more than 60 days for each such conviction. Each day that a violation of any of the provisions of this chapter continues shall be deemed and taken to be a separate and distinct violation.

Police Dept. Imprisonment Ordinances cont'd**§ 178-2 Violations and penalties. – Trespassing**

Any person who commits a trespass upon the ways, premises or lands of another within the corporate limits of the City of Lewes or on lands under the jurisdiction of the City of Lewes or who causes another to commit a trespass upon the ways, premises or lands of another shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not less than \$25 nor more than \$200 and For a second or subsequent conviction, any person, firm or corporation shall, upon conviction, be subject to a fine of not less than \$50 nor more than \$500 days for each such conviction. Each day that a violation of any of the provisions of this chapter continues shall be deemed and taken to be a separate and distinct violation.

§ 183-5 Violations and penalties. – General Provisions

Unless another penalty is specifically provided for in this chapter or by the Delaware Code, any person, firm or corporation violating any of the provisions of this chapter shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$200 and For a second or subsequent conviction, any person, firm or corporation shall, upon conviction, be subject to a fine of not less than \$50 nor more than \$500 and Each day that a violation of any of the provisions of this chapter continues shall be deemed and taken to be a separate and distinct violation.

§ 183-11.1 Parking for handicapped persons. – Parking

An individual or artificial entity who violates any provision of this section shall receive a mandatory fine of \$100 for a first offense, and for a subsequent like offense, a mandatory fine of \$200 Ask Jim Any officer authorized to issue a parking summons and citation may cause the illegally parked vehicle to be removed to a private storage area maintained for the safe storage of vehicles at the cost of the owner or operator of the vehicle.

§ 183-14 Violations and penalties. – Truck Exclusions

Any person violating the provisions of this article shall, upon conviction, be subject to a fine of not less than \$10 nor more than 100 and imprisonment for not less than 10 days nor more than 30 days for a first offense. For a second or subsequent offense within a twelve-month period, such person shall, upon conviction, be subject to a fine of not less than \$50 nor more than \$200 and imprisonment for not less than 15 days nor more than 30 days.

§ 181-11 Violations and penalties. – Vehicles, Abandoned

Any person, firm or corporation violating any of the provisions of this chapter shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$200 and . For a second or subsequent conviction, any person, firm or corporation shall be subject to a fine of not less than \$50 nor more than \$500 for each such conviction. Each day that a violation of any of the provisions of this chapter continues shall be deemed and taken to be a separate and distinct violation.

Building Dept. Imprisonment Ordinances**§ 56-3 Violations and penalties.** – Amusement Parks

Any person, firm or corporation violating any of the provisions of this article shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$200 and imprisonment for a term of not less than 10 days nor more than 30 days for the first such conviction. For a second or subsequent conviction, any person, firm or corporation shall, upon conviction, be subject to a fine of not less than \$50 nor more than \$500 and imprisonment for a term of not less than 20 days nor more than 60 days for each such conviction. Each day that a violation of any of the provisions of this article continues shall be deemed and taken to be a separate and distinct violation.

§ 56-14 Violations and penalties. – Amusement Parks

Any person, firm or corporation violating any of the provisions of this article shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$200 and imprisonment for a term of not less than 10 days nor more than 30 days for the first such conviction. For a second or subsequent conviction, any person, firm or corporation shall, upon conviction, be subject to a fine of not less than \$50 nor more than \$500 and imprisonment for a term of not less than 20 days nor more than 60 days for each such conviction. Each day that a violation of any of the provisions of this article continues shall be deemed and taken to be a separate and distinct violation.

§ 70-29 Amendment to violations. – Modifications to Fuel Gas Code (Recommend Rewrite)

Section of Violation Penalties of the Fuel Gas Code of the City of Lewes is amended by striking "Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter or repair work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a [SPECIFY OFFENSE], punishable by a fine of not more than [AMOUNT], dollars or by imprisonment not exceeding [NUMBER OF DAYS], or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense" and inserting "Article XX Violation and Penalties."

§ 59-2 Violations and penalties. – Animals

Any person, firm or corporation violating any of the provisions of this article shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$200 and imprisonment for a term of not less than 10 days nor more than 30 days for the first such conviction. For a second or subsequent conviction, any person, firm or corporation shall, upon conviction, be subject to a fine of not less than \$50 nor more than \$500 and imprisonment for a term of not less than 20 days nor more than 60 days for each such conviction. Each day that a violation of any of the provisions of this article continues shall be deemed and taken to be a separate and distinct violation.

Building Dept. Imprisonment Ordinances cont'd**§ 65-2 Violations and penalties.** – Bicycles.

Any person, firm or corporation violating any of the provisions of this chapter shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$200 and imprisonment for a term of not less than 10 days nor more than 30 days for the first such conviction. For a second or subsequent conviction, any person, firm or corporation shall, upon conviction, be subject to a fine of not less than \$50 nor more than \$500 and imprisonment for a term of not less than 20 days nor more than 60 days for each such conviction. Each day that a violation of any of the provisions of this chapter continues shall be deemed and taken to be a separate and distinct violation.

§ 88-8 Violations and penalties. – Dogs

Any person, firm or corporation violating any of the provisions of this article shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$200 and imprisonment for a term of not less than 10 days nor more than 30 days for the first such conviction. For a second or subsequent conviction, any person, firm or corporation shall, upon conviction, be subject to a fine of not less than \$50 nor more than \$500 and imprisonment for a term of not less than 20 days nor more than 60 days for each such conviction. Each day that a violation of any of the provisions of this article continues shall be deemed and taken to be a separate and distinct violation.

§ 95-4 Violations and penalties. – Environmental Protection

Any person, firm or corporation violating any of the provisions of this chapter shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$200 and/or imprisonment for a term of not less than 10 days nor more than 30 days for the first such conviction. For a second or subsequent conviction, any person, firm or corporation shall, upon conviction, be subject to a fine of not less than \$50 nor more than \$500 and/or imprisonment for a term of not less than 20 days nor more than 60 days for each such conviction. Each day that a violation of any of the provisions of this chapter continues shall be deemed and taken to be a separate and distinct violation.

§ 125-18 Violations and penalties. Massage Parlors

Any person, firm or corporation violating any of the provisions of this chapter shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$200 and imprisonment for a term of not less than 10 days nor more than 30 days for the first such conviction. For a second or subsequent conviction, any person, firm or corporation shall, upon conviction, be subject to a fine of not less than \$50 nor more than \$500 and imprisonment for a term of not less than 20 days nor more than 60 days for each such conviction. Each day that a violation of any of the provisions of this chapter continues shall be deemed and taken to be a separate and distinct violation.

Building Dept. Imprisonment Ordinances cont'd**§ 128-18 Violations and penalties.** – Establishments to be Licensed

Any person, firm or corporation violating any of the provisions of this article shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$200 and imprisonment for a term of not less than 10 days nor more than 30 days for the first such conviction. For a second or subsequent conviction, any person, firm or corporation shall, upon conviction, be subject to a fine of not less than \$50 nor more than \$500 and imprisonment for a term of not less than 20 days nor more than 60 days for each such conviction. Each day that a violation of any of the provisions of this article continues shall be deemed and taken to be a separate and distinct violation.

§ 140-15 Burning of leaves, brush or other combustible matter; violations and penalties. – Open Burning

Any person, firm or corporation violating any of the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$25 nor more than \$100 or imprisoned for a period not to exceed 10 days, or both, and shall pay the costs of prosecution. For the purposes of this article, each day that a violation of this section occurs shall be deemed to be a separate offense.

§ 142-3 Violations and penalties. – Peddling From Vehicles

Any person who shall violate the provisions of this article, whether he or she is acting in an individual capacity or as an agent or employee of some other person, firm or corporation shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$200 and imprisonment for a term of not less than 10 days nor more than 30 days for the first such conviction. For a second or subsequent conviction, any person, firm or corporation shall, upon conviction, be subject to a fine of not less than \$50 nor more than \$500 and imprisonment for a term of not less than 20 days nor more than 60 days for each such conviction. Each day that a violation of any of the provisions of this article continues shall be deemed and taken to be a separate and distinct violation.

§ 142-9 Violations and penalties. – Door-to-Door Peddling

Any person, firm or corporation violating any of the provisions of this article shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$200 and imprisonment for a term of not less than 10 days nor more than 30 days for the first such conviction. For a second or subsequent conviction, any person, firm or corporation shall, upon conviction, be subject to a fine of not less than \$50 nor more than \$500 and imprisonment for a term of not less than 20 days nor more than 60 days for each such conviction. Each day that a violation of any of the provisions of this article continues shall be deemed and taken to be a separate and distinct violation.

§ 142-16 Violations and penalties. – Soliciting

Any person, firm or corporation violating any of the provisions of this article shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$200 and imprisonment for a term of not less than 10 days nor more than 30 days for the first such conviction. For a second or subsequent conviction, any person, firm or corporation shall, upon conviction, be subject to a fine of not less than \$50 nor more than \$500 and imprisonment for a term of not less than 20 days nor more than 60 days for each conviction. Each day that a violation of any of the provisions of this article continues shall be deemed and taken to be a separate and distinct violation.

Building Dept. Imprisonment Ordinances cont'd**§ 158-3 Stormwater disposal; penalties; remedies.** – Stormwater Disposal

Any person violating any provision of this section shall be deemed guilty of a misdemeanor and upon conviction in a court of competent jurisdiction shall be fined not less than \$40 nor more than \$150 or imprisoned for a term of not more than 20 days, or both, and shall pay the costs of prosecution. For the purposes of this section, each day that stormwater or surface water is discharged by a downspout or other apparatus into the sanitary sewer system of the City shall be deemed to be a separate offense. For purposes of this section, each day in which stormwater is directed, redirected, plumbed, piped, dammed or controlled in such a way that would cause water to travel or pass over or onto any adjacent private property or properties shall be deemed to be a separate offense.

§ 167-2 Violations and penalties. – Roller-Skating and Skateboarding

Any person, firm or corporation violating any of the provisions of this article shall be issued a written warning for the first offense; for any subsequent violations, upon conviction, be subject to a fine of not less than \$25 nor more than \$200 and imprisonment for a term of not less than 10 days nor more than 30 days for the first such conviction. For a second or subsequent conviction, any person, firm or corporation shall, upon conviction, be subject to a fine of not less than \$50 nor more than \$500 and imprisonment for a term of not less than 20 days nor more than 60 days for each such conviction. Each day that a violation of any of the provisions of this article continues shall be deemed and taken to be a separate and distinct violation.

§ 167-9 Violations and penalties. – Maintenance and Repair

Any person, persons or groups of persons who shall commit or cause the commission or allow or participate in the commission of acts that are prohibited in this article shall, upon conviction thereof, be fined not less than \$50 nor more than \$200 or imprisoned for a period of not more than 30 days, or both, and shall pay the costs of prosecution and court costs, attorney's fees and Victim's Compensation Fund Assessment, the costs of the repairs to meet City standards, in addition to any other remedies provided by law or this article.

§ 167-12 Violations and penalties. – Vehicles on Sidewalks

Any person, firm or corporation violating any of the provisions of this article shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$200 and imprisonment for a term of not less than 10 days nor more than 30 days for the first such conviction. For a second or subsequent conviction, any person, firm or corporation shall, upon conviction, be subject to a fine of not less than \$50 nor more than \$500 and imprisonment for a term of not less than 20 days nor more than 60 days for each such conviction. Each day that a violation of any of the provisions of this article continues shall be deemed and taken to be a separate and distinct violation.

§ 175-14 Violations and penalties. – Trailers and Trailer Parks

Any person, firm or corporation violating any of the provisions of this chapter shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$200 for the first such conviction. For a second or subsequent conviction, any person, firm or corporation shall, upon conviction, be subject to a fine of not less than \$50 nor more than \$500 for each such conviction. Each day that a violation of any of the provisions of this chapter continues shall be deemed and taken to be a separate and distinct violation.

Building Dept. Imprisonment Ordinances cont'd

§ 197-73 Floodplains. – Environmental Protection Regulations Rewrite pending states decision Violations and penalties.

Insert Enforcement[2] Payment of costs of prosecution, including the City's reasonable attorney's fees.

§ 197-105 Violations and penalties. – Zoning Rewrite pending states decision

C. Penalties if convicted. If convicted, a person or entity, as enumerated in this section, shall be subject to the following:

- (1) Insert **Enforcement
- (a)
- (b)

§ 70-40 Amendment to violations. – Modifications to Plumbing Code

Section of Violation Penalties of the Plumbing Code of the City of Lewes is amended by striking "Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter or repair plumbing work in violation of the approved construction documents or directive of the code official, or of a permit of certificate issued under the provisions of this code, shall be guilty of a [SPECIFY OFFENSE], punishable by a fine of not more than [AMOUNT], dollars or by imprisonment not exceeding [NUMBER OF DAYS], or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense" and inserting "Article XX Violation and Penalties.

§ 70-60 Amendment to Section 113, Violations. – Modifications to Swimming Pool and Spa Code

Section 113.4, Violation Penalties, of the Swimming Pool and Spa Code of the City of Lewes is amended by striking "Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter or repair a pool or spa in violation of the approved construction documents or directive of the code official, or of a permit of certificate issued under the provisions of this code, shall be guilty of a [SPECIFY OFFENSE], punishable by a fine of not more than [AMOUNT], dollars or by imprisonment not exceeding [NUMBER OF DAYS], or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense" and inserting "Article XX Violation and Penalties."

§ 73-3 Violations and penalties. – Buildings, Numbering of

Any person, firm or corporation violating any of the provisions of this chapter shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$200 and imprisonment for a term of not less than 10 days nor more than 30 days for the first such conviction. For a second or subsequent conviction, any person, firm or corporation shall, upon conviction, be subject to a fine of not less than \$50 nor more than \$500 and imprisonment for a term of not less than 20 days nor more than 60 days for each such conviction. Each day that a violation of any of the provisions of this chapter continues shall be deemed and taken to be a separate and distinct violation.

Building Dept. Imprisonment Ordinances cont'd**§ 86-5 Violations and penalties.** – Docks

Unless another penalty is specifically provided for in this chapter or by the Delaware Code or regulations thereunder, any person violating any of the provisions of this chapter shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$200, be imprisoned for a term of not less than 10 days nor more than 30 days for the first such offense, or both, and shall pay the costs of prosecution. For a second and any subsequent offense, any person, upon conviction in a court of competent jurisdiction, shall be subject to a fine of not less than \$50 nor more than \$500, be imprisoned for a term of not less than 20 days nor more than 60 days, or both, and shall pay the costs of prosecution.

§ 108-2 Violations and penalties. – Gasoline, Storage of

Any person, firm or corporation violating any of the provisions of this chapter shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$200 and imprisonment for a term of not less than 10 days nor more than 30 days for the first such conviction. For a second or subsequent conviction, any person, firm or corporation shall, upon conviction, be subject to a fine of not less than \$50 nor more than \$500 and imprisonment for a term of not less than 20 days nor more than 60 days for each such conviction. Each day that a violation of any of the provisions of this chapter continues shall be deemed and taken to be a separate and distinct violation.

§ 115-3 Violations and penalties. – Junkyards

Any person, firm or corporation violating any of the provisions of this chapter shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$200 and imprisonment for a term of not less than 10 days nor more than 30 days for the first such conviction. For a second or subsequent conviction, any person, firm or corporation shall, upon conviction, be subject to a fine of not less than \$50 nor more than \$500 and imprisonment for a term of not less than 20 days nor more than 60 days for such conviction. Each day that a violation of any of the provisions of this chapter continues shall be deemed and taken to be a separate and distinct violation.

§ 145-8 Violations and penalties. – Plumbing

Any person, firm or corporation which constructs, installs or maintains or causes to have constructed, installed or maintained any sewer, house or drain connection or any component of the water supply system, including the water service connection, in violation of this chapter be deemed guilty of a misdemeanor and, in addition to any other remedy provided by law, shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$100 or to imprisonment for a term of not less than 10 days nor more than 30 days, or to both for the first such conviction. For a second or subsequent conviction, any person, firm or corporation shall, upon conviction, be subject to a fine of not less than \$50 nor more than \$500 or to imprisonment for a term of not less than 20 days nor more than 60 days, or to both for each such conviction. Each day that a violation of any of the provisions of this chapter continues shall be deemed and taken to be a separate and distinct violation.

§ 145-43 Violations and penalties. – Plumbing

Any person, firm or corporation which violates any provision of this article shall be deemed guilty of a misdemeanor and, upon conviction in a court of competent jurisdiction, shall be fined not less than \$25 nor more than \$100 or be imprisoned for a term of not less than 10 days nor more than 20 days, or both, and shall pay the costs of prosecution for the first such conviction. For each subsequent conviction, any person, firm or corporation who violates any provision of this article shall be fined not less than \$50 nor more than \$200 or imprisoned for a term of not less than 20 days nor more than 30 days, or both, and shall pay the costs of prosecution. For the purposes of this article, each day that a violation of any of the provisions of this article occurs or continues shall be deemed to be a separate and distinct violation.

Parks & Rec Imprisonment Ordinances

Remove

§ 63-5 Violations and penalties. – Sleeping on Beaches

§ 63-7 Violations and penalties. – Vehicles on Beaches

§ 63-9 Violations and penalties. – Horses on Beaches

§ 63-11 Violations and penalties. – Beach Hours

§ 63-16 Violations and penalties. – Open Fires on Beaches

§ 63-19 Violations and penalties. – Jet Skis

§ 63-21 Violations and penalties. – Fishing on Beach

§ 88-10 Violations and penalties. – Dogs on Beaches

Parks & Rec Committee Rewrite

§ 63-3 Violations and penalties. – General Restrictions

Revise to include Parks & Rec Working Gp etal single enforcement statement.

Section 13 Disqualifications. – Charter

Purpose Determine whether to keep as is or update Section 13.

Reminder Because charters are legal foundations and not easily editable policies, the default is minimum necessary change. Significant modifications tend to be politically, legally, and administratively difficult to implement.

CURRENT Section 13 Disqualifications. – Charter

If any Council Person or Mayor during his term of office shall be found guilty of any crime or misdemeanor and sentenced to imprisonment for any term whatever or shall for any reason cease to be resident of said city, he shall forthwith be disqualified to act as a member of Council or Mayor, and his office shall be deemed vacant and shall be filled by Council, as aforesaid.

Why Keep with no change

- Preserves the original legal language, which some attorneys prefer for continuity and to avoid any unintended reinterpretation.
- Avoids any argument that a revision changed the legal meaning.
- Historical charter language is commonly gendered and courts understand it to apply broadly.

Why Keep and modernize

- Distinguish between serious and non-serious misdemeanors for clarity
- Modernize legal terminology to reduce ambiguity
- Improve defensibility in modern governance by focusing standards on integrity-related conduct.
- Changing to gender neutral language would be more inclusive and reflective of modern governance.

DRAFT REVISED Section 13. Disqualifications– Charter

If a Council Member or Mayor is convicted of a felony or of an offense involving fraud, dishonesty, or moral turpitude, and is sentenced to imprisonment, the office shall become vacant upon final conviction. A Council Member or Mayor shall also vacate office upon ceasing to maintain bona fide residency within the City. Any resulting vacancy shall be filled in accordance with this Charter.

Proposed revision has four key edits: Gender neutral, “his” → “their”, narrowed crime standard “Found guilty” → “convicted”, cleaner residency standard, and replaced archaic and unnecessary “forthwith” → “vacated”.

Bottomline

Section 13 causes no harm if left unchanged. However, if we recommend the city implement other changes to modernize the language in other sections of the charter, it may be worth updating this section at the same time.

Section 18 Alderman and Assistant Alderman. – Charter

Purpose Determine whether to eliminate, keep as is or keep with updated language

Reminder Because charters are legal foundations and not easily edited policies, the default is minimum necessary change. Significant modifications tend to be politically, legally, and administratively difficult to implement, so unused provisions are often left in place with possible minor updating.

CURRENT Section 18 Alderman and Assistant Alderman. – Charter

The Alderman and the Assistant Alderman shall have jurisdiction and cognizance of all breaches of the peace and other offenses committed within the corporate limits of The City of Lewes, so far as to arrest and hold for bail or fine and imprison offenders for any offense, penalty or forfeiture prescribed by the Charter of The City of Lewes and any ordinance enacted thereunder, and of all neglects, omissions or defaults of any city officer, agent or employee; provided, however, that neither the Alderman nor the Assistant Alderman shall impose any fine in excess of five hundred dollars (\$500.) nor imprison any offender for more than sixty (60) days, except as otherwise provided in the Charter of The City of Lewes. The Alderman and the Assistant Alderman may, in addition to any fine or term of imprisonment permitted to be assessed or imposed, impose and collect such costs as are set by ordinance by the City Council of The City of Lewes; provided, however, that no cost shall be imposed which is in excess of that which may be imposed by a Justice of the Peace for like service.

Why Keep with no change

- Preserves future flexibility by retaining a dormant charter authority that could be used if ever needed without further legislative action.
- No fiscal, administrative, or implementation impact.
- No legal conflict created by retaining the provision.
- Avoids triggering broader charter review beyond this section.
- Maintains status quo where no related charter changes are otherwise underway and avoids initiating state-level amendment process.

Why Remove entirely

- Eliminates outdated provisions that are not functionally utilized.
- Simplifies the charter by eliminating unused authority and reducing obsolete legal language.

Why Keep and modernize / clarify language

- Preserves charter structure while modernizing outdated legal terminology.
- Updates enforcement language (e.g., replaces “arrest and hold for bail” with current procedural equivalents).
- Replaces obsolete references (e.g., “Justice of the Peace”) with current legal authority.
- Aligns language with modern municipal and court procedures.
- Improves clarity and reduces ambiguity while maintaining legal intent and continuity.
- Increases likelihood of acceptance by the General Assembly and local policymakers by making changes technical, non-substantive, and consistent with modern legal standards.

DRAFT REVISED Section 18 – Alderman and Assistant Alderman

The Alderman and the Assistant Alderman shall have jurisdiction and cognizance of all breaches of the peace and other offenses committed within the corporate limits of the City of Lewes, insofar as to detain, set bail for, and otherwise proceed in accordance with applicable law against offenders for any offense, penalty, or forfeiture prescribed by the Charter of the City of Lewes or any ordinance enacted thereunder, and of all neglects, omissions, or defaults of any city officer, agent, or employee.

Provided, however, that neither the Alderman nor the Assistant Alderman shall impose any fine in excess of **X** nor impose imprisonment for more than **(X)** days, except as otherwise provided in the Charter of the City of Lewes.

The Alderman and the Assistant Alderman may, in addition to any fine or term of imprisonment permitted to be imposed, assess and collect such costs as are established by ordinance of the City Council of the City of Lewes; provided, however, that no costs shall be imposed in excess of those authorized for comparable services under applicable state law.

Proposed above revision has four key edits: removes “arrest and hold for bail”, (removes outdated arrest authority language), replaces “Justice of the Peace” references, (avoids naming a court structure that may change over time), streamlines phrasing without changing jurisdiction or limits and allows for updated caps on fines, imprisonment, and municipal authority.

Bottom line

Section 18 causes no harm if left unchanged. However, if we recommend the city implement other changes to modernize the language of other sections of the charter, it may be worth updating this section at the same time.

Ordinance Review Committee - Imprisonment

PURPOSE

Review Charter Provisions – Cost, Scope, and Risk-Based Prioritization (Sections 13, 18, 29, 31).

Discussion on whether to recommend modification of any of the four sections of the Lewes Charter which contain the term “imprisonment”. Full text for each of the above Charter sections is included at the end of this document.

BACKGROUND

There are roughly 56 Ordinances and 4 Charter Sections containing the term “imprisonment”. Ordinance items may change through mayor and council. Changing Charter items requires procedural steps at the local and state level including, drafting and legal review, formal public notice and hearing requirements, approval by Mayor and Council, securing local legislative sponsorship in the Delaware General Assembly, committee review and passage in both legislative chambers, and final Governor approval. The process typically takes several months to a year or longer to complete, depending on complexity, legislative scheduling, and the level of controversy or negotiation required.

Charter amendments are typically limited to items with either (a) clear legal necessity or (b) are bundled and included within an already active, broader Charter revision effort. Amendments are typically pursued when the expected benefit clearly exceeds the combined cost of legal work, administrative effort, legislative coordination, extended timeline, and political capital required.

SECTION-BY-SECTION RECOMMENDATION

Section 13 – Disqualification of Officials

If any Council Person or Mayor, during his term of office, shall be found guilty of any crime or misdemeanor and sentenced to **imprisonment** for any term whatever, or shall for any reason cease to be resident of said City, he shall forthwith be disqualified to act as a member of Council or Mayor, and his office shall be deemed vacant and shall be filled by Council, as aforesaid. [69 Del. Laws, c. 97](#)

Recommendation Amend only as part of a broader Charter modernization package. Otherwise, defer changes at this time.

Rationale

- Proposed revisions are primarily stylistic (modernization of pronouns, grammar, and clarity) and do not substantively change eligibility or disqualification standards.
- The “sentenced to imprisonment for any term whatever” language reflects older statutory drafting and may present outdated terminology, but it does not appear to affect current enforcement practice.
- In practice, disqualification is triggered by a qualifying criminal conviction and official vacancy procedures rather than any literal incarceration outcome.
- Because the provision is not actively driving operational or enforcement issues, it does not rise to a standalone amendment priority.
- Best addressed holistically in a full Charter cleanup to ensure consistency across related ethics/disqualification provisions.

Section 18 – Alderman / Assistant Alderman

(d) The Alderman and the Assistant Alderman shall have jurisdiction and cognizance of all breaches of the peace and other offenses committed within the corporate limits of The City of Lewes so far as to arrest and hold for bail, or fine and imprison offenders for any offense, penalty or forfeiture prescribed by the Charter of The City of Lewes and any ordinance enacted thereunder; of all neglects, omissions or defaults of any City Officer, agent or employee; PROVIDED, HOWEVER, that neither the Alderman nor the Assistant Alderman shall impose any fine in excess of Five Hundred Dollars (\$500.00) nor **imprison** any offender for more than sixty (60) days except as otherwise provided in the Charter of The City of Lewes. The Alderman and the Assistant Alderman, may in addition to any fine or term of **imprisonment** permitted to be assessed or imposed, impose and collect such costs as are set by ordinance by the City Council of The City of Lewes; PROVIDED, HOWEVER, that no cost shall be imposed which is in excess of that which may be imposed by a Justice of the Peace for like service.

Recommendation Amend only if bundled within broader Charter revision package. Otherwise, leave as is.

Rationale

- The Office is not in use and effectively obsolete, so the language has no operational impact.
- Amending would require legal drafting, legislative coordination, and political effort for limited functional gain.
- Revising could expand discussion into broader enforcement structure questions beyond intended scope, so risk of procedural expansion without commensurate benefit.

Section 29 – Ordinance Penalties (Number 27 of 45 powers)

Not by way of limitation upon the power vested in the City Council to exercise all powers delegated by this Charter to the municipal corporation except as may expressly appear herein to the contrary, but, rather, by way of enumeration and for purposes of clarity, the City Council is vested by this Charter with the following powers, to be exercised by said City Council in the interest of good government and the safety, health and welfare of the City, its inhabitants and affairs, that is to say,

27. To provide for the punishment of a violation of any ordinance of the City by fine or **imprisonment**, or both, not exceeding Five Hundred Dollars (\$500.00) or Sixty (60) days, and for working any person sentenced to such **imprisonment** or any person who shall refuse to so work when ordered.

Recommendation Amend only as part of a comprehensive Charter revision. Otherwise, defer changes.

Rationale

- The provision contains outdated penalty and labor-enforcement concepts that are not reflective of modern municipal enforcement practices or contemporary judicial standards.
- The related Alderman/Assistant Alderman structure referenced elsewhere in the Charter is effectively obsolete and no longer functions in practice, limiting the operational impact of this language.
- Revising this section in isolation could unintentionally expand discussion into broader questions regarding municipal penalty authority, adjudicatory structure, and enforcement jurisdiction.
- The provision does not appear to create an immediate operational or compliance issue.
- Any revision would be best addressed holistically as part of a broader Charter modernization effort to ensure consistency across related enforcement and judicial provisions.

Section 31 – Tax and Charge Enforcement

(e) The City Manager may make a complaint under oath before any Justice of the Peace, that the tax of any taxable is due and unpaid and that he has been unable to make collection of the tax, assessment, license fee, warrant, rental or other charge by any of the methods for the recovery of taxes prescribed by this Charter, and thereupon a warrant shall be issued for the arrest of such taxable and if, after hearing it shall be found that the tax, assessment, license fee, warrant, rental or other charge, of the person arrested is due and unpaid, and if the taxable shall thereon fail to pay the tax, assessment, license fee, warrant, rental or other charge, together with accrued costs, he shall be committed to the jail of Sussex County, or City lockup until the tax, assessment, license fee, warrant, rental, penalty, cost and charges are paid, but, in no event shall the term of his **imprisonment** exceed thirty (30) days.

Recommendation Do not amend unless required for legal compliance or bundled into a comprehensive enforcement overhaul.

Rationale

- The provision is structurally tied to multiple related Charter mechanisms for tax recovery, increasing the risk that piecemeal edits create inconsistencies or procedural ambiguity.
- The “imprisonment”-based language that may present reputational and legal optics concerns however; actual enforcement mechanisms use modern civil collection tools and not imprisonment.
- Isolated amendment could require broader review of the City’s entire tax enforcement framework to ensure procedural consistency and avoid unintended gaps in authority.
- Because this area touches enforcement authority and due process considerations, any revision is best addressed in a full modernization package with coordinated legal review.

BOTTOM-LINE

If the City is already doing Charter work, then modernization of enforcement language, removal/neutralization of archaic imprisonment/debt enforcement framing, alignment with current civil enforcement reality and cleanup of obsolete adjudicatory roles (Alderman structure) may justify a bundled review. If no other current Charter updating is underway, then these four sections represent a “modernization and risk cleanup” opportunity and not a “problem correction” and could be addressed during a future, broader, Charter revision.

Following is the full Lewes Charter Sections containing the term "imprisonment"

Disqualifications

Section 13.

If any Council Person or Mayor, during his term of office, shall be found guilty of any crime or misdemeanor and sentenced to **imprisonment** for any term whatever, or shall for any reason cease to be resident of said City, he shall forthwith be disqualified to act as a member of Council or Mayor, and his office shall be deemed vacant and shall be filled by Council, as aforesaid. [69 Del. Laws, c. 97](#)

Alderman and Assistant Alderman

Section 18.

(a) The Mayor, by and with the advice and consent of a majority of all the members of the City Council, may appoint some suitable person to act as Alderman and may appoint some suitable person to act as Assistant Alderman. Any person appointed by the Mayor to serve as Alderman or Assistant Alderman shall be at least twenty-one (21) years of age, shall be of good character and reputation and shall be a resident of the City of Lewes and shall not be a member of the City Council of the City of Lewes. Any person appointed by the Mayor to serve as Alderman or Assistant Alderman shall be appointed for a term of one (1) year or until his successor shall be duly appointed. Either the Alderman or the Assistant Alderman may be removed from office at any time, with or without cause, by the affirmative vote of a majority of all the members of the City Council of the City of Lewes. [72 Del. Laws, c. 175](#)

(b) Before entering upon the duties of his office, the persons appointed by the Mayor to serve as Alderman and Assistant Alderman shall be sworn or affirmed by the Mayor to perform the duties of his office honestly, faithfully and diligently and to uphold and enforce the Charter of The City of Lewes and ordinances duly enacted by the City Council of The City of Lewes and to carry into effect all orders of the City Council of The City of Lewes made pursuant to any law of this State. The Assistant Alderman shall perform the functions of the Alderman if the Alderman is unavailable and at such other times as may be designated by the Mayor. During such periods, the Assistant Alderman shall have all the powers and duties of the Alderman.

(c) The City Council shall procure a suitable record for the use of the Alderman and the Assistant Alderman. Such record shall be known as the "Alderman's Docket." The Alderman and the Assistant Alderman shall each record all official acts and proceedings in the "Alderman's Docket."

(d) The Alderman and the Assistant Alderman shall have jurisdiction and cognizance of all breaches of the peace and other offenses committed within the corporate limits of The City of Lewes so far as to arrest and hold for bail, or fine and imprison offenders for any offense, penalty or forfeiture prescribed by the Charter of The City of Lewes and any ordinance enacted thereunder; of all neglects, omissions or defaults of any City Officer, agent or employee; PROVIDED, HOWEVER, that neither the Alderman nor the Assistant Alderman shall impose any fine in excess of Five Hundred Dollars (\$500.00) nor **imprison** any offender for more than sixty (60) days except as otherwise provided in the Charter of The City of Lewes. The Alderman and the Assistant Alderman, may in addition to any fine or term of **imprisonment** permitted to be assessed or imposed, impose and collect such costs as are set by ordinance by the City Council of The City of Lewes; PROVIDED, HOWEVER, that no cost shall be imposed which is in excess of that which may be imposed by a Justice of the Peace for like service.

(e) The Alderman and the Assistant Alderman shall prepare and submit a monthly report to the City Council reporting all fines and penalties imposed during the preceding calendar month and shall pay to the Treasurer of the City all such fines and penalties.

(f) The Alderman and the Assistant Alderman shall receive such salary as may be fixed from time to time by resolution of the City Council.

Alderman and Assistant Alderman Cont'd

(g) If any Alderman or Assistant Alderman shall be removed from office as hereinbefore provided, he shall deliver to the City Manager, within two (2) days after his removal from office, all the books and papers belonging to his office, and shall pay over to the City Manager all monies in his hands within five (5) days after receiving the notice of his removal from office. Immediately after the receipt of the books and papers belonging to the office of either the Alderman or the Assistant Alderman, the City Manager shall require the auditor of the City, appointed as hereinafter provided, to make an audit of the books and papers of the official so removed from the office. Upon the neglect or failure to deliver all the books and papers to the City Manager within the time specified by this Charter, or to pay over all the monies to the City Manager within the time specified, the Alderman or Assistant Alderman, so removed, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) for each day that he fails to deliver the books and papers to the City Manager or to pay over all monies to the City Manager.

Enumeration of Powers

Section 29.

Not by way of limitation upon the power vested in the City Council to exercise all powers delegated by this Charter to the municipal corporation except as may expressly appear herein to the contrary, but, rather, by way of enumeration and for purposes of clarity, the City Council is vested by this Charter with the following powers, to be exercised by said City Council in the interest of good government and the safety, health and welfare of the City, its inhabitants and affairs, that is to say,

1. To prevent vice, drunkenness and immorality.
2. To provide for and preserve the health, peace, safety, cleanliness, ornament and good order of the City and its inhabitants.
3. To prohibit all gaming and fraudulent devices.
4. To prohibit, restrain, license or regulate all public sports, exhibitions, shows, parades, productions, circuses or other public performances, amusements, and games.
5. To ascertain, locate, lay out, establish, open, change, alter, widen, abandon, regulate the use and enjoyment of, prevent or remove any obstruction of, level, grade, flag, dress macadamize, pave, gravel, shell, improve, dredge, erect, remove, repair or replace any new or present street, highway, lane, alley, watercourse, park, lake, strand, crosswalk, wharf, dock, sewer, drain, aqueduct or pipe line, or portion thereof, in the City; to specify the grade thereof, the materials to be used in the doing thereof and the manner in which the same shall be done; and to enter into contracts or agreements for the doing thereof, including contracts or agreements with the State Highway of the State of Delaware for the permanent maintenance, repair and upkeep of any street, lane, alley, roadway or other highway within the City.
6. To regulate or control the observance of the Sabbath Day.
7. To establish and regulate pounds and to restrain, prohibit and empound any domestic or wild animal, beast, bird or fowl running at large, and to authorize the destruction of the same, and to impose taxes on the owners of dogs.
8. To locate, regulate, license, restrain or require the removal of slaughter houses, wash houses, laundries, canning establishments, phosphate, fish, fertilizer or manure plants or establishments, swine pens, privies, water closets and any business or buildings or conditions detrimental to the public health or constituting a public nuisance or of an offensive or noxious nature.
9. To enforce the removal of snow, ice, dirt or other foreign substance from sidewalks and gutters by owners or abutting owners.
10. To prohibit, remove, or regulate the erection and maintenance of, any stoop, step, platform, bay window, cellar door, gate, area, descent, sign, post, or any other erection of projection in, over upon or under any street, highway, alley, lane, watercourse, park, lake, strand, sidewalk, crosswalk, wharf, dock, sewer, drain, aqueduct or pipeline of the City.

11. To define, prevent, abate or remove nuisances, obstructions or any condition detrimental to the public safety, health or welfare.

12. To provide an ample supply of pure water for The City and its inhabitants and to this end to acquire, lease, erect, construct, maintain, operate, extend, enlarge, renew, replace, control and dispose of wells, reservoirs, pumps, machines, stations, tanks, standpipes, water mains, fire hydrants and all other equipment, property or rights used in and about the collection, storage, purification, conveyance, distribution or sale of water; to regulate and prescribe for what private or public purposes the water furnished by the municipal corporation may be used, the manner of its use, the amounts to be paid by the users thereof, the means whereby such amounts shall be collected and the fines or penalties, or both, for any willful or negligent injury or damage to or interference with the water system or equipment of the City; to furnish, or refuse to furnish, water from the City system to places and properties outside the City limits; and to contract for and purchase water and distribute the same to users within or without the City with the same full powers as though such water had been initially reduced to usefulness by the municipal corporation itself.

13. To provide, construct, extend, maintain, manage and control a sewer system and/or a sewage treatment and disposal plant and facilities for the health, sanitation and convenience of the inhabitants of the City; to regulate and prescribe for what private or public purposes the system may be used, the manner of its use, the amounts to be paid by the users thereof, the means whereby such amounts shall be collected and the fines or penalties, or both, for any willful or negligent injury or damage to, or interference with the said system, plant or facilities; to furnish or refuse to furnish, sewer disposal service from the City system to places and properties outside the City limits; in the interest of the public's health, to compel any and all properties in the City to be connected to the sewer system of the City; and to contract for and purchase sewer disposal service and to resell the same to users within or without the City with the same full powers as though such service had been initially provided by the facilities therefor of the municipal corporation itself.

14. To provide, construct, extend, maintain, manage and control a plant and system, or plants and systems, for the generating, manufacturing and distributing of electric current or gas, or both, to the inhabitants of the City and for lighting the streets, highways, lanes, alleys, watercourses, parks, lake strands, sidewalks, crosswalks, wharves, docks, public buildings or other public places of the City, and to this end to acquire, lease, erect, construct, maintain, operate, extend, enlarge, renew, replace, control and dispose of transmission and distribution lines, pipes, mains and other conveyances for any such current or gas as may be necessary properly to light the City and to furnish proper connections for electric current and gas to the properties of the inhabitants of the City who may desire the same; to regulate and prescribe for what private or public purpose the current or gas furnished by the municipal corporation may be used, the manner of its use, the amount to be paid by the users thereof, the means whereby such amounts shall be collected and the fines or penalties, or both, for any willful or negligent injury or damage to or interference with the electric or gas system or systems to places and properties outside the City limits; and to contract for and purchase electric current or gas and distribute the same to user within or without the City with the same full powers as though such current or gas had been initially reduced to usefulness by the municipal corporation itself. In providing charges for sale of electric current to a rental unit, the City may require the owner of said rental unit to be responsible for and to pay for the electric current furnished to such rental unit. [64 Del. Laws, c. 306](#)

15. To fully control within the City the drainage of all water and, to that end, to alter or change the course and direction of any natural water course, runs or rivulet within the City, to regulate, maintain, clean and keep the same open, clean and unobstructed, and to provide, construct, extend, maintain, manage and control a surface water drainage system and facilities for the health, sanitation and convenience of the inhabitants of the City.

16. To provide, construct, extend, maintain, manage and control jetties, bulkheads, embankments, flood gates, piers, boardwalks, or fills for the preservation of any strand or high land within the limits of the City or contiguous thereto, to the end that the same may be preserved, property protected and the general public might enjoy the use thereof.

17. To grant franchises or licenses to any responsible person, firm, association or corporation, for such period of time, upon such terms, restrictions, stipulations and conditions and for such considerations as the City Council shall deem wise, to use the present and future streets, highways, lanes, alleys, watercourses, parks, lakes, strands, sidewalks, crosswalks, wharves,., docks, and other public places of the City for the purpose of furnishing heat, light, power, gas, water, sewer, drainage, electric current, telephone, telegraph, railroad excepting railroads or railways engaged in interstate commerce, bus, taxi

or other transportation, carrier or public service to the City and to the persons, firms, or corporations residing or located therein and for the purpose of transmitting the same from or through the City to points outside the limits thereof, and for the purpose of erecting wharves and piers, and for the purpose of vending any article of merchandise or service upon, or from any vehicle upon any such present and future street, highway, lane, alley, etc.; provided, that no exclusive franchise or license shall be granted for any such purpose to any person, firm, association or corporation whomsoever.

18. To regulate and control the exercise of any license or franchise mentioned in Section 29 (17) of this Charter or intended so to be.

19. To direct, regulate and control the planting, rearing, treatment and preserving of ornamental shade trees in the streets, highways, avenues, parks and grounds of the City and to authorize or prohibit the removal or destruction of said trees.

20. To direct the digging down, draining, filling up, cleaning, cutting or fencing of lots, tracts, pieces or parcels of ground in the City which may be deemed dangerous or unwholesome or necessary to carry out any improvements authorized by this Charter.

21. To provide for or regulate the numbering of houses and lots on the streets, and the naming of streets and avenues.

22. To regulate, control or prevent the use of storage of gunpowder, fireworks, tar, pitch, resin and all other combustible materials and the use of candles, lamps and other lights in stores, shops, stables and other places; to suppress, remove, or secure any fireplace, stove, chimney, oven, broiler, or other apparatus which may be dangerous in causing fire.

23. For the prevention of fire and the preservation of the beauty of the City, to regulate and control the manner of building or removal of dwelling houses and other buildings; to establish a code for the same and to provide for the granting of permits for the same; to establish a building line for buildings to be erected; zone or district the City and make particular provisions for particular zones of districts with regard to building or building materials; and, generally to exercise all the powers and authorities vested in the legislative body of cities and incorporated towns under and by virtue of **22 Del. C. § 301** et seq., and all amendments thereto.

24. To acquire, build, erect and maintain a suitable place as a lock-up or jail for the City which shall be used as a place of detention for persons convicted of violation of law or ordinance, or for the detention of persons accused of violation of law or ordinances for a reasonable time, in cases of necessity, prior to hearing and trial; and to provide for the restraint, support and employment of paupers, beggars and vagrants; provided, that the jails of Sussex County may be used for any such purpose, in which event the City shall pay for the board of persons committed thereto for violations of ordinances of the City which are not violations of any general law of the State.

25. To acquire, build, erect and maintain buildings and facilities necessary or required for housing and equipping offices of the City.

26. To regulate or prevent the use of guns, air guns, spring guns, pistols, sling shots, beanshooters, and any other devices for discharging missiles which might cause bodily harm or injury to property; and to regulate or prevent the use of fireworks, bombs and detonating works of all kinds.

27. To provide for the punishment of a violation of any ordinance of the City by fine or **imprisonment**, or both, not exceeding Five Hundred Dollars (\$500.00) or Sixty (60) days, and for working any person sentenced to such **imprisonment** or any person who shall refuse to so work when ordered.

28. To provide for the organization of a fire department and the control and government thereof; to establish fire limits and do all things necessary for the prevention and extinguishment of fires; and, in their discretion, to contribute, donate or give an amount or amounts, not to exceed in the total during any given fiscal year, twelve per centum (12%) of the total taxes levied on real estate, unto any Volunteer Fire Company or Companies incorporated under the Laws of Delaware, or any Volunteer Fire Association or Associations maintaining and operating fire fighting equipment and service to the City; provided, that any such contribution, donation or gift may be made subject to such conditions and stipulations as to the use thereof as The City Council shall deem advisable. [58 Del. Laws, c. 24](#)

29. To purchase, take and hold real and personal property when sold for any delinquent tax, assessment, water rent, electric bill, gas bill, license fee, tapping fee, charge growing out of abatement of nuisances and the like, laying out and repairing sidewalks, or other charge due the City and to sell the same.

30. To levy and collect taxes for any and all municipal purposes upon all real estate and improvements located thereon and to levy and collect taxes for any and all municipal purposes upon improvements having an assessed valuation of at least One Thousand Dollars (\$1,000.00) located on land under a valid lease for a period of at least ten (10) years within the City, except lands belonging to the City; provided, that the amount to be raised from the source shall not exceed the sum of three-million five-hundred thousand dollars (\$3,500,000). [63 Del. Laws, c. 110](#); [65 Del. Laws, c. 22](#); [68 Del. Laws, c. 218](#); [75 Del. Laws, c. 3](#); [80 Del. Laws, c. 142](#);

31. To levy and collect a personal or per capita tax upon all persons otherwise qualified to vote at any annual municipal election to be used for any and all municipal purposes.

32. To levy and collect taxes upon all telephone, telegraph, power poles, pipe lines, rail lines or other constructions or erections of a like character erected within the limits of the City, together with the wire or other appliances thereto or thereon attached expressly excepting all telephone, telegraph, power lines or poles and rail lines owned or operated by any railroad or railway company engaged in interstate commerce for any and all purposes, and to this end may at anytime direct the same to be included in or added to the City Assessment. In case the owner or leasee of such constructions or erections, wires or other appliances shall refuse or neglect to pay the taxes levied thereon, in addition to the remedies for the collection thereof set forth in Section 31 of this Charter, the City Council shall have authority to cause the same to be removed.

33. To license, tax and collect fees annually for any and all municipal purposes (including the cost and expense of advertising the City) of such various amounts as the City Council from time to time shall fix, from any individual, firm, association or corporation carrying on or practicing any business, profession or occupation within the limits of the City; provided, however, that nothing herein shall be so construed as to make it mandatory upon any resident of the State to apply for a license in order to sell in the City any farm produce or products grown upon a farm owned by the vendor or any member of his family with whom he resides.

34. To determine from which authorized sources and in what proportions taxes shall be levied and used each year to raise the revenue or funds required to meet the general expenses of the municipal corporation and all funding, amortization and interest requirements on its outstanding bonds or other indebtedness.

35. To provide for the collection of and disbursement of all monies to which the City may become entitled by law, including licenses and fines, where no provision for the collection and disbursement thereof is otherwise provided in the Charter.

36. To borrow money in the name of the City for any proper municipal purpose, and in order to secure the payment of the same, to issue bonds or other kinds or forms of certificate or certificates of indebtedness, pledging the full faith and credit of the City or such other security or securities as the City Council shall select, for the payment of the principal thereof and the interest due thereon, all of which bonds or other kinds or forms of certificates of indebtedness issued by the City shall be exempt from all State, County or municipal taxes; provided, that in no event shall the indebtedness of the City, for any and all purposes, at any one time exceed in the aggregate twenty-five percentum (25%) of the assessed value of all real estate in the City subject to assessment for the purpose of levying the annual tax hereinbefore mentioned.

37. To acquire, and/or to vacate the use of, lands, tenements, personality, property, easements, rights-of-way, or any interest in property, either within or without the limits of the City, by way of condemnation and eminent domain, for any proper and lawful municipal purpose or whenever required properly to carry out, exercise or fulfill any power conferred upon or delegated to the municipal corporation by the Charter. Proceedings by way of condemnation in any such case shall be the same or prescribed hereafter in Section 34 of this Charter for the opening and laying out of new streets or the vacating or abandoning of old streets and the resolutions referred to in said Section 34 shall be changed and modified to cover any case contemplated hereby.

38. To appropriate money to pay the debts, liabilities and expenditures of the City, or any part or item thereof, from any fund applicable thereto, and to transfer temporarily money from one fund to another fund of the City in case of emergency.

39. To provide for the payment of any tax, fine, penalty, license, forfeiture, assessment, fee, charge or other amount due the City by the performance of labor or service for the City by any person owing the same.

40. To inquire into and investigate the conduct of any officer, agent, or employee of the City or any municipal affair, and for any such purpose or purposes may subpoena witnesses, administer oaths or affirmations, and compel the attendance of witnesses and production of books, papers or other evidence by summary process.

41. The City Council may by ordinance duly adopted in accordance with this Charter, establish a Pension Plan or a Health and Welfare Plan, or both, for the employees of The City of Lewes under such terms and conditions as the City Council, in its discretion, deems most appropriate; provided, however, that the method of funding, may, if deemed advisable by the City Council, be handled through a recognized insurance company licensed by the State of Delaware or authorized to do business in this State and approved by a majority of all the Members of the City Council.

To make, adopt and establish all such ordinance, regulations, rules and by-laws, not contrary to the laws of this State and the United States, as the City Council may deem necessary to carry into effect any of the provisions of this Charter or any other law of the State relating generally to municipal corporations or which they may deem proper and necessary for the good government of the City, the protection and preservation of persons and property and of the public health and welfare of the City and its inhabitants; provided, that any ordinance relating to. the public health of the City and its inhabitants or designed to prevent the introduction or spread of infectious or contagious diseases, or to prevent nuisances affecting the same, shall apply not only within the corporate limits of the City but as well to all areas and persons outside the City within one mile from said limits. [66 Del. Laws, c. 288](#)

42. To have, take, purchase, receive, possess, enjoy and retain by lawful means, to it and its successors and assigns within said City, or beyond the limits thereof, lands, tenements, hereditaments, goods, chattels, and effects of what kind, nature or quality so ever necessary for municipal purposes, and the same to sell, grant, demise, alien, mortgage, manage, hold and control of the same at pleasure, except as prohibited by the Constitution and laws of the United States and the State of Delaware or as restricted by this Charter.

43. To receive devises, bequests and donations of all kinds of property within said City and beyond the limits thereof for its own use and benefit, or in trust for charitable, benevolent, educational or other public purposes, and to do all acts necessary to carry out the purposes of such devises, bequests, gifts and donations.

44. To impose upon new development, redevelopment, new construction or reconstruction or upon first-time occupancy of new construction or reconstruction, such impact fees as are reasonably calculated to recover the cost of installing, enlarging, improving or expanding public or municipal improvements which have a rational nexus to such new development, redevelopment, new construction or reconstruction. [76 Del. Laws, c. 256](#)

45. To impose and collect a lodging tax of no more than 3% of the rent, in addition to the amount imposed by any other governmental agency, for the occupancy of any room or rooms in a hotel, motel, or tourist home which is located within the boundaries of the City of Lewes, under Chapter 61 of Title 30 of the Delaware Code. [82 Del. Laws, c. 275](#)

Remedies for Collection of Taxes Assessments and other Charges

Section 31.

(a) A remedy by distress as now prescribed by law is hereby preserved to the City Manager for the collection of any taxes, assessments, license fees, warrants, rentals or other charges for which he may be responsible.

(b) At any time after the delivery of the duplicate annual tax list or duplicate scrap sewer assessment list or warrant or any other list of charges due The City of Lewes, the City Manager may institute suit in the name of The City of Lewes before any Justice of the Peace or Court of the State of Delaware, in any of the Counties of the State, for the recovery of the unpaid tax, assessment, license fee, rental or other charge, in any action of debt, and upon judgment obtained, may issue Writs of Execution as in case of other judgments recovered before a Justice of the Peace.

(c) The said execution shall constitute a lien upon all the personal property of the taxable within the County where the judgment shall have been obtained, which by virtue of such execution shall be levied upon within thirty (30) days after the issuance thereof, and such lien shall have priority over all other liens against said personal property created or suffered by the taxable, except such liens thereon which

may have been created in respect to County Taxes, although such other liens be of date prior to the time of the attachment of the said tax liens.

(d) Any time after the delivery of any such duplicate annual tax list, assessment list, or warrant, or other lists containing charge due the City, the City Manager may notify, in writing, the person, firm or corporation by whom any taxable is employed that the tax, assessment, license fee, warrant, rental or other charge of said employee is due and unpaid. The notice shall be signed by the City Manager and shall contain the correct name of the taxable as it appears upon any such list, the amount of the tax, assessment, rental or other charge due with penalties and interest added, if any. Thereupon it shall be the duty of the employer to take from the wage, salary or other money then due the taxable, the amount of the tax, assessment, license fee, warrant, rental or other charge, together with penalties and interest added, if any owing, from the employee, and charge the same against him, and to pay the same to the Treasurer within ten (10) days. The City Manager shall give to the employer a certificate of payment which shall be allowed in any suit or accounting between the employer and taxable. If the employer be notified as aforesaid and, having in his hands money belonging to the taxable, shall neglect or refuse to comply with the provisions hereof, such employer shall become personally liable for the amount of the tax, assessment, license fee, warrant, or other charges, together with penalties and interest due thereon, if any, of the persons as to whom notice was given, and the amount thereof may be recovered from such employer in an action of debt before any Justice of the Peace, or Court of State of Delaware, as aforesaid. This process shall be deemed to be in the nature of a garnishment proceeding.

(e) The City Manager may make a complaint under oath before any Justice of the Peace, that the tax of any taxable is due and unpaid and that he has been unable to make collection of the tax, assessment, license fee, warrant, rental or other charge by any of the methods for the recovery of taxes prescribed by this Charter, and thereupon a warrant shall be issued for the arrest of such taxable and if, after hearing it shall be found that the tax, assessment, license fee, warrant, rental or other charge, of the person arrested is due and unpaid, and if the taxable shall thereon fail to pay the tax, assessment, license fee, warrant, rental or other charge, together with accrued costs, he shall be committed to the jail of Sussex County, or City lockup until the tax, assessment, license fee, warrant, rental, penalty, cost and charges are paid, but, in no event shall the term of his **imprisonment** exceed thirty (30) days.

(f) For the purpose of collecting the tax, assessment, license fee, warrant, rent or any other charge due the City from any taxable, and without the necessity of first employing the other remedies herein provided the Treasurer is empowered to sell the lands and tenements of the taxable or the improvements of a taxable located on land under a valid lease for a term of at least ten years which said lease is recorded in the Office of the Recorder of Deeds, in and for Sussex County, or the lands and tenements of a taxable, alienated, subsequent to the levy of the tax, assessment, license fee, warrant, rent or other charge.

(g) The City Manager shall present to the Superior Court of Sussex County a petition which shall state:

1. The name of the taxable, assessee, license, or charges.
2. The year for which the tax, assessment, license, rent or other charge was levied.
3. The rate of the tax, assessment, license, rent or other charge.
4. The total amount due.
5. The date from which the penalty for non-payment, if any, shall commence and the rate of such penalty.
6. A short description of the lands and tenements or a short description of the improvement located on the lands under as defined herein proposed to be sold sufficient to identify the same.
7. A statement that a bill of said tax, assessment, license, rent or other charge has been mailed to the taxable that he will proceed to sell the lands and tenements of the taxable for the payment of the tax, assessment, license, warrant, rent or other charge due the City, and the date of such mailing.
8. That it has been found impractical to attempt to collect the said tax, assessment, license, rent or other charge, by any other remedy hereinbefore provided.

(h) At least ten (10) days prior to the filing of any such petition, the City Manager shall deposit in the mail, in a sealed and stamped wrapper and requiring a return registry receipt, addressed to the taxable at his last known address, an itemized statement of the tax, assessment, license, warrant, rent or other charge due the City, together with all penalties and costs then due thereon, together with a notice to the taxable that he shall proceed to sell the lands and tenements of the taxable for the payment of the tax, assessment,

license, warrant, rent or other charge due the City. The City Manager shall exhibit the return registry receipt to the Court by filing the same with the petition.

(i) The petition shall be filed by the City Manager and shall be verified before a Notary Public.

(j) Upon the filing of the petition, the Prothonotary shall record the same in a properly indexed record of the Court and shall endorse upon said record of said petition, the following:

"This petition filed the day, of A.D..... (giving the day and year), and the City Manager of The City of Lewes shall therefore proceed to sell the lands and tenements herein mentioned or a sufficient part thereof, for the payment of the amount due", which endorsement shall be signed by the Prothonotary.

(k) The City Manager shall then proceed to advertise the lands and tenements of the taxable by posting handbills in at least five (5) public places in The City of Lewes (one of which shall be posted on the premises) and publishing the notice of said sale in a newspaper published in Sussex County. The notice shall contain the day, hour and place of sale and a short description of the premises sufficient to identify the same. The notice shall be posted at least ten (10) days before the day fixed for the sale and shall be published in the newspaper at least one week before the day of the sale.

(l) Each sale of lands and tenements or of improvements located on lands under lease as defined herein shall be returned to the Superior Court, aforesaid, at the ensuing term thereof following the sale. At the return of said sale the Court shall inquire into the circumstances and either approve or set aside the sale. No sale shall be approved by the Court if the owner be ready at the Court to pay the taxes, assessment, license fee, rent or other charge due the City, together with penalty, interest and costs, if any. If it set aside the sale, the Court may order another sale and so on until the tax, assessment, license fee, rent or other charge due is collected.

(m) If the sale shall be approved by the Court, then at the expiration of one year from the date of the sale (which shall be known as the redemption year) the City Manager shall make, execute and deliver a deed or a bill of sale to the purchaser, his heirs or assigns, which shall convey the title of the taxable, assessee, licensee, tenant or lessee or charges or his alienee, as the case may be: PROVIDED, HOWEVER, that within the redemption year, the owner, his heirs or assigns, shall have power to redeem the lands or improvements located on lands under lease as defined herein on payment of the costs, the amount of the purchase money and twenty per cent interest thereon to the purchaser, his heirs or assigns. If the purchaser refuses to accept the same or in the event the purchaser, or his heirs or assigns, cannot be located within the State of Delaware, then in either event, it shall be lawful for the owner, his heirs, executors or assigns, to pay the amount of the redemption money to the City Manager of The City of Lewes, and upon taking from him a good and lawful receipt therefor, such receipt shall be considered for all intents and purposes as a valid and lawful exercise of the owner, his heirs, executors and assigns, of his or their power to redeem the land so sold.

(n) After satisfying the tax, assessment, license or other charge due and the cost and expenses of sale from the proceeds of the sale the amount remaining in the hands of the City Manager shall be paid, at once, to the owner of the land or of the improvement located on lands under lease as defined herein. Should the owner of the land or of the improvement located on lands under lease as defined herein refuse to accept the same, or the owner is unknown or cannot be found the amount remaining shall be deposited in some bank in The City of Lewes, either to the credit of the owner, or in a manner by which the fund may be identified.

(o) In sales of land or of improvements located on lands under lease as defined herein for the payment of taxes, assessments, licenses, warrants, rentals or other charges due The City of Lewes, the following costs shall be allowed, which shall be deducted by the City Manager from the proceeds of the sale, or chargeable against the owner; the prothonotary of the Court shall receive for filing and recording the Return of Sale. The City Manager shall be entitled to receive the sum of \$5.00 for every sale of real estate or improvements located on lands under lease as defined herein made by him in the exercise of said powers for the enforcement of the payment of taxes, assessments, licenses, warrants, rentals or other charges, together with such additional sum as may be reasonable and proper for the service of Counsel in preparing such papers as may be necessary in premises, all of which shall be a part of the costs to be paid out of the purchase money realized out of the sale of said real estate sold for the taxes, assessments, license fees, warrants, rentals or other charge due the City.

(p) The cost of the deed shall not be chargeable as costs but shall be paid by the purchaser.

(q) If the owner or lessee as defined herein of any lands and tenements, or of improvements on leased land, as defined herein, against which a tax shall be levied and assessed or from whom rent shall be due shall be unknown, this fact shall be stated in the advertisement of sale and in the petition to the Court.

(r) If any person is assessed for several parcels of land and tenements in the same assessment, or if rent from land under lease shall be due for several parcels, or if improvements shall have been erected on several parcels of land under lease, as defined herein, the total of said taxes, assessments, rents and other charges due the City, may be collected from the sale of any portion of said lands and tenements or from any improvements, provided, that the land alienated or lease assigned by the taxable or lessee shall not be sold until other property of the taxable or lessee shall have been first disposed of.

(s) In addition to all other remedies, methods and authorities for the collection of taxes, the Mayor and City Council may use the monition method for the collection of such taxes as established for Sussex County and authority is thereby established for them to do so. [76 Del. Laws, c. 256](#)

Thursday June 17, 2026 “Imprisonment “Ordinance Review- Police

Below are Charter and Ordinances pertaining to the police, and containing the term imprisonment, along with recommendations for retention or removal. Note: Recommendations are based upon review and input from Lewes PD.

1) Section 24 Police Force.

(a) The City Council shall, from time to time, make such rules and regulations as may be necessary for the organization, government and control of a police force. The police force shall preserve peace and order and shall compel obedience within the corporate limits of the City to the ordinances of the City and the laws of the State of Delaware. The police force shall have such other duties as the City Council shall from time to time prescribe. The City Council may subject the Chief of Police and the members of the police force to the direction of the City Manager acting on behalf of the City Council.

(b) Each member of the police force shall be vested, within the City limits, with all the powers and authority of a State Police Officer, and, in the case of pursuit of an offender, the power and authority shall be without territorial limitations. They shall be conservators of the peace throughout the City and they shall suppress all acts of violence and enforce all laws relating to the safety of persons and property. They shall compel the enforcement of all ordinances enacted by the Mayor and City Council and all criminal, motor vehicle laws and violations enacted by the State of Delaware.

(c) Every person sentenced to imprisonment shall be delivered by a member of the police force to the correctional institution located in Sussex County or held in appropriate holding facilities to be there imprisoned for the term of such sentence.

(d) It shall be the duty of the police force to suppress riotous, disorderly or turbulent assemblages of persons in all public ways and places of the City, and, upon view of the above or upon view of any violation of any ordinance of the City relating to the peace and good order thereof, the police force shall have the right and power to arrest without warrant and to take the offender before the Alderman, Assistant Alderman or before any Justice of the Peace in Sussex County for hearing thereon. In the case of an arrest at a time when the Alderman, or the Assistant Alderman or the Justice of the Peace shall not be available to hear and determine the charge, the person arrested may be delivered to the correctional institution located in Sussex County or held in appropriate holding facilities until such reasonable time thereafter as shall enable the Alderman or Assistant Alderman or the Justice of the Peace to hear and determine the charge against such person.

Action: Retain

Reasoning: Is part of Lewes Charter and can only be changed at the state level. We are leaving all charter items as-is for now.

2) § 140-9 Violations and penalties. – Malicious Mischief

“Any person, firm or corporation violating any of the provisions of this article shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$200 and imprisonment for a term of not less than 10 days nor more than 30 days for the first such conviction. For a second or subsequent conviction, any person, firm or corporation shall, upon conviction, be subject to a fine of not less than \$50 nor more than \$500 and imprisonment for a term of not less than 20 days nor more than 60 days for each such conviction. Each day that a violation of any of the provisions of this article continues shall be deemed and taken to be a separate and distinct violation.”

Action: Remove from Ordinances.

Reasoning: Covered by state criminal code. 11 Del. C. Along with § 824 – Criminal Trespass (if entry is involved), 11 Del. C. § 1271 / § 1272 – Criminal property damage involving fire or explosives (more serious cases) and 11 Del. C. § 820–§ 823 – Theft-related property offenses (if intent is conversion rather than damage).

Thursday June 17, 2026 “Imprisonment “Ordinance Review- Police Cont’d

- 3) § 140-13 Violations and penalties. – Interference With Officers
[Amended 5-12-1980]

Any person, firm or corporation violating any of the provisions of this article shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$200 and imprisonment for a term of not less than 10 days nor more than 30 days for the first such conviction. For a second or subsequent conviction, any person, firm or corporation shall, upon conviction, be subject to a fine of not less than \$50 nor more than \$500 and imprisonment for a term of not less than 20 days nor more than 60 days for each such conviction. Each day that a violation of any of the provisions of this article continues shall be deemed and taken to be a separate and distinct violation.

Action: Remove from Ordinances.

Reasoning: Covered in state law - 11 Del. C. § 1257 Resisting Arrest, 11 Del. C. § 1244 Hindering Prosecution, 11 Del. C. § 1244A. Obstruction of Justice.

- 4) § 186-3 Violations and penalties. – Vehicles, Unlicensed

Any person, firm or corporation violating any of the provisions of this chapter shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$200 and imprisonment for a term of not less than 10 days nor more than 30 days for the first such conviction. For a second or subsequent conviction, any person, firm or corporation shall, upon conviction, be subject to a fine of not less than \$50 nor more than \$500 and imprisonment for a term of not less than 20 days nor more than 60 days for each such conviction. Each day that a violation of any of the provisions of this chapter continues shall be deemed and taken to be a separate and distinct violation."

Action: Remove from Ordinances.

Reasoning: Covered in state law - 21 Del. C. § 2101 Operation of unregistered vehicles.

- 5) § 183-27 Violations and penalties. – Speed Limits

Any person violating the provisions of this article shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$200 and imprisonment for not less than 10 days nor more than 30 days for a first offense.

For a second or subsequent offense within a twenty-four-month period, such person shall, upon conviction, be subject to a fine of not less than \$50 nor more than \$400 and imprisonment for a period of not less than 15 days nor more than 60 days.

Action: Retain in Ordinances and modify/update for accuracy.

Reasoning: Relevant for local city streets.

- 6) § 183-28.10 Violations and penalties. – Traffic Control Devices

Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$25 nor more than \$100 or imprisoned for a period of not more than 10 days, or both, and shall pay the costs of prosecution."

Action: Retain in Ordinances and modify/update for accuracy.

Reasoning: Relevant for local city enforcement.

Thursday June 17, 2026 “Imprisonment “Ordinance Review- Police Cont’d

7) § 92-2 Violations and penalties. – Preservation of Peace and Good Order

Any person, firm or corporation violating any of the provisions of this article shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$200 and imprisonment for a term of not less than 10 days nor more than 30 days for the first such conviction. For a second or subsequent conviction, any person, firm or corporation shall, upon conviction, be subject to a fine of not less than \$50 nor more than \$500 and imprisonment for a term of not less than 20 days nor more than 60 days for each such conviction. Each day that a violation of any of the provisions of this article continues shall be deemed and taken to be a separate and distinct violation.

Action: Retain in Ordinances and modify/update for accuracy.

Reasoning: Relevant for local city enforcement.

8) § 97-8 Violations and penalties. Firearms and Explosives

Any person, firm or corporation violating any of the provisions of this chapter shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$200 and imprisonment for a term of not less than 10 days nor more than 30 days for the first such conviction. For a second or subsequent conviction, any person, firm or corporation shall, upon conviction, be subject to a fine of not less than \$50 nor more than \$500 and imprisonment for a term of not less than 20 days nor more than 60 days for each such conviction. Each day that a violation of any of the provisions of this chapter continues shall be deemed and taken to be a separate and distinct violation.

Action: Retain in Ordinances and modify/update for accuracy.

Reasoning: Relevant for local city enforcement.

9) § 132-7 Violations and penalties. Noise

Any person, firm or corporation violating any of the provisions of this chapter shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$200 and imprisonment for a term of not less than 10 days nor more than 30 days for the first such conviction. For a second or subsequent conviction, any person, firm or corporation shall, upon conviction, be subject to a fine of not less than \$50 nor more than \$500 and imprisonment for a term of not less than 20 days nor more than 60 days for each such conviction. Each day that a violation of any of the provisions of this chapter continues shall be deemed and taken to be a separate and distinct violation.

Action: Retain in Ordinances and modify/update for accuracy.

Reasoning: Relevant for local city enforcement.

10) § 183-14 Violations and penalties. – Truck Exclusions

Any person violating the provisions of this article shall, upon conviction, be subject to a fine of not less than \$10 nor more than 100 and imprisonment for not less than 10 days nor more than 30 days for a first offense. For a second or subsequent offense within a twelve-month period, such person shall, upon conviction, be subject to a fine of not less than \$50 nor more than \$200 and imprisonment for not less than 15 days nor more than 30 days.

Action: Retain for now.

Reasoning: Further discussion needed.

Ordinance Review Ad Hoc Committee - October 23, 2025

SUBSTANTIAL IMPROVEMENT AND SUBSTANTIAL DAMAGE
POINTS OF DISCUSSION

- August 7, 2025
 - Substantial Improvement and Substantial Damage definitions in the City code do not state a specific time frame in years to determine the calculation.
 - The definitions do state a 50% of value in the calculation.
 - Per FEMA the absence of a specific timeframe will negatively impact the City's Community Rating System (CRS). The higher the CRS the higher the flood insurance discount.
 - This discount does apply to city residents both in and out of the floodplain who carry flood insurance.
 - Currently the city discount is 10%.
 - Jon suggests that a specific timeframe needs to be set and we could also address the 50% of value which could be changed in conjunction with a timeframe.
 - Previously the timeframe in the definitions had a 10 year period.
 - The impact on some homeowners in the floodplain could exceed their financial capability to come into compliance with current code requirements.
 - Dennis states the 10 year period was addressed and modified by M&CC and that change did not make it into the code. Kevin McGuinness is researching this situation.
 - Jon would like us to consider the timeframe and the percentage.
 - Dennis will provide an update on the history of the M&CC modification.

- August 25, 2025
 - M&CC on Feb. 14, 2022 voted to change the 10 year timeframe to a 1 year timeframe. There was an administrative error and the correct language was not transmitted to the code drafters. Consequently, the revised language in the city code did not have any timeframe. That error is in the process of being corrected by M&CC. Therefore, Jon now has a timeframe in the definition to satisfy FEMA.
 - Federal regulations use a 10 year timeframe. The theory being that over a 10 year timeframe you would bring the property into

compliance with current floodplain regulations and limit risk associated with the property. With the 1 year you never get that improvement as it resets every year.

- Jon does not think 1 year is the appropriate number since it will reset every year..
- Jon suggests we can also look at the 50% of cost of repair. Possible lower the percentage.
- Could be a combination of the year and the percentage to bring the property into compliance with floodplain regulations.
- The cost of improvements and damage is cumulative over the 10 year period and when you reach the 50% of the value of the structure within the 10 years you must bring the property into compliance with the floodplain regulations.
- It was suggested that “repair” be deleted from substantial improvement. Jon indicated that is not a possibility as anything that requires a permit counts against the cumulative number.
- The only things that do not require a permit are painting, cabinetry and carpet.
- Substantial number of homes in the floodplain on slabs.
- If a home cannot be raised and family does not have money to bring into compliance, is it a taking?
- Appeals from the floodplain ordinance for a variance/waiver will go to the Board of Adjustment.
- Values of homes increase over time and this should be considered.
- The majority of impacted homes are on the beach side of the canal but it also includes some homes in Pilottown Village, Hornkill, Rodney, Harborview, Savannah Road and Donovan Smith Trailer Park etc.
- Not sure how many homes in the floodplain.
- Is it possible to differentiate between primary residence and second home?
- You can have a different time frame for substantial improvement and substantial damage. However complicated.
- The DNREC floodplain map is: Floodplanning.dnrec.delaware.gov
- Another floodplain map with additional information is:
first/streetorg/city/lewes-de/1041830 fsid/flood

C. September 15, 2025

- Bethany Beach has the 10 year timeframe.
- Several towns have no timeframe.
- FEMA recommends between 5 and 10 years.
- If improvements/damage made to a home and there is a change of ownership the costs of improvements/damage is cumulative to the new owner within the timeframe.
- Can not reset timeframe when house is sold.
- There can be different timeframes for substantial improvement and substantial damage.
- On the determination of the value of the property at the time of improvement it would be the market value of property at the time of each improvement. It may require a certified appraisal.
- Financial hardship to a homeowner needs to be considered. Particularly if a homeowner cannot afford to come into compliance with existing ordinances.
- Jon has shared how the application of this ordinance works in many instances. This is not in writing. How to assure consistency going forward.

SI/SD ADMINISTRATIVE PROCEDURES FOR DEVELOPMENT IN THE SPECIAL FLOOD HAZARD AREA

I. Purpose and Use

The purpose of this document is to outline how the City of Lewes will administer and implement steps to make Substantial Improvement/Substantial Damage (SI/SD) determinations. Communities that participate in the National Flood Insurance Program (NFIP) must adopt and enforce floodplain management regulations that include requirements for SI/SD structures, as defined in 44 CFR 59.1.

Improvements to structures in the regulated floodplain that equal or exceed 50% of the market value, including improvements undertaken after being substantially damaged during a disaster, must comply with local floodplain management regulations. This often means that structures cannot simply be rebuilt to pre-damage conditions. Local officials must ensure that all permits issued for reconstruction comply with local regulations.

This document captures all procedures in one easy, accessible place so the community can be prepared if disaster strikes. This includes plans, procedures, and processes for actions taken pre-disaster (“blue skies”), immediately following a disaster event, and post-disaster. This document serves as a plan to be used in both day-to-day SI/SD operations as well as all disaster events, to include all types of hazards (flooding, wind, fire, etc.), small and large events, and presidential-declared or non-declared events.

This plan was compiled and prepared by the City of Lewes Floodplain Administrator, based on model provided and required by FEMA.

II. Regulations

SI/SD structures are defined and regulated according to the following regulations and legislation. These should be referenced to determine the definition of SI/SD and any legal requirements pertaining to post-disaster permitting.

Code/Ordinance	Title of Regulation(s)	Document location or link	Responsible Department/POC	Effective Date	SI or SD
Building Codes	2021 IBC:[A] 104.2.1 2021 IRC: R105.3.1.1	City of Lewes Building Permit and Requirements(hard copy available upon request)	Building Official/Floodplain Administrator, 302-645-7777 Ext.136	TBD	Both
Zoning/Land Use Ordinance	City of Lewes Land Use Ordinance	City of Lewes, DE e360 code compliance	Floodplain Administrator/ Building Inspectors	TBD	SI

iii. Appeals/Variances

The City of Lewes provisions that regulate the appeals process for development in the floodplain and/or SI/SD are in its regulations. Due to the City of Lewes's adoption of floodplain provisions in the Zoning/Land Use Ordinance as well as its Building Codes, there is one appeal board for these regulations:

1. Board of Adjustments
 - Appeals based on the City of Lewes Land Use Ordinance
 - Appeals based on the flood provisions in the Building Code

iv. Permit Process - for development in the floodplain (including SI)

The City of Lewes has a process for all development in the floodplain, including existing structures that must be assessed for substantial improvement. The process is:

1. All development in the floodplain requires a permit to be obtained through the City of Lewes Building Department.
 - See here for [Permit Application and Substantial Improvement Worksheet](#)
2. The City of Lewes Building Department/Floodplain Administrator will review the permit and determine if the proposed work constitutes Substantial Improvement.
 - A [Substantial Improvement Worksheet](#) will be done for any building in the floodplain making improvements.
 - Any improvements over 40% of the value of the structure must complete this sheet.
 - If it is determined that the improvement on the structure exceeds the value of the structure by 50% it will be deemed substantially improved and must meet all current floodplain regulations set forth in the Land Use Ordinance and Building Codes.
 - Building Department/Floodplain Administrator will issue [notice to applicants](#)
 - Applicants will need to resubmit construction plans that meet the current floodplain regulations for a substantial improvement found in the Land Use Ordinance and Building Codes.
 - If the applicant needs additional information or would like to contest the market value (tax value) or improvement value (cost per square foot) they can schedule a meeting with the Building Department/Floodplain Administrator and/or submit the information following the policy above.
 - If it is determined that the improvement of the structure does NOT exceed the value of the structure by 50% it will be deemed non-substantially improved. The proposed work can proceed as proposed and a permit will be issued. But if the scope, materials, or budget changes then a new or revised permit application must be submitted.
3. When a building permit is required, flood provisions found in the IRC and IBC are reviewed. See here for Building Permit Application([Insert link to building department website](#))

v. Method for Determining Market Value of Structures

The City of Lewes has a methodology for determining the market value of substantially improved structures. The primary method used for determining market value of substantially improved structures is:

- County will use the most recent "improvements" value on the Sussex County, DE of Assessment and Taxation website.([Insert link to website here](#))

- For more than one structure on a parcel the Building Department/Floodplain Administrator will contact the Assessment Office to get a value for a specific structure.
- If the applicant would like to contest the Tax Assessment Value, they may procure their own appraisal.
 - Must be within the last 12 months
 - Appraisal reports should include:
 - Intended users, including the property owner, who can then submit it as part of a permit application.
 - Must reflect the value of the property before any renovation or alterations
 - Separate the market value of a structure from the value of the land
 - Market Approach must be utilized

vi. Method for Determining Cost of Improvement

The City of Lewes has a methodology for determining the cost of improvement of structures. The primary method used for estimating cost of improvement is:

- Itemized costs estimate from a licensed contractor or design professional.
 - Cost estimate shall include an itemized list of the items found in 4-5 to 4-7 of the [Substantial Improvement/Substantial Damage Desk Reference \(fema.gov\)](#)
 - Labor must be included, and CANNOT be volunteered, discounted, or donated.
 - Itemized estimates must be signed by a licensed professional attesting that the information provided is accurate.
 - Electric and Plumbing Permits are obtained through Lewes BPW or Appropriate Agency, but for the purposes of SI, must be included in the cost on a Floodplain Permit Application
- If the Floodplain Administrator doesn't agree with estimate provided, they may at their discretion use the most recently published International Code Council – Building Valuation Data: [Building Valuation Data - ICC \(iccsafe.org\)](#) to determine a value of work based on building types and square footage impacted by proposed work.
- Phased work and/or multiple permits
 - Multiple Permits: The City issues separate one permit for all systems. Therefore, the applicant must provide the combined value of all the proposed work to make a substantial improvement/damage determination.
 - Phased Improvements: The term “phased improvement” refers to a single improvement that is broken into parts. For a number of reasons, an applicant may wish to schedule anticipated improvements over a period of time, and they may request separate permits for each phase. The Building Department/floodplain administrator, at its discretion, will ensure that phased improvements do not circumvent the substantial improvement requirements.
 - The Building Department/ Floodplain Administrator will consider permits issued in the previous 12 months to determine SI.

vii. Method for Determining Cost of Damage/Repair

The City of Lewes has a methodology for determining the cost of damage/repair of structures. The primary method used for estimating cost of improvement is:

- The City of Lewes will first use the Preliminary Damage Assessment “destroyed” category – waterline at the roofline or higher or complete failure of two or more major structural

components (e.g., collapse of basement walls, foundation, walls, or roof) to determine structures are substantially damaged.

- For properties not deemed “destroyed” the City will use most recently published International Code Council – Building Valuation Data: [Building Valuation Data – ICC \(iccsafe.org\)](http://www.iccsafe.org) to determine a value of repair based on building types and square footage of damage.
- If an owner would like to appeal the damage/repair value, then they can provide an itemized cost estimate from a licensed contractor or design professional.
 - Cost estimate shall include an itemized list of the items found in 4-5 to 4-7 of the [Substantial Improvement/Substantial Damage Desk Reference \(fema.gov\)](http://www.fema.gov)
 - Labor must be included, and CANNOT be volunteered, discounted, or donated.
 - Itemized estimate must be signed by licensed professional attesting that the information provided is accurate.

viii. Substantial Damage – Procedures

When a flood disaster strikes there are many damage assessments that occur by a variety of federal, State, local, and other organizations to determine response and recovery needs. However, Substantial Damage Inspections are required by locally adopted regulations, usually found in the building codes, that require the Community’s Building Official/Floodplain Administrator to make determination of whether a structure is damaged more than 50% of its market value. These SD inspections are required to occur on all structures in the Special Flood Hazard Area (SFHA) and occur when any damage happens. This could be damage attributed to flood, wind, tornado, earthquake, tree, vehicle, fire, etc. Below are the procedures to follow to implement Substantial Damage Determinations.

1. Roles/Responsibilities

The City of Lewes has a variety of internal staff involved in substantial damage. The Substantial Damage Manger for the City is the Building Official and/or the Floodplain Administrator.

Responsibility	Title(s) of Staff	Office or Department	Before/Immediately After/ After Event
SD Manager	Building Official/Floodplain Administrator	Building Department	ALL
Maintaining SD Admin Procedure	Building Official/Floodplain Administrator	Building Department	BEFORE
Identifying Impact area(s)	Director or Emergency Planner (OES) Building Official/Floodplain Administrator Building Inspectors/Code Enforcement Road Crews (BPW/Maintenance)	Office of Emergency Services Building Department Department of Public Works Police/Fire Maintenance	IMMEDIATELY AFTER

Coordinating with community departments, including fire, police, and emergency services, planning, and building	Mayor, City Manager, Police/fire, Building Official, Lewes BPW	Office of Emergency Services, Mayor, City Manager, Police/Fire, Lewes BPW, Building Official	IMMEDIATELY AFTER
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Responsibility	Title(s) of Staff	Office or Department	Before/Immediately After/ After Event
Organizing and training staff	Floodplain Administrator	Building Department	IMMEDIATELY AFTER
Communicating with Public – repair/rebuild permits, SD, and reporting damage	Public Information Officer	Commissioners Office	AFTER (< 2 days)
Conducting Preliminary Damage Assessments (PDA's)	All staff	Building Department	AFTER (< 3 days)
Conducting SD Inspections	Building Official, Floodplain Manger, Building Inspectors	Building Department	AFTER (< 7 days)
Making SD determinations	Building Official/Floodplain Administrator	Building Department	AFTER (< 7 days)
Issuing SD Determinations	Floodplain Administrator	Department of Planning, Housing and Zoning	AFTER (< 7 days)
Managing appeals/variances	N/A	Department of Planning and Zoning	AFTER
Permitting for repairs and rebuilding	N/A	Department of Planning, and Zoning	AFTER
Maintaining SD Data	N/A	Department of Planning, Housing and Zoning	AFTER
Recording Costs & SD Activities	N/A	Department of Planning, Housing and Zoning	AFTER (< 180 days)

2. Impact Area(s)

- Delaware Bay to the Lewes – Rehoboth Canal.
- Canary Creek
- Pilottown Rd
- Donovan Smith Trailer Park

A process for determining the impact area post-disaster can be found here:

- For flood damage:
 - The City of Lewes Building Official/Floodplain Administrator will identify where flood damage has occurred throughout the County's identified SFHA. There are a variety of distinct post-disaster assessments/inspections other than SD, and other teams should be

coordinated as needed. For example, the Office of Emergency Services will likely conduct Preliminary Disaster Assessments (PDA's) for the purposes of a disaster declaration. These assessments are not substantial damage determinations but can be used by the County to identify damaged areas.

- Other sources:
 - Department of Public Works staff will report damage to the Floodplain Administrator
 - Monitor local news reports and National Weather Service
 - [7-Day Forecast 39.95N 75.3W \(weather.gov\)](#)
 - [FEMA and MDEM updates](#)
- For fire damage:
 - The County Fire Departments respond, and applicants seek permits to rebuild
- For other damage, not limited to wind, vehicles, trees, etc., the Building Inspector(s) will be notified through a permit application.

3. Training/Resources

Providing pre/post-disaster training ensures that staff know what to do after an event. Applicable training can be delivered by the community, State, or FEMA, and include, but are not limited to [Independent Study \(IS\)-284: Using the SDE Tool](#); [IS-285: SDE for Floodplain Administrators](#); E/L/G273: Managing Floodplain Development Through NFIP; E/L/G 284: Advanced Floodplain Management Concepts SI/SD Module; and E/L/G 194: Advanced Floodplain Management Concepts; E/L/G 285: Providing Post-Disaster SD Technical Assistance to Communities. Information on classroom and field courses offered by FEMA can be found here: [FEMA - Emergency Management Institute \(EMI\)](#).

The city will also assure that staff have been trained on these materials:

- City of Lewes Hazard Mitigation Plan
- City of Lewes Emergency Response Plan
- FEMA P-758 SI/SD Desk Reference: [Substantial Improvement/Substantial Damage Desk Reference \(fema.gov\)](#)
- City of Lewes SI/SD Administrative Procedures

4. Public Outreach

The City of Lewes has a strategy and associated products for immediate post-disaster public communications. Having these documents prepared prior to an event will avoid confusion and stress immediately following an event.

- City of Lewes Webpage
- Social Media Post

The following communications methods are used for immediate post-disaster communication to the public:

- County hall meetings
- Community website
- Social media (Facebook)
- Public Service Announcements (PSAs) on radio
- OES – Code Red notification system
- Handouts, newsletters, brochures, mailers, info kiosks available to residents

5. Inspections

City of Lewes inspections will be conducted by City Building Code/Inspection staff - when safe - to inspect damaged properties and collect SD data. If needed the city will enter into a contract with its 3rd party engineer to assist in SD inspections. Inspections will be documented on a SD Worksheet

In some cases, County Emergency Management Staff will have provided the Building Department its preliminary disaster assessment (PDA) information, which will be categorized by:

- Affected – property damage due to floods (no flood waters in structure)
- Minor - less than 18” of water on lowest living floor (below receptacles)
- Major - more than 18” of water on lowest living floor (above receptacles)
- Destroyed – structures completely flooded up to ceiling, moved off foundation, not on site anymore

For the purposes of SD determinations during a wide-scale event, the City will deem any “destroyed” properties as SD. Inspectors shall prioritize any structure categorized as major and minor for SD inspections. But follow-up with other properties as time allows.

- Note that PDA data must follow the categories above and be documented to a specific address and include photographs.

How many days? (For a wide-scale event)				
872 Properties	X	0.0625	=	54.5 days
		(Time to assess each building – 30 mins)		
Note: Calculation doesn't include travel time and assumes an 8-hour day.				

In order for the City to complete SD Inspections in 7 days we would need to deploy 9 inspectors, currently 4 inspectors on staff.

6. SD Determinations

After staff have conducted inspections and collected data, the Building Official/Floodplain Administrator will make SI/SD determinations, and document on the SD Worksheet. The methods above (Method to Determine Market Value and Method to Determine Value of Damage/Repair) will be used to determine the market value and value of damage/repair. On the worksheet, the Building Official/Floodplain Administrator will calculate the % damaged, and maintain a record in the property file.

7. Issuing Determinations

Communicating SI/SD determinations to affected property owners is required by City regulations. Determinations are a necessary step to issuing permits for compliant rebuilding and are a

requirement for administering a compliant floodplain management program in the City of Lewes.

In flood events SD Determinations are needed by property owners who maintain flood insurance through the NFIP and would like to access [Increased Cost of Compliance \(ICC\)](#) coverage. The Building Official/Floodplain Administrator is responsible for issuing these determinations.

City of Lewes procedure for communicating the results of the SI/SD determinations to structure owners. The following methods are utilized:

- Letter to structure owners/residents
- Paper handed directly to the structure owner/resident
- Post the determination at a physical place on the property

Letter templates and documents used to notify residents of determinations can be found here:

- Notice of Substantial Damage
- Notice of Non-Substantial Damage

Letters will be sent within 2-3 weeks of disaster.

8. Appeals/Variances

The City of Lewes has a process and other supporting materials for receiving, reviewing, and making decisions on appeals or requesting variances. The process and materials can be found here:

1. If a property owner receives a notice of "Substantial Damage" or "Non-Substantial Damage" and disagrees with the market value and/or damage/repair value, you can contact the Building Official/floodplain administrator to discuss the submission of the following documentation:
 - See above for appeal method for market value and value of damage/repair
 - See above for appeal/variance

9. Permitting for Repairs and Rebuilding

Issuing permits is a regular part of floodplain management but is especially important following a disaster. Repairing and rebuilding substantially damaged structures in compliance with local regulations is critical to maintaining good standing in the NFIP and protecting structure owners from future disasters. Below are the City's permitting procedures during blue skies, applicable to substantial improvement projects, and post-disaster/ emergency permitting procedures.

- See above "Permit Process – for Determining Substantial Improvement" for how to repair and rebuild post disaster.

The City of Lewes will conduct periodic inspections of damaged properties after a disaster to assure permits are being obtained for repair and rebuilding. In the case of properties deemed substantially damaged the City will coordinate with utility companies to assure utilities are not restored until County permits are obtained.

10. SD Data

The City of Lewes process for documenting and storing SD determination data can be found here:

- The Building Department will maintain this data (SD Worksheets, Letters, etc.) in its property/inspection records and will be maintained by the Building Official/Floodplain Administrator.

11. Monitoring

Finally, once the city returns to blue sky operations, it is important to reflect on what went well and what could be improved. Tracking best practices and evaluating things like response times, staff needs and more can highlight opportunities to respond faster and stronger next time.

A process for (i.e., implementation plan) for evaluating and continuously improving these substantial damage administrative procedures is maintained by the Building Official/Floodplain Administrator and is updated yearly in April.

12. Record Costs and Track SD Activities (*only applies to federally declared disasters*)

Recording costs and tracking SD activities may be necessary to obtain resources or reimbursement for disaster response, such as through FEMA Public Assistance reimbursement for activities made eligible by DRRRA Section 1206 or other grants and funding sources.

- DRRRA Section 1206 funding defines a period of eligibility to be no longer than 180 days after the date of a major disaster declaration. FEMA does not have the authority to extend this deadline. See Section A, Applicability, of the [Building Code and Floodplain Management Administration and Enforcement Policy](#) for more information.
 - To receive reimbursement, communities must submit all supporting documentation necessary to demonstrate the work completed and the location of the work; all documentation associated with work completed through Emergency Mutual Assistance Compact (EMAC) resource request or intrastate/interlocal mutual aid request; and, if work was performed by contract labor, all documentation demonstrating federal procurement rules in 2 Code of Federal Regulations Part 200 were followed.

The SD Manager will be responsible for coordinating and submitting for reimbursement.

Appendix

- Forms:
 - SI Worksheet
 - SD Worksheet
 - Homeowners Application Affidavit Agreement
- Letters:
 - Letter of SD
 - Letter of Non-SD
 - Letter of SI
 - Letter on Non-SI

Dear Property Owner:

We have reviewed your recent application for a permit to [describe proposed improvement/addition] to your existing home that is in a mapped Special Flood Hazard Area. As required by our floodplain management regulations and/or building code, we have determined that the proposed work constitutes substantial improvement of the building. This determination is based on a comparison of the cost estimate of the proposed work to the market value of the building (excluding land value). When the costs equal or exceed 50 percent of the market value of the building, the work is substantial improvement.

As a result of this determination, you are required to bring the building into compliance with the flood damage-resistant provisions of the regulations which can be found in Section 197.73 D (4) of City of Lewes Code.

We would be pleased to meet with you and your designated representative (architect/builder) to discuss how to bring your home into compliance. There are several aspects that must be addressed to achieve compliance. The most significant requirement is that the lowest floor, as defined in the regulations/code, must be elevated above the base flood elevation (BFE) plus an additional three feet to account for the City's freeboard requirement. Please resubmit your permit application along with plans and specifications that incorporate compliance measures. Construction activities that are undertaken without a proper permit are violations and may result in citations, fines, or other legal action.

Thank you.

Jon Ward, CFM
Building Official
Floodplain Administrator
jward@ci.lewes.de.us
302-645-7777 Ext. 136

City of Lewes Building Department

114 East Third Street
 P.O. Box 227 Lewes, Delaware 19958
 302-645-7777 Ext. 136 (phone)

**SUBSTANTIAL IMPROVEMENT WORKSHEET
 FOR FLOODPLAIN CONSTRUCTION**
For additions, rehabilitations, improvements, or damage repairs

Property Owner: _____

Address: _____

Permit No. _____ Tax Map _____ Block _____ Parcel _____ Lot _____

Description of Improvement: _____

Present Market Value of structure **ONLY** (final phased in full assessed valuation or market appraisal) **BEFORE** improvement, or if damaged, before the damage occurred: \$ _____

For **Cost of Improvement**, take the greater of:

1. Actual cost of the construction: \$ _____
2. Estimated building cost based on _____ square feet of construction from a building cost information service at \$ _____/sq ft (Source: _____) \$ _____

Ratio = $\frac{\text{Cost of Improvement (\$ \underline{\hspace{2cm}})}}{\text{Present Market Value (\$ \underline{\hspace{2cm}})}} \times 100 =$ _____ %
 (Determined by Maryland Dept. Of Assessments and Taxation)

If 50% or greater (**Substantial Improvement**), entire structure (existing included) must be elevated; if less than 50%, it may be exempted unless an addition. **For additions:** (1) if substantial but the existing structure is unaltered except for a doorway into the addition, the existing structure need not be elevated, only the addition; (2) if less than substantial but requires a State Waterway Construction Permit since it is in a non-tidal floodplain, the addition, regardless of size, must be elevated.

Note:

1. Any costs directly associated with correcting health, sanitary, and safety code violations may be deducted from the cost of improvement. The violations must have been officially cited prior to submission of the permit application.
2. Alterations to historic structures, provided the alterations will not preclude continued designation as a "historic structure", may be exempted by variance.
3. Phased improvements refer to a single improvement that is broken into parts over several permits. At the floodplain administrator's discretion, he will ensure that phased improvements do not circumvent the substantial improvement requirements.
4. Although Kent County Planning and Zoning does not issue Electrical and Plumbing permits the cost of any electrical or plumbing work must be included in the improvement determination.

Summary:

- _____ Substantial Improvement – Elevation of entire structure.
- _____ Exempt – Not Substantial Improvement.
- _____ Addition – Only additions must be elevated.
- _____ Other (attach explanation)

Determined by: _____ Date: _____

Contractors Affidavit Substantial Improvement

District/Map/Parcel: _____

Owner's Name: _____

Owner's Address/Phone: _____

Contractor: _____

Contractor's License Number: _____

Date of Contractor's Estimate: _____

I hereby attest that I have personally inspected the building located at the above-referenced address and discussed the nature and extent of the work requested by the owner, including all improvements, rehabilitation, remodeling, repairs, additions, and any other form of improvement.

At the request of the owner, I have prepared a cost estimate for all the improvement work requested by the owner and the cost estimate includes, at a minimum, the cost elements identified by the Building Department of the City of Lewes, that are appropriate for the nature of the work. If the work is repair of damage, I have prepared a cost estimate to repair the building to its pre-damage condition. I acknowledge that if, during construction, the owner requests more work or modification of the work described in the application, that a revised cost estimate must be provided to the Building Department of the City of Lewes, which will re-evaluate its comparison of the cost of work to the market value of the building to determine if the work is substantial improvement. Such re-evaluation may require revision of the permit and may subject the property to additional requirements.

I also understand that I am subject to enforcement action and/or fines if inspection of the property reveals that I have made or authorized repairs or improvements that were not included in the description of work and the cost estimate for that work that were the basis for issuance of a permit.

Owner's Signature:

Date:

Notarized:

[Type here]

Homeowners Affidavit Substantial Improvement

Property Address: _____

District/Map/Parcel: _____

Owner's Name: _____

Owner's Address/Phone: _____

Contractor: _____

Contractor's License Number: _____

Date of Contractor's Estimate: _____

I hereby attest that the description included in the permit application for the work on the existing building that is located at the property identified above is all the work that will be done, including all improvements, rehabilitation, remodeling, repairs, additions, and any other form of improvement. I further attest that I requested the above-identified contractor to prepare a cost estimate for all the work, including the contractor's overhead and profit. I acknowledge that if, during construction, I decide to add more work or to modify the work described, that the Building Department of the City of Lewes will re-evaluate its comparison of the cost of work to the market value of the building to determine if the work is substantial improvement. Such re-evaluation may require revision of the permit and may subject the property to additional requirements.

I also understand that I am subject to enforcement action and/or fines if inspection of the property reveals that I have made or authorized repairs or improvements that were not included in the description of work and the cost estimate for that work that were the basis for issuance of a permit.

Owner's Signature:

Date:

Notarized:

Dear Property Owner:

We have reviewed your recent application for a permit to repair your existing home that was damaged by [insert cause of damage]. The building is in a mapped Special Flood Hazard Area. As required by our floodplain management regulations and/or building code, we have determined that the building has been substantially damaged. This determination is based on a comparison of the cost estimate of the work required to restore the building to its pre-damage condition to the market value of the building (excluding land value). When the cost to repair equals or exceeds 50 percent of the market value of the building, the work or repair will be considered substantial damage.

As a result of this determination, you are required to bring the building into compliance with the flood damage-resistant provisions of the regulations which can be found in Section 197-73 of the City of Lewes Code.

We would be pleased to meet with you and your designated representative (architect/builder) to discuss how to bring your home into compliance. There are several aspects that must be addressed to achieve compliance. The most significant requirement is that the lowest floor, as defined in the regulations/code, must be elevated above the base flood elevation (BFE) plus an additional three feet per City of Lewes freeboard requirements. You may wish to contact your insurance agent to understand how raising the lowest floor higher than the minimum required elevation can reduce NFIP flood insurance premiums.

If the damage was caused by flooding and if you have a flood insurance policy from the National Flood Insurance Program, you should contact your adjuster to discuss the Increased Cost of Compliance (ICC) coverage. This coverage may provide a claim payment to help pay for work required to bring your home into compliance. Your adjuster can explain that the ICC claim may also be used to pay certain costs associated with demolishing and rebuilding your home or moving your home to a site outside of the floodplain.

Please resubmit your permit application along with plans and specifications that incorporate compliance measures. Construction activities that are undertaken without a proper permit are violations and may result in citations, fines, or other legal action.

Thank you.

Jon Ward, CFM
Building Official/Floodplain Administrator
jward@ci.lewes.de.us
302-645-7777 Ext. 136

Non-Substantial Damage Letter

Dear Property Owner:

We have reviewed your recent application for a permit to repair your existing building that was damaged by [insert cause of damage]. The building is in a mapped Special Flood Hazard Area. As required by our floodplain management regulations and/or building code, we have determined that the work proposed to repair the damage does not constitute repair of substantial damage. This determination is based on a comparison of the cost estimate of the work required to restore the building to its pre-damage condition to the market value of the building.

Please be advised that we will make another determination if you elect to perform work other than what is necessary to repair the damage, such as additional renovations or upgrades or building an addition. Construction activities that are undertaken without a proper permit are violations and may result in citations, fines, or other legal action.

Thank you.

Jon Ward, CFM
Building Official/Floodplain Administrator
jward@ci.lewes.de.us
302-645-7777 Ext. 136

Substantial Improvement Worksheet FAQ DRAFT

1. What counts as the “market value of the structure”?

The building’s assessed value from the county or a professional appraisal. You can provide your own appraisal if you think the assessment is outdated or inaccurate.

2. What costs are included in the “cost of improvement”?

Include all construction costs: labor, materials, permits, and any electrical or plumbing work. Even if the county doesn’t issue electrical/plumbing permits, those costs still count. If you do some work yourself, the county may use a standard valuation for labor.

3. Can I deduct costs for fixing health or safety violations?

Yes, but only if the violation was officially cited before you applied for the permit. You’ll need documentation of the citation.

4. What is a “substantial improvement”?

If your improvement costs 50% or more of the building’s pre-improvement market value, it is considered substantial. Substantial improvements trigger stricter floodplain rules.

5. Who calculates the ratio and what if costs change?

The floodplain administrator makes the final determination, but your estimates help. If costs increase later and push you over the threshold, you may need to meet additional requirements.

6. What does “elevate the entire structure” mean?

It generally means raising the house so it’s above the required flood level. This could involve lifting the foundation or adding piers, and usually includes protecting utilities.

7. Do I have to elevate an addition or the whole house?

- If only the addition is being built and the existing structure isn’t altered (except for a doorway), usually only the addition must be elevated.
- If the addition is small but requires a State Waterway Construction Permit, it may still need elevation.

8. How do I know if my addition counts as “substantial improvement”?

Compare the cost of the addition to the market value of your house. If it meets the threshold, it’s substantial. Your county or floodplain office can help determine this.

9. What is a State Waterway Construction Permit?

It’s a permit required for work in certain floodplain areas. If your addition is in a non-tidal floodplain, you may need it, even if the work is minor.

10. What about phased improvements?

Phased improvements (done in stages) are reviewed carefully to ensure the rules aren’t bypassed.

11. Who fills out this worksheet?

The homeowner or contractor provides the information, and the floodplain administrator reviews and makes the final determination.

12. What supporting documents do I need and can I appeal a decision?

You’ll need professional cost estimates, plans, and any citations for prior code violations. If you disagree with the city’s determination the Board of Adjustments will handle appeals.

Substantial Improvement / Substantial Damage (SI/SD) Procedures DRAFT

City of Lewes – Floodplain Construction

1. Purpose

This guide explains how the City of Lewes handles Substantial Improvement (SI) and Substantial Damage (SD) for homes in flood-prone areas.

Key points for homeowners:

- If your home is damaged or you want to improve it, the cost may be compared to your home's market value.
- If the improvement or repair costs are 50% or more of the home's market value, the work is considered substantial.
- Substantial improvements must meet current floodplain rules, which may require building above flood levels or updating other standards.

This guide covers before a disaster, immediately after, and post-disaster procedures.

2. Regulations

SI/SD are governed by:

- 2021 International Building Code (IBC) & 2021 International Residential Code (IRC)
- City of Lewes Land Use Ordinance
- Contact: Floodplain Administrator / Building Official, 302-645-7777 Ext. 136

For appeals, the Board of Adjustments handles disputes about permits, flood provisions, or SI/SD determinations.

3. Permit Process for Homeowners

Step 1 – Apply for a Permit

- All floodplain construction requires a permit from the Building Department.
- Fill out the Substantial Improvement Worksheet if improvements exceed 50% of your home's value.

Step 2 – Review & Determination

- The Floodplain Administrator compares the improvement cost to your home's market value.
- If costs are $\geq 50\%$ of your home's value, the project is deemed substantial and must meet floodplain rules.
- If $< 50\%$, the project is not substantial, but any change in scope or cost requires a revised permit.

Step 3 – Resubmit Plans (if needed)

- Substantially improved projects must submit updated plans meeting current regulations.
- Homeowners can contest market value or improvement cost by providing documentation or an appraisal.

Substantial Improvement / Substantial Damage (SI/SD) Procedures Cont'd DRAFT**4. Determining Values****Market Value of Home**

- Based on the Sussex County property assessment.
- Homeowners may provide a recent appraisal (≤ 12 months old) separating land and building value.

Cost of Improvements

- Must include labor and materials (cannot be volunteer or discounted).
- Provided by a licensed contractor or design professional.

Cost of Repairs / Damage

- For flood or other disasters, damage is assessed using building valuation data or contractor estimates.
- Categories of damage: Minor, Major, Destroyed (completely flooded or structurally failed).

5. Post-Disaster Inspections

- The Building Department inspects all damaged properties in the flood zone.
- Inspections are prioritized for major or destroyed homes.
- Inspectors document damage with photos and worksheets.

6. SD Determinations & Notices

- The Floodplain Administrator calculates % damage and issues official notice of Substantial Damage or Non-Substantial Damage via email within 3 weeks after the disaster.

7. Appeals & Variances

- Homeowners may appeal or request variances if they disagree with Market Value or Damage or repair estimates
- Variance requests are handled via the Board of Adjustments.

8. Permits for Repairs & Rebuilding

- Required for all repairs and rebuilding in flood zones.
- Substantially damaged homes must comply with floodplain rules before utilities or other services are restored.

9. Public Communication

- The City uses multiple channels to communicate after disasters including City website, email and local media.

10. Tracking & Records

- All inspections, SD worksheets, and communications are stored by the Building Department.
- For federally declared disasters, the City tracks costs for reimbursement under FEMA programs.

11. Training & Preparedness

- Staff are trained to handle SI/SD before and after disasters using FEMA courses and city emergency plans.

Dear Property Owner Name,

The City of Lewes Building & Floodplain Management Office has reviewed your permit application for the proposed improvements to your home.

Your property is located within a FEMA-mapped Special Flood Hazard Area (Zone ____), as shown on Flood Insurance Rate Map (FIRM) Panel [number], effective [date]. Because the home is within this mapped floodplain, all development must comply with the City's floodplain management regulations. These regulations are adopted to meet the requirements of FEMA's National Flood Insurance Program (NFIP) and state floodplain management law.

After evaluating the scope and estimated cost of your project, we have determined that the proposed work constitutes a substantial improvement. This determination is based on a comparison of the cost of the proposed work to the market value of the existing structure (excluding land). When the cost equals or exceeds 50% of the structure's market value, the project is classified as a substantial improvement under the City Code.

As a result, the building must be brought into compliance with the City's flood-damage-resistant construction requirements, as outlined in Section [insert section] of the City Code. The most significant requirement is that the lowest floor must be elevated to at least the Base Flood Elevation (BFE) plus three (3) feet of freeboard, in accordance with City standards. Additional flood-resistant construction measures may also apply.

To proceed, please:

1. Revise your plans and specifications to reflect the required elevation and flood-resistant construction details.
2. Resubmit your permit application along with the updated materials.
3. Contact our office if you would like to schedule a meeting with our staff. We are available to discuss the requirements with you and your architect or builder and to assist you in preparing a compliant plan.

Please note that construction may not begin until an approved permit reflecting these requirements is issued. Work performed without a valid permit may result in citations, fines, or other enforcement action under the City Code.

Thank you for your cooperation. Attached is a list of Frequently Asked Questions. Additionally, we are available to assist you through this process.

Sincerely,

AN ORDINANCE

TO AMEND CHAPTER 70, BUILDING CODE, AND CHAPTER 197, ZONING, ARTICLE IX, ENVIRONMENTAL PROTECTION REGULATIONS, OF THE MUNICIPAL CODE OF THE CITY OF LEWES, DELAWARE, RELATING TO SUBSTANTIAL IMPROVEMENT AND A THREE-YEAR CUMULATIVE REVIEW PERIOD

Redline key: red underlined text = proposed addition; ~~red strikethrough text = proposed deletion~~.

This draft is for Ad-Hoc Committee review and City Solicitor review before public hearing or adoption.

WHEREAS, the Mayor and City Council of the City of Lewes deem it appropriate to consider whether it is in the public interest to amend Chapter 70, Building Code, and Chapter 197, Zoning, of the Municipal Code of the City of Lewes, Delaware, as amended, to clarify the time period used to determine cumulative substantial improvement; and

WHEREAS, Title 22, Chapter 3, Section 301 of the Delaware Code authorizes the legislative body of cities and incorporated towns to regulate and restrict, among other things, the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, yards and open spaces, population density, and the location and use of buildings, structures and land for the purpose of promoting health, safety, morals or the general welfare of the community; and

WHEREAS, Section 38 of the Charter of The City of Lewes authorizes City Council to adopt ordinances to regulate and restrict the height, number of stories, size of buildings and other structures, density of population, and the location and use of buildings, structures and lands, and provides that this power embraces new buildings and additions to or alterations of existing structures; and

WHEREAS, the City of Lewes participates in the National Flood Insurance Program and its floodplain regulations are based on the FEMA model ordinance to ensure compliance with FEMA regulations; and

WHEREAS, 44 CFR § 59.1 defines substantial improvement using the 50% market-value threshold and includes structures that have incurred substantial damage, regardless of the actual repair work performed; and

WHEREAS, 44 CFR § 60.3 requires local review and permitting of flood-prone development and requires that new construction and substantial improvements in flood-prone areas satisfy applicable flood-resistant construction standards; and

WHEREAS, the current Municipal Code contains substantially similar substantial improvement definitions in Chapter 70 and in § 197-73B, and the Mayor and City Council desire to keep those definitions consistent; and

WHEREAS, a defined three-year cumulative review period will provide clearer notice to property owners, applicants, design professionals, contractors, City staff and the public, and will help prevent separate permit applications or project phases from being used to avoid substantial improvement requirements; and

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

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Drafted by: [Insert City Solicitor/Staff]

Date: April 26, 2026

WHEREAS, a public hearing was conducted on [insert public hearing date]; and

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

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

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

Section 1.

Chapter 70, Building Code, Article II, Modifications to Building Code, § 70-10, Amendment to Section 202, Definitions, of the Municipal Code of the City of Lewes, Delaware, as amended, be and the same is hereby further amended by removing the red strikethrough text and by adding the red underlined text as follows:

§ 70-10 Amendment to Section 202, Definitions.

Section 202, Definitions, of the Building Code of the City of Lewes is amended by deleting the definitions of "substantial damage" and "substantial improvement" in their entirety and inserting the following definitions:

Substantial Damage - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

Substantial Improvement - Any combination of repair, alteration, reconstruction, rehabilitation, addition, or other improvement to the same structure, taking place during a rolling three-year period measured backward from the date of a complete permit application and including the work proposed in that application, the cumulative cost of which equals or exceeds 50% of the market value of the structure before ~~improvement or repair~~ the first improvement or repair included in that three-year period is started. For work performed without a required permit, the cost of the work shall be included in the three-year period in which the work was started or, if the start date cannot be established, the period in which the work is discovered by the City. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed.

The term does not, however, include any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the Building Official and that are the minimum necessary to assure safe living conditions.

Section 2.

Chapter 70, Building Code, Article VII, Modifications to Existing Building Code, § 70-25, Amendments to Chapter 2, Definitions, Section 202, of the Municipal Code of the City of Lewes, Delaware, as amended, be and the same is hereby further amended by removing the red strikethrough text and by adding the red underlined text as follows:

§ 70-25 Amendments to Chapter 2, Definitions, Section 202.

Section 202, General Definitions, of the Existing Building Code of the City of Lewes is amended by deleting the definitions of "substantial damage" and "substantial improvement" in their entirety and inserting the following definitions:

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Substantial Damage - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

Substantial Improvement - Any combination of repair, alteration, reconstruction, rehabilitation, addition, or other improvement to the same structure, taking place during a rolling three-year period measured backward from the date of a complete permit application and including the work proposed in that application, the cumulative cost of which equals or exceeds 50% of the market value of the structure before ~~improvement or repair~~ the first improvement or repair included in that three-year period is started. For work performed without a required permit, the cost of the work shall be included in the three-year period in which the work was started or, if the start date cannot be established, the period in which the work is discovered by the City. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed.

The term does not, however, include any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the Building Official and that are the minimum necessary to assure safe living conditions.

Section 3.

Chapter 70, Building Code, Article XV, Modifications to Residential Code, § 70-50, Amendments to Chapter 2, Definitions, Section 202, of the Municipal Code of the City of Lewes, Delaware, as amended, be and the same is hereby further amended by removing the red strikethrough text and by adding the red underlined text as follows:

§ 70-50 Amendments to Chapter 2, Definitions, Section 202.

Section 202, Definitions, of the Residential Code of the City of Lewes is amended by deleting the definitions of "substantial damage" and "substantial improvement" in their entirety and inserting the following definitions:

Substantial Damage - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

Substantial Improvement - Any combination of repair, alteration, reconstruction, rehabilitation, addition, or other improvement to the same structure, taking place during a rolling three-year period measured backward from the date of a complete permit application and including the work proposed in that application, the cumulative cost of which equals or exceeds 50% of the market value of the structure before ~~improvement or repair~~ the first improvement or repair included in that three-year period is started. For work performed without a required permit, the cost of the work shall be included in the three-year period in which the work was started or, if the start date cannot be established, the period in which the work is discovered by the City. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed.

The term does not, however, include any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the Building Official and that are the minimum necessary to assure safe living conditions.

Section 4.

Chapter 197, Zoning, Article IX, Environmental Protection Regulations, § 197-73B, Definitions, of the Municipal Code of the City of Lewes, Delaware, as amended, be and the same is hereby further

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amended by removing the red strikethrough text and by adding the red underlined text to the definition of "SUBSTANTIAL IMPROVEMENT" as follows:

§ 197-73 Floodplains.

B. Definitions.

SUBSTANTIAL DAMAGE

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT

Any combination of repair, alteration, reconstruction, rehabilitation, addition, or other improvement to the same structure, taking place during a rolling three-year period measured backward from the date of a complete permit application and including the work proposed in that application, the cumulative cost of which equals or exceeds 50% of the market value of the structure before ~~improvement or repair~~ the first improvement or repair included in that three-year period is started. For work performed without a required permit, the cost of the work shall be included in the three-year period in which the work was started or, if the start date cannot be established, the period in which the work is discovered by the City. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed.

The term does not, however, include any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the Building Official and that are the minimum necessary to assure safe living conditions.

Section 5.

Chapter 197, Zoning, Article IX, Environmental Protection Regulations, § 197-73C(4)(a)[7], Application contents, of the Municipal Code of the City of Lewes, Delaware, as amended, be and the same is hereby further amended by removing the red strikethrough text and by adding the red underlined text as follows:

§ 197-73C(4)(a)[7]

For work on an existing structure, including any improvement, addition, repairs, alterations, rehabilitation, or reconstruction, sufficient information to determine if the work constitutes substantial improvement, including:

[a] Documentation of the market value of the structure before ~~the improvement~~ the first improvement or repair included in the three-year cumulative period is started or before the damage occurred.

[b] Documentation of the actual cash value of all proposed improvement work, or the actual cash value of all work necessary to repair and restore damage to the before damaged condition, regardless of the amount of work that will be performed; the determination requires evaluation of previous permits issued and work performed for improvements and repairs during the three-year cumulative period established in the definition of "substantial improvement," including work performed without a permit if the work would have required a permit, as specified in the definitions for "substantial damage" and "substantial improvement."

[c] The applicant shall disclose all repair, alteration, reconstruction, rehabilitation, addition, or other improvement work to the same structure during the three-year cumulative period. The Floodplain Administrator may require permits, contracts, invoices, photographs, appraisals, cost

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estimates, scope descriptions, affidavits, or other documentation reasonably necessary to determine cumulative cost and structure market value.

[d] Costs shall not be divided into separate permit applications, contracts, work orders, phases, or owner-performed work to avoid the substantial improvement requirements. Work that is part of the same project, related scope of work, common plan of improvement, or phased improvement shall be counted together when determining cumulative cost.

Section 6.

Applicability and transition. This Ordinance shall apply to complete permit applications received by the City on or after the effective date of this Ordinance. For the first three years after adoption, the three-year cumulative period shall be administered prospectively from the effective date of this Ordinance, except that the Floodplain Administrator may consider prior permits or work to determine whether a pending, open, resubmitted, or related project is part of one common plan of improvement, part of a phased improvement, or an existing violation under otherwise applicable law.

Section 7.

Severability. If any provision of this Ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect any other provision or application that can be given effect without the invalid provision or application, and to that end the provisions of this Ordinance are severable.

Section 8.

Effective date. This Ordinance shall take effect immediately upon its adoption by the Mayor and City Council.

Adopted by the Mayor and City Council of the City of Lewes on _____, 2026.

I, Timothy Ritzert, Secretary of the City Council of the City of Lewes, do hereby certify that the foregoing is a true and correct copy of the ordinance passed by Mayor and City Council at its regular meeting on _____, 2026, at which a quorum was present and voting throughout and the same is still in full force and effect.

Secretary

SYNOPSIS

This Ordinance amends Chapter 70 and Chapter 197 of the Municipal Code of the City of Lewes to add a rolling three-year cumulative review period to the City's substantial improvement definition. The 50% threshold is not changed. Under the proposed amendment, the City would add the cost of the current proposed work to the cost of other repair, alteration, reconstruction, rehabilitation, addition, or improvement work to the same structure during the rolling three-year period. If that cumulative cost equals or exceeds 50% of the market value of the structure before the first counted work is started, the structure is a substantial improvement and must meet applicable floodplain and building code requirements. The Ordinance also clarifies what documentation applicants must provide so the Floodplain Administrator can make the required determination.

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AD-HOC COMMITTEE REVIEW NOTES

These notes are provided for review and are not part of the ordinance text unless the City chooses to incorporate them.

Topic	Plain-language note
What changes?	The draft adds a defined rolling three-year period for substantial improvement calculations. It keeps the existing 50% trigger.
How does the three-year period work?	When a permit application is reviewed, the City counts the proposed work plus other work to the same structure during the prior three years.
Why amend multiple sections?	Lewes currently repeats the substantial improvement definition in Chapter 70 and Chapter 197. The draft updates all repeated definitions so the Building Code and Floodplain Code stay consistent.
Does this change substantial damage?	No. The substantial damage definition is shown for context and remains unchanged.
Why add application documentation language?	The Floodplain Administrator needs records of prior work, cost, and structure value to apply the three-year cumulative calculation consistently.
Legal review item	The City Solicitor should confirm the transition clause, especially how the three-year period applies to applications pending, open, resubmitted, or related to prior phases on the effective date.
CRS review item	If the City intends to seek Community Rating System credit for cumulative substantial improvement, staff should verify the current CRS credit criteria before relying on a three-year period for CRS purposes.

PROPOSED CLEAN DEFINITION FOR REVIEW

This clean copy is provided only to help reviewers read the proposed definition without redlines.

Substantial Improvement - Any combination of repair, alteration, reconstruction, rehabilitation, addition, or other improvement to the same structure, taking place during a rolling three-year period measured backward from the date of a complete permit application and including the work proposed in that application, the cumulative cost of which equals or exceeds 50% of the market value of the structure before the first improvement or repair included in that three-year period is started. For work performed without a required permit, the cost of the work shall be included in the three-year period in which the work was started or, if the start date cannot be established, the period in which the work is discovered by the City. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the Building Official and that are the minimum necessary to assure safe living conditions.

REFERENCE SOURCES CHECKED

Reference list for staff and committee use; not part of the ordinance text unless the City chooses to incorporate it.

1. City of Lewes Municipal Code, Chapter 197, Article IX, § 197-73B, definitions of substantial damage and substantial improvement; § 197-73C(4)(a)[7], permit application contents for work on existing structures; § 197-104, text and map amendments. Checked April 26, 2026.
2. City of Lewes Municipal Code, Chapter 70, §§ 70-10, 70-25, and 70-50, substantial damage and substantial improvement definitions. Checked April 26, 2026.
3. City of Lewes Charter, Section 38, Municipal Zoning Regulations. Checked April 26, 2026.
4. 22 Del. C. § 301, Grant of power; 22 Del. C. § 304 and § 305, public hearing and amendment procedures. Checked April 26, 2026.

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5. 44 CFR § 59.1, federal NFIP definitions of substantial damage and substantial improvement. Checked April 26, 2026.
6. 44 CFR § 60.3, NFIP floodplain management criteria for flood-prone areas. Checked April 26, 2026.
7. Delaware Substantial Improvement / Substantial Damage Guidance, DNREC/FEMA, including guidance that communities may adopt more restrictive standards and may track improvements and repairs over time to support cumulative SI/SD determinations.
8. City of Lewes Construction Certificate Management Procedures, May 1, 2025, for City administrative style and floodplain certificate administration context.

The City of Lewes



Contractors Affidavit Substantial Improvement

District/Map/Parcel: _____

Owner's Name: _____

Owner's Address/Phone: _____

Contractor: _____

Contractor's License Number: _____

Date of Contractor's Estimate: _____

I hereby attest that I have personally inspected the building located at the above-referenced address and discussed the nature and extent of the work requested by the owner, including all improvements, rehabilitation, remodeling, repairs, additions, and any other form of improvement.

At the request of the owner, I have prepared a cost estimate for all the improvement work requested by the owner and the cost estimate includes, at a minimum, the cost elements identified by the Building Department of the City of Lewes, that are appropriate for the nature of the work. If the work is repair of damage, I have prepared a cost estimate to repair the building to its pre-damage condition. I acknowledge that if, during construction, the owner requests more work or modification of the work described in the application, that a revised cost estimate must be provided to the Building Department of the City of Lewes, which will re-evaluate its comparison of the cost of work to the market value of the building to determine if the work is substantial improvement. Such re-evaluation may require revision of the permit and may subject the property to additional requirements.

I also understand that I am subject to enforcement action and/or fines if inspection of the property reveals that I have made or authorized repairs or improvements that were not included in the description of work and the cost estimate for that work that were the basis for issuance of a permit.

The City of Lewes



Owner's Signature: Date:

Notarized:

CITY OF LEWES, DELAWARE

AN ORDINANCE

TO AMEND CHAPTER 197, “ZONING,” SECTION 197-73, “FLOODPLAINS,” OF THE MUNICIPAL CODE OF THE CITY OF LEWES RELATING TO FLOOD-RESISTANT CONSTRUCTION AND ADOPTION OF 2021 INTERNATIONAL BUILDING CODE APPENDIX G

WHEREAS, the Federal Emergency Management Agency has identified Special Flood Hazard Areas within the City of Lewes, and the City of Lewes participates in the National Flood Insurance Program; and [D4] [D11]

WHEREAS, the City’s Corrective Action Plan for the Community Assistance Visit identified that V-Zone provisions applying to all development were not adopted in the City of Lewes Floodplain Ordinance and proposed amending City Code § 197-73(A)(4) by removing the current bracketed Building Code reference and inserting “IBC Appendix G in Full”; and [D1]

WHEREAS, 2021 International Building Code Appendix G states that its provisions are not mandatory unless specifically referenced in the adopting ordinance, and Appendix G is intended to provide additional floodplain-management and administrative requirements of the National Flood Insurance Program not otherwise included in the code; and [D3]

WHEREAS, Appendix G includes provisions addressing floodplain administration, permitting, inspections, permanent records, floodway encroachments, coastal high-hazard areas and Coastal A Zones, temporary structures, tanks, accessory structures, and utility and miscellaneous Group U structures; and [D3]

WHEREAS, City Code § 197-73 currently requires development in Special Flood Hazard Areas to comply with floodplain management regulations and flood load and flood-resistant construction provisions of the Building Code, including specific amendments adopted by the City of Lewes; and [D4]

WHEREAS, City Code § 70-12 establishes local freeboard standards, including base flood elevation plus 36 inches for residential structures in Zone AE and Zone VE, and this Ordinance is not intended to reduce any more restrictive local, state, or federal requirement; and [D5]

WHEREAS, Title 22, Chapter 3, Section 301 of the Delaware Code authorizes municipalities to regulate for public health, safety, morals, and general welfare, and Section 38 of the Charter of the City of Lewes authorizes the City to regulate buildings and structures; and [D7] [D15]

WHEREAS, City Code § 197-104 and 22 Del. C. § 304 require a public hearing and at least fifteen (15) days’ notice by publication in an official paper or newspaper of general circulation for zoning ordinance amendments; and [D6] [D7]

WHEREAS, the Lewes Planning Commission reviewed the proposed text amendment on _____, 2026 and forwarded its recommendation to Mayor and City Council; and [D6]

WHEREAS, a public hearing was conducted on _____, 2026, after at least fifteen (15) days’ notice of such hearing was provided by publication in an official paper or newspaper of general circulation in the City; and [D6] [D7]

WHEREAS, Mayor and City Council find that the amendment promotes public health, safety, and general welfare and supports the City’s implementation of its floodplain-management program and corrective-action commitments. [D1] [D3] [D4]

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

Section 1. Amendment to § 197-73(A)(4)(a), Basis for Establishing Special Flood Hazard Areas.

Chapter 197, Zoning, Section 197-73(A)(4)(a), Floodplains, of the Municipal Code of the City of Lewes is hereby amended by making deletions as shown by strikethrough and insertions as shown by underline as follows:

For the purposes of these regulations, and for the purpose of establishing flood hazard areas in the Building Code [~~Section 1612.3 and Table R301.2(1)~~ Appendix G, Flood-Resistant Construction, of the 2021

International Building Code, in full], the following are adopted by reference as a part of these regulations and serve as the basis for establishing special flood hazard areas:

Section 2. Specific Reference to 2021 IBC Appendix G.

The 2021 International Building Code Appendix G, Flood-Resistant Construction, is specifically referenced and adopted in full as part of the City's floodplain-management regulations. For purposes of Appendix G administration, the City of Lewes Building Official/Floodplain Administrator or Designee is designated to administer Appendix G, consistent with City Code § 197-73 and Chapter 70. The flood hazard areas established for Appendix G purposes shall be those adopted by reference in City Code § 197-73(A)(4) and Chapter 70, including the FEMA Flood Insurance Study and Flood Insurance Rate Map for Sussex County, Delaware and Incorporated Areas dated March 16, 2015, and all subsequent amendments and/or the most recent revisions thereof. [D3] [D4] [D5]

Section 3. No Reduction of Greater Restrictions.

Nothing in this Ordinance shall be construed to repeal, reduce, or abrogate any greater restriction or higher standard in City Code § 197-73, Chapter 70, the City's adopted Building Code, the City's adopted Residential Code, the National Flood Insurance Program minimum criteria, or any other applicable local, state, or federal requirement. In the event of a conflict, the more restrictive provision shall govern. [D4] [D5] [D7]

Section 4. Construction Certificate Management Procedures.

Mayor and City Council acknowledge the Construction Certificate Management Procedures attached as Exhibit B as the administrative procedures to be used by the Building Department/Floodplain Administrator for collection, review, correction, retention, and public availability of floodplain-related construction certificates and supporting records. The CCMP may be updated administratively to conform to applicable law, FEMA forms, FEMA Community Rating System requirements, or City software/workflow changes, provided that such administrative updates do not reduce any adopted standard. [D1] [D2] [D11] [D12]

Section 5. Severability.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 6. Effective Date.

This Ordinance shall become effective immediately upon its adoption by Mayor and City Council.

Section 7. Certification.

I, _____, Secretary of Mayor and City Council of the City of Lewes, do hereby certify that the foregoing is a true and correct copy of the Ordinance duly adopted by Mayor and City Council at its regular meeting on _____, 2026, at which meeting a quorum was present and voting throughout and that the same is still in full force and effect.

Draft Resolution Adopting the CCMP

A RESOLUTION

ADOPTING CONSTRUCTION CERTIFICATE MANAGEMENT PROCEDURES FOR FLOODPLAIN-RELATED CERTIFICATES AND RECORDS

WHEREAS, the City of Lewes Building Department administers floodplain-related permit review, inspections, and records for development in Special Flood Hazard Areas; and [D4]

WHEREAS, the City’s Corrective Action Plan and FEMA Region 3 comments identify the need for clear procedures for collection, review, correction, retention, and availability of Elevation Certificates and related floodplain construction certificates; and [D1] [D2]

WHEREAS, federal NFIP regulations require participating communities to administer and enforce floodplain-management regulations, maintain required elevation and floodproofing records, and make certain records available for public inspection or upon request; and [D11] [D12]

WHEREAS, 2021 IBC Appendix G requires the Floodplain Administrator to maintain permanent records of permits issued in flood hazard areas, including supporting certifications, inspection reports, design certifications, and elevation documentation; and [D3]

WHEREAS, Mayor and City Council find that adoption of the CCMP will support consistent administration of City Code § 197-73, Chapter 70, NFIP standards, and Community Rating System documentation expectations.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Lewes, Delaware, as follows:

Section 1. Adoption.

The Construction Certificate Management Procedures attached as Exhibit B are hereby adopted as administrative procedures for the Building Department/Floodplain Administrator for floodplain-related certificates and supporting records.

Section 2. Implementation.

The Building Official/Floodplain Administrator is authorized and directed to implement the CCMP, create or update related permit checklists, require applicable certificates before permit issuance, during construction, and before final approval, and maintain permanent SFHA digital records as described in the CCMP.

Section 3. Administrative Updates.

The Building Official/Floodplain Administrator may update forms, checklists, software workflows, and non-substantive procedural details as necessary to remain consistent with FEMA forms, CRS guidance, City software, and applicable law, provided that such updates do not reduce adopted floodplain standards or record-retention requirements.

Section 4. Effective Date.

This Resolution shall be effective immediately upon adoption.

Adopted:	Attest:
 _____	 _____
Amy L. Marasco, Mayor	Secretary, Mayor and City Council
Date: _____	Date: _____

Exhibit A - 2021 IBC Appendix G Adoption Exhibit

Attach the full text of 2021 International Building Code Appendix G, Flood-Resistant Construction, as the City's adopted exhibit. The supplied Appendix G text states that its provisions are not mandatory unless specifically referenced in the adopting ordinance and describes Appendix G as providing additional NFIP floodplain-management and administrative requirements not included in the base code. [D3]

The following implementation crosswalk identifies the Appendix G provisions most directly tied to the City's CAP and CCMP corrections. It is not a substitute for the full adopted Appendix G text.

Appendix G Provision	Implementation Point	City Use
G101.5	Designation of Floodplain Administrator.	Complete bracketed title as Building Official/Floodplain Administrator, consistent with §197-73 administration.
G103.1-G104.1	Applicability and permit-application review for development in flood hazard areas.	Supports review of all SFHA development, including temporary and miscellaneous development.
G104.8	Permanent record of flood-hazard permits, supporting certifications, inspection reports, design certifications, and elevation documentation.	Directly supports CCMP permanent SFHA record-retention language.
G105.1-G105.5	Permit requirement, application content, validity, expiration, suspension/revocation.	Supports permit checklist and enforcement procedure.
G108.2	Coastal high-hazard areas and Coastal A Zones; fill for structural support prohibited.	Supports V-Zone and coastal development review.
G111.1	Tanks designed, constructed, installed, and anchored in accordance with ASCE 24.	Supports CAP tank-anchoring/elevation corrections.
G112.1-G112.8	Garages, accessory structures, decks, slabs, pools, roads, and crossings.	Supports accessory/enclosure and other development review.
G113.1-G113.3	Temporary structures/storage and floodway encroachment.	Supports temporary-development retention and compliance documentation.
G114.2-G114.6	Utility and miscellaneous Group U structures; anchoring, elevation, enclosures, materials, utility protection.	Supports floodplain checklist for sheds, storage, and miscellaneous structures.

Exhibit B - Construction Certificate Management Procedures

Clean adoption copy. This exhibit incorporates the CCMP corrections prepared to address the FEMA CAV CAP and FEMA Region 3 comments. Redline explanatory text from the working draft has been removed for adoption. [D1] [D2]

The City of Lewes Building Department is responsible for the administration of all development issues within the city limits including permitting, inspection, and review of all construction, along with the creation of and maintenance of all building permit files and administrative documents (ordinances, building guides, applications, forms, outreach materials, etc.) related to building and development. All inspections and permit/plan reviews are conducted by the City of Lewes Building Department as well as all permit approvals.

The purpose of this document is to explain our management procedures for review of Elevation Certificates and all other required floodplain-related construction certificates including, but not limited to, Floodproofing Certificates, V Zone design certificates, and engineered flood opening certificates. These procedures outline the types of certificates required, the collection and review of all certificates, how corrections should be made, where the certificates are stored/archived, and how we make these certificates available to the public.

This CCMP applies to all floodplain-related construction certificates and supporting compliance records for development in the Special Flood Hazard Area (SFHA), including new construction, substantial improvements, repair or reconstruction of substantially damaged buildings, non-residential dry floodproofing, V Zone construction, engineered flood openings, accessory structures/enclosures, temporary development, and final approvals. The intent is to document collection, review, correction, retention, and public availability of the records needed to demonstrate compliance with the NFIP, the CRS Activity 310 requirements, and the City of Lewes floodplain regulations. [R1] [R2] [R3] [R12] [R14] [R15]

Types Of Certificates Required

When any new construction, substantial improvement, repair, reconstruction due to substantial damage, or other regulated development is proposed in the SFHA, the Building Department shall require the applicable floodplain-related construction certificates and supporting records before permit issuance, during construction, and before final approval. Required records may include, as applicable, FEMA Elevation Certificates, FEMA Dry Floodproofing Certificates for Non-Residential Structures, V Zone design certificates, breakaway wall certifications, engineered flood opening certifications or ICC-ES reports, SI/SD determinations and supporting valuation/cost documentation, inspection records, and Certificates of Occupancy or final approvals. [R1] [R2] [R3] [R4] [R5] [R6] [R12] [R14] [R15]

The applicant shall submit an Elevation Certificate marked "Construction Drawings" or "Preconstruction" with the building permit application when an EC is required. The Building Department shall use the EC, plans, and permit checklist to verify that the proposed design follows City of Lewes § 197-73 and § 70-12. Current § 70-12 requires the minimum elevation to be ASCE 24 or BFE plus 36 inches, whichever is higher; residential Zone AE elevations are measured at the top of the lowest finished floor, and residential Zone VE elevations are measured at the bottom of the lowest horizontal structural member. After the foundation is built and the relevant elevation can be confirmed, the applicant shall submit a "Building Under Construction" EC before vertical construction proceeds beyond the stage at which correction would be impracticable. When construction and adjacent grading are complete, the applicant shall submit a complete and correct "Finished Construction" EC. No Certificate of Occupancy, certificate of completion, or final permit approval shall be issued until the finished-construction EC and all other required floodplain certificates have been reviewed, corrected if necessary, accepted by the Floodplain Administrator/Building Official, and uploaded to the City's floodplain record system. [R1] [R2] [R4] [R12] [R14] [R15]

If a FEMA Dry Floodproofing Certificate for Non-Residential Structures is required for a dry floodproofed non-residential building or non-residential portion of a mixed-use building, the certificate and supporting design documentation shall be submitted, reviewed, corrected if needed, and accepted before final approval. The City may also require an EC when needed to verify local ordinance compliance. Floodproofing certificates shall be retained with the associated SFHA permit file as part of the permanent floodplain development record, including the elevation to which the structure was floodproofed. [R1] [R2] [R3] [R5] [R8] [R12] [R15]

A V Zone design certificate, signed and sealed by a registered design professional authorized to certify structural design, is required before permit issuance for all new construction, substantial improvement, and reconstruction due to substantial damage in mapped V/VE Zones. The permit file shall include the design certificate, structural plans/specifications, foundation and pile/column design information, bottom-of-lowest-horizontal-structural-member

elevation, scour assumptions, breakaway-wall certification when applicable, and documentation showing that the space below the lowest floor will be free of obstruction or limited to parking, building access, or storage. A finished-construction EC is also required before final approval. V Zone design certificates and associated ECs shall be retained as part of the permanent floodplain development record for the structure. [R2] [R3] [R4] [R9] [R11] [R12] [R15]

When engineered flood openings are installed in the foundation of a building, and the Elevation Certificate indicates that they were installed (Sections A8d and A9d on the Elevation Certificate), an engineered opening certification is required to be submitted with the Elevation Certificate to help verify compliance and the insurance rate. Be sure the developer submits either the International Code Council® Evaluation Service (ICC-ES) form for the engineered opening or an individual certification. Individual certifications must cover the following, at a minimum: [R2] [R3] [R4] [R6]

An identification of the building (address) that has the engineered openings installed;

The design professional's name, title, address, type of license, the state issuing the license, signature, and seal;

A statement certifying the design of the openings will automatically equalize hydrostatic flood loads on exterior walls by allowing for the automatic entry and exit of floodwaters; and

A description of the range of flood characteristics tested or computed for which the certification is valid, such as rates of rise and fall of floodwaters.

Engineered flood opening certifications, including ICC-ES evaluation reports or individual engineered certifications, shall be attached to or otherwise clearly linked with the associated EC and retained for the life of the structure as part of the permanent SFHA floodplain development record. The permit checklist shall verify that the certification is present when EC Sections A8d or A9d indicate engineered openings. [R2] [R3] [R4] [R6] [R15]

All required construction certificates, including preconstruction/construction-drawing ECs, building-under-construction ECs, finished-construction ECs, dry floodproofing certificates, V Zone design certificates, engineered opening certifications, and supporting SI/SD and inspection documentation, shall be submitted to the City of Lewes Building Department for tracking and initial review. The Building Inspector shall log receipt and review status in Forerunner or the City's successor electronic permitting/records system. The Floodplain Administrator/Building Official shall review the EC and all supporting documentation against the approved plans, City Code, NFIP, and CRS checklist requirements. The certificate of occupancy, certificate of completion, or final permit approval shall not be issued until all required certificates are complete, correct, accepted, and uploaded to the permanent SFHA digital record. [R1] [R2] [R3] [R4] [R12] [R14] [R15]

Each SFHA permit file shall contain a floodplain checklist documenting, at minimum, the date received, reviewer, review result, and correction status for each required certificate or record. This checklist shall also document whether the project required an SI/SD determination, V Zone certificate, engineered opening certification, floodproofing certificate, final EC, final inspection, and CO/final approval. [R3] [R14] [R15]

How Certificates Are Corrected

The Floodplain Administrator/Building Official should consult the CRS's Elevation Certificate Checklist or Forerunner Floodplain software module when reviewing an Elevation Certificate to ensure all required fields are completed correctly. When an error is noticed on an Elevation Certificate, there are three ways to correct it. [R3] [R4] [R15]

Reviewer comments, correction requests, returned certificates, revised certificates, Section G entries, and any memo of correction shall be retained together with the certificate and permit file. When a corrected certificate is provided to an inquirer, any City memo of correction or supporting reviewer note that forms part of the correction shall be provided with it. [R3] [R4] [R15]

(1) For any inaccurate or incomplete information in Section C2, the Floodplain Manager/Building Official should request a new certificate from the applicant or his/her representative (surveyor/engineer/architect) who certified the form. [R3] [R4]

(2) If incomplete or inaccurate information is found in the other sections, the Floodplain Manager/Building Official can do the following. As a general rule, and as law in some states, the local official should not mark up a signed and sealed form. [R3] [R4]

The forms may be returned to the applicant (or representative) with instructions on what needs to be changed or corrected; [R3] [R4]

The Floodplain Manager/Building Official can prepare a separate memo with the correct information and attach a "memo of correction." When the certificate is provided to an inquirer, the memo must be included with it; or [R3] [R4]

The Floodplain Manager/Building Official can note the changes or corrections in Section G. [R3] [R4]

All “preconstruction, under construction, and finished construction” Elevation Certificates that had errors on them should be returned to the applicant within 10 business days for immediate correction. In no case shall we accept an Elevation Certificate until all corrections deemed appropriate by the Floodplain Manager/ Building Official are addressed. In no cases shall a certificate of occupancy or final approval for a permit be granted until the Floodplain Manager/ Building Official has approved the permit. [R3] [R4] [R15]

If an error is discovered after final approval, the Floodplain Administrator/Building Official shall document the issue, request correction from the certifier or applicant as appropriate, update the permanent SFHA digital record, and provide the corrected certificate or memo of correction to the property owner when the correction may affect flood insurance rating or compliance documentation. [R1] [R3] [R4] [R15]

If corrections are completed after the Certificate of Occupancy [final approval], the Floodplain Manager/Building Official must ensure the homeowner receives a copy of the corrected Elevation Certificate in case the correction(s) affects the building’s insurance rating. [R3] [R4] [R15]

How And Where The Certificates Are Maintained

All Elevation Certificates and all other required floodplain-related construction certificates shall be retained as part of the permanent SFHA floodplain development record for the life of the structure and for as long as needed to document NFIP, CRS, and City Code compliance. Records shall be maintained at the City of Lewes Building Department, 114 East Third Street, Lewes, Delaware, and shall be uploaded to Forerunner or the City’s successor electronic permitting/records system. The City shall maintain a complete, accessible digital set of the key SFHA floodplain records independent of any physical transfer to Delaware Public Archives. Finished-construction ECs and associated certificates shall also be organized for CRS Activity 310 review by recertification year. [R1] [R2] [R3] [R13] [R15]

The Delaware Public Archives retention schedules summarized below establish State and local records-retention rules for general municipal records. For SFHA projects, the City shall not interpret a general permit, plan, or temporary-use retention period as authorizing disposal of the floodplain compliance records needed to demonstrate NFIP, CRS, or City Code compliance. Those SFHA compliance records shall be retained in the City’s digital system as described above. [R1] [R2] [R3] [R13] [R15]

The permanent SFHA floodplain development record shall include, when applicable: floodplain permit application; approved plans and revisions necessary to document NFIP/local compliance; ECs; dry floodproofing certificates; V Zone design certificates and breakaway-wall certifications; engineered opening certifications or ICC-ES reports; SI/SD worksheets and supporting market-value/cost documentation; inspection reports and photos documenting elevations, flood openings, flood-damage-resistant materials, utilities/mechanical/electrical/plumbing protection, breakaway walls, and final grading; temporary-development permits and closure documentation; violation notices and closure documentation; and COs/certificates of completion/final approvals. [R1] [R2] [R3] [R6] [R7] [R9] [R11] [R13] [R14] [R15]

BUILDING APPLICATIONS AND PERMITS: Applications from property owners or contractors to erect new structures or to make alterations to existing structures and records authorizing or denying such construction or modification: [R13]

Record Retention and Disposition Instructions: Retain at agency 10 years, transfer to Archives for permanent preservation. Note: Records may contain confidential information that must be redacted prior to servicing. B. Retain at agency 5 years after denial or last action; destroy. Note: Records may contain confidential information that must be redacted prior to servicing. [R13]

BUILDING PERMITS ISSUED: Monthly and annual reports prepared for the U.S. Bureau of Census on the number of commercial and residential building starts and local public construction. Maintain at agency, transfer copy to Archives for permanent preservation. B. Retain at agency 3 years; destroy. [R13]

TEMPORARY USE PERMITS: Authorizations for permits of a temporary nature: sign moving, hauling, razing, blasting, etc. Contain applicants’ identification, length of project, date, etc. Retain at agency 2 years after expiration; destroy. [R13]

For any temporary use or temporary development in the SFHA, including but not limited to fill, stockpiles, staging, temporary structures, storage containers, trailers/RVs, grading, or other temporary work regulated as “development,” the permit, conditions, inspection notes, photographs, and closure/removal documentation shall be retained with the permanent SFHA floodplain development record. This SFHA retention requirement applies even if non-SFHA temporary use permits are destroyed under the general two-year schedule. [R1] [R2] [R13] [R14] [R15]

CERTIFICATES OF OCCUPANCY/COMPLETION: Documents issued by a local government agency or building department certifying a building compliance with applicable building codes and other laws and indicating it to be in a condition suitable for occupancy. **PERMANENT** Copies of permanent Certificates of Occupancy declaring that a structure meets requirements of building code and is suitable for occupancy, or similar records to verify the final approval of a building. Retain at agency until no longer needed, transfer to Archives for permanent preservation. **TEMPORARY** Copies of temporary Certificates of Occupancy granting permission to occupy a space prior to the final inspection. Retain at agency until issuance of permanent Certificate of Occupancy; destroy. [R13]

For SFHA structures, permanent Certificates of Occupancy, certificates of completion, and equivalent final approvals shall remain clearly linked to the ECs, floodproofing certificates, V Zone certificates, engineered opening certifications, SI/SD determinations, inspection records, and approved plans that support final floodplain compliance. [R1] [R2] [R3] [R13] [R15]

BLUEPRINTS AND SPECIFICATIONS: Blueprints, specifications, and building plans submitted by building contractors or property owners when applying for building permits. [R13]

Government Buildings: Confidential, Retain at agency 10 years; transfer to Archives for permanent preservation. [R13]

Residential Buildings: Follow the Delaware Public Archives schedule for general residential plans. For residential projects in the SFHA, retain the floodplain compliance subset of plans, specifications, revisions, and inspection documentation needed to demonstrate NFIP, CRS, and City Code compliance in Forerunner or the City's successor electronic records system as part of the permanent SFHA floodplain development record. [R1] [R2] [R3] [R13] [R15]

Commercial Plans: Follow the Delaware Public Archives schedule for general commercial plans. For commercial projects in the SFHA, retain the floodplain compliance subset of plans, specifications, revisions, dry floodproofing documentation, inspection documentation, and final approvals needed to demonstrate NFIP, CRS, and City Code compliance in Forerunner or the City's successor electronic records system as part of the permanent SFHA floodplain development record. [R1] [R2] [R3] [R5] [R8] [R13] [R15]

How Certificates Are Made Available To Inquirers

When a member of the public requests a copy of an Elevation Certificate, the request shall be initiated with the Floodplain Administrator. The Floodplain Administrator shall act on the request immediately, if time allows, but at worst, shall have 3 business days to make a copy of the requested information and make the documentation available to the inquirer. There is no financial charge for this service. [R1] [R3] [R15]

Public copies shall include the certificate and any attached engineered opening certification, FEMA/ICC-ES report, City memo of correction, or other document necessary to understand the certificate. If a physical file has been transferred to Archives, the Floodplain Administrator shall rely on the City's digital SFHA record to provide timely access unless legal review, FOIA exemptions, or required redactions apply. [R1] [R3] [R13] [R15]

CCMP Reference Index

R1. 44 CFR § 59.22(a)(9)(iii), Prerequisites for the sale of flood insurance; public inspection/furnishing of floodproofing certificates and elevation information. <https://www.ecfr.gov/current/title-44/chapter-I/subchapter-B/part-59/subpart-B/section-59.22>

R2. 44 CFR § 60.3, Flood plain management criteria for flood-prone areas, including permit review, flood-damage-resistant materials, utilities/service facilities, A/AE elevation and floodproofing records, openings, V/VE structural member elevation records, V/VE design certification, breakaway walls, and prohibition on fill for structural support in V zones. <https://www.ecfr.gov/current/title-44/chapter-I/subchapter-B/part-60/subpart-A/section-60.3>

R3. FEMA, Addendum to the 2017 CRS Coordinator's Manual, 2021 Edition; Activity 310/CCMP requirements for written procedures addressing collection, review, correction, maintenance, and public accessibility of FEMA Elevation Certificates, FEMA Floodproofing Certificates, V Zone design certificates, engineered opening certifications, and related construction certificates. https://content.naic.org/sites/default/files/inline-files/fema_community-rating-system_coordinator-manual_addendum-2021_0.pdf

R4. FEMA Form FF-206-FY-22-152, Elevation Certificate and Instructions. https://www.fema.gov/sites/default/files/documents/fema_form-ff-206-fy-22-152.pdf

R5. FEMA Form FF-206-FY-22-153, NFIP Dry Floodproofing Certificate for Non-Residential Structures. https://www.fema.gov/sites/default/files/documents/fema_form-ff-206-fy22-153.pdf

R6. FEMA Technical Bulletin 1, Openings in Foundation Walls and Walls of Enclosures, 2020. https://www.fema.gov/sites/default/files/2020-07/fema_tb1_openings_foundation_walls_walls_of_enclosures_031320.pdf

- R7. FEMA Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, 2025.
https://www.fema.gov/sites/default/files/documents/fema_tb_2_flood_damage-resistant_materials_requirements_01-22-2025.pdf
- R8. FEMA Technical Bulletin 3, Requirements for the Design and Certification of Dry Floodproofed Non-Residential and Mixed-Use Buildings, 2021. https://www.fema.gov/sites/default/files/documents/fema_technical-bulletin-3_1-2021.pdf
- R9. FEMA Technical Bulletin 5, Free-of-Obstruction Requirements, 2020. https://www.fema.gov/sites/default/files/2020-07/fema_tb5_free_obstruction_requirements.pdf
- R10. FEMA Technical Bulletin 7, Wet Floodproofing Requirements and Limitations, 2025.
https://www.fema.gov/sites/default/files/documents/fema_rsl_nfip-technical-bulletin-7-wet-floodproofing-guidance_042025.pdf
- R11. FEMA Technical Bulletin 9, Design and Construction Guidance for Breakaway Walls Below Elevated Coastal Buildings, 2020. https://www.fema.gov/sites/default/files/2020-07/fema_tb9_design_construction_guidance_breakway_walls.pdf
- R12. City of Lewes Code § 197-73, Floodplains, and § 70-12, Amendment to Section 1612, Flood Loads.
<https://ecode360.com/7035463> and <https://ecode360.com/44928160>
- R13. Delaware Public Archives, Local Government General Records Retention Schedule, including Building Permits, Temporary Use Permits, Certificates of Occupancy/Completion, Blueprints and Specifications, and Drainage and Flood Problem Files.
https://archivesfiles.delaware.gov/gov-services/Local_Gov_-_General_Records_Retention_Schedule.pdf
- R14. City of Lewes Corrective Action Plan, Community ID 100041, dated May 3, 2026, including EC collection, V Zone documentation, enforcement/inspection, property-specific record, and records-access deficiencies/recommendations identified in the CAV response materials.
- R15. FEMA Region 3 email correspondence from Aaron Harding to Jon Ward dated February 13 and February 20, 2026, including property-specific follow-up items and CCMP process-improvement comments regarding EC retention, floodproofing certificates, V Zone design certificates, engineered opening certifications, SFHA temporary use/development records, CO linkage, digital/physical records access, and written-procedure consistency.

Exhibit C - Public Hearing and Action Timeline for July 2026 Adoption

Proposed adoption path assumes Mayor and City Council will introduce/refer the packet in May, the Lewes Planning Commission reviews the zoning text amendment in May, a separate public hearing is held July 6, 2026, and final action occurs at the regular July 13, 2026 Mayor and City Council meeting. Final dates, locations, and agenda language should be verified against the City's posted agenda before publication. [D6] [D8] [D9] [D10]

Date / Deadline	Body / Lead	Action	Purpose / Deliverable	Authority / Notes
May 4-8, 2026	Building Official / City Manager / City Solicitor	Finalize draft ordinance, resolution, CCMP exhibit, Appendix G exhibit, and CAP crosswalk.	Prepare Mayor and City Council introduction packet and solicitor-reviewed code language.	Staff preparation.
May 11, 2026 Regular MCC meeting	Mayor and City Council	Introduce draft ordinance and CCMP resolution; refer zoning text amendment to Lewes Planning Commission if Mayor and City Council elect to use the § 197-104 referral process.	Start legislative track and create a record that the amendment responds to the FEMA CAV CAP.	MCC regular meetings are second Monday at 5:30 p.m. [D9]; § 197-104 permits referral to Planning Commission for review and recommendation. [D6]
May 12-15, 2026	City staff	Post draft packet and exhibits on the City ordinance/project page and transmit to Lewes Planning Commission.	Make draft available for public and Planning Commission review.	Administrative step; use City agenda/project posting practice.
May 20, 2026 Regular LPC meeting	Lewes Planning Commission	Review zoning text amendment and forward recommendation to Mayor and City Council.	Provide recommendation before public hearing is set.	LPC reviews/recommends zoning ordinance amendments and meets third Wednesday at 6:30 p.m. [D10].
June 8, 2026 Regular MCC meeting	Mayor and City Council	Receive LPC recommendation; set July 6, 2026 public hearing; authorize legal notice and agenda posting.	Formally set hearing after LPC recommendation and move packet to public hearing.	§ 197-104 says MCC sets the public hearing date following receipt of PC recommendation. [D6]
No later than June 19, 2026 (recommended)	City Secretary / Staff	Publish legal notice for the July 6 public hearing in an official paper or newspaper of general circulation.	Satisfy 15-day zoning-amendment notice requirement with margin because June 21 falls on a Sunday.	At least 15 days' published notice required by § 197-104 and 22 Del. C. § 304. [D6] [D7]
No later than June 29, 2026	City Secretary / Staff	Post public meeting notice/agenda for July 6 hearing.	Satisfy FOIA public-meeting notice for a scheduled meeting.	Regular public-body meeting notice must be given at least seven days in advance; special/rescheduled meetings have separate 24-hour minimum if scheduled less than seven days out. [D8]
July 6, 2026 Special MCC Public Hearing 5:30 p.m. recommended	Mayor and City Council	Conduct public hearing on the Appendix G ordinance and CCMP adoption resolution; present LPC recommendation; accept public comment; close or continue hearing.	Create hearing record before final action.	MCC public hearings may be scheduled as needed; public hearing required for zoning text amendment. [D6] [D9]
July 7-10, 2026	Staff / Solicitor	Incorporate non-substantive edits from hearing; prepare final action packet, ordinance, resolution, and exhibits.	Prepare adoption-ready documents for July 13 action.	Confirm changes do not require re-advertisement with solicitor.
July 13, 2026 Regular MCC meeting	Mayor and City Council	Act on ordinance adopting 2021 IBC Appendix G in full and resolution adopting CCMP; take roll-call vote; direct codification and implementation.	Complete July adoption.	MCC regular meeting date based on second Monday schedule. [D9]; zoning amendments adopted by ordinance. [D6]
July 14-17, 2026	City Secretary / Building Department	Certify adopted documents; transmit codification package; update permit checklists and internal	Implementation and CAV closeout support.	Administrative closeout.

Date / Deadline	Body / Lead	Action	Purpose / Deliverable	Authority / Notes
		records; provide courtesy copy to DNREC/FEMA Region 3.		
July 27, 2026 Backup date	Mayor and City Council	Backup special meeting if July 13 action is continued.	Preserve July adoption target.	Post agenda under FOIA; verify notice requirements if hearing is continued. [D8]

Alternative compressed July path

If the May 20 Planning Commission review is not available, the City could use the June 17, 2026 regular LPC meeting and then hold the public hearing and action at the July 13, 2026 regular Mayor and City Council meeting, provided the hearing is properly set, legal notice is published no later than June 26, 2026, and the City Solicitor confirms the procedure. This path is more compressed and less preferable because it leaves less time for hearing revisions before action. [D6] [D7] [D8]

Draft Public Hearing Notice

CITY OF LEWES, DELAWARE NOTICE OF PUBLIC HEARING

The Mayor and City Council of the City of Lewes will hold a public hearing on Monday, July 6, 2026 at 5:30 p.m., or as soon thereafter as the matter may be heard, in Council Chambers at Lewes City Hall, 114 E. Third Street, Lewes, Delaware 19958, unless otherwise posted on the City agenda. The purpose of the public hearing is to receive public comment on an ordinance to amend Chapter 197, Zoning, Section 197-73, Floodplains, of the Municipal Code of the City of Lewes to specifically reference and adopt the 2021 International Building Code Appendix G, Flood-Resistant Construction, in full, and on a related resolution adopting Construction Certificate Management Procedures for floodplain-related certificates and records.

A copy of the proposed ordinance, resolution, Construction Certificate Management Procedures, and exhibits will be available for public inspection through the City of Lewes agenda and ordinance/project posting system and at City Hall during normal business hours. Interested parties and citizens will have an opportunity to be heard.

Notice language should be reviewed by the City Solicitor and adjusted to match the City's final agenda title, meeting location, remote-access instructions, and publication format.

Reference Index

Ref.	Source	Use in Packet
D1	City of Lewes Corrective Action Plan, Community ID 100041, dated May 3, 2026, including the CAP item directing amendment of §197-73(A)(4) to insert IBC Appendix G in full and the CCMP/records corrective actions.	CAP basis; ordinance and CCMP
D2	FEMA Region 3 email correspondence from Aaron Harding to Jon Ward dated February 13 and February 20, 2026, including CCMP process-improvement comments.	CCMP corrections
D3	2021 International Building Code Appendix G, Flood-Resistant Construction, supplied by the City; including G101.3, G101.5, G104.8, G105, G108, G111-G114.	Appendix G adoption exhibit
D4	City of Lewes Code § 197-73, Floodplains, including findings, NFIP participation, basis for SFHA maps, administration, required certifications, inspections, tanks, accessory structures, V-Zone provisions, and freeboard.	Local floodplain authority
D5	City of Lewes Code § 70-12, Amendment to Section 1612, Flood Loads, including local elevation/freeboard provisions.	Preservation of higher local standards
D6	City of Lewes Code § 197-104, Text and map amendments, including Planning Commission recommendation, Mayor and City Council public hearing, 15-day notice, and adoption by ordinance. https://ecode360.com/7035830	Adoption procedure
D7	22 Del. C. §§ 301, 304, and 305. https://delcode.delaware.gov/title22/c003/sc01/index.html	Municipal zoning authority and notice
D8	29 Del. C. § 10004, Open meetings. https://delcode.delaware.gov/title29/c100/	FOIA meeting notice and agenda timing
D9	City of Lewes Mayor and City Council meeting page; regular MCC meetings second Monday at 5:30 p.m. in Council Chambers, City Hall, 114 E. Third Street, unless otherwise posted. https://www.ci.lewes.de.us/152/Mayor-City-Council	Timeline meeting dates
D10	City of Lewes Planning Commission page; LPC reviews/recommends zoning ordinance amendments and meets third Wednesday at 6:30 p.m. at 101 Adams Ave., unless otherwise noted. https://www.ci.lewes.de.us/231/Planning-Commission	Timeline referral date
D11	44 CFR § 59.22, Prerequisites for the sale of flood insurance, including community obligations to adopt/enforce floodplain regulations and maintain/furnish certain floodplain records. https://www.ecfr.gov/current/title-44/chapter-I/subchapter-B/part-59/subpart-B/section-59.22	NFIP program basis
D12	44 CFR § 60.3, Floodplain management criteria for flood-prone areas, including permit review, anchoring, flood-damage-resistant materials, utility protection, elevation/floodproofing records, and V-Zone design certifications. https://www.ecfr.gov/current/title-44/chapter-I/subchapter-B/part-60/subpart-A/section-60.3	NFIP criteria
D13	FEMA CRS Coordinator's Manual and Activity 310 / CCMP guidance, as referenced in the working CCMP.	CRS documentation
D14	Delaware Public Archives, local government records-retention schedules, as referenced in the working CCMP.	Records retention
D15	Charter of the City of Lewes § 38, zoning and building regulation authority, as referenced in City ordinance recitals.	City legislative authority

A RESOLUTION

TO ADOPT THE CITY OF LEWES SUBSTANTIAL IMPROVEMENT/SUBSTANTIAL DAMAGE ADMINISTRATIVE PROCEDURES AS STANDARD OPERATING PROCEDURES FOR THE BUILDING DEPARTMENT AND TO REQUIRE PRIOR MAYOR AND CITY COUNCIL APPROVAL FOR ANY CHANGE TO THE PROCEDURES

WHEREAS, Section 4(a) of the Charter of The City of Lewes provides that the government of the City and the exercise of the powers conferred by the Charter are vested in the Mayor and City Council; and

WHEREAS, Section 197-73C(1) of the Municipal Code of the City of Lewes designates the Building Official as the Floodplain Administrator, authorizes delegation of specified duties to qualified personnel or entities, and provides that administration by another entity does not relieve the City of its National Flood Insurance Program responsibilities under 44 CFR § 59.22; and

WHEREAS, Section 197-73C(2) of the Municipal Code requires the Floodplain Administrator, among other duties, to administer and enforce the floodplain regulations, maintain required records, determine whether structures damaged by any cause in the Special Flood Hazard Area have been substantially damaged, and make reasonable efforts to notify owners of substantially damaged structures before repair, rehabilitation, or reconstruction; and

WHEREAS, 44 CFR § 59.1 defines substantial damage and substantial improvement for National Flood Insurance Program purposes, and 44 CFR § 60.3 establishes minimum floodplain-management criteria for flood-prone areas, including local permitting, review, flood-resistant construction, and recordkeeping requirements; and

WHEREAS, 44 CFR §§ 59.22 and 59.24 address community participation, records, enforcement, and the consequences of inadequate enforcement, and 44 CFR § 60.6 governs floodplain variances; and

WHEREAS, FEMA Publication P-758, the FEMA Substantial Damage Estimator guidance, FEMA Public Assistance guidance under Disaster Recovery Reform Act Section 1206, and Delaware substantial-improvement/substantial-damage guidance provide technical and administrative resources for local SI/SD programs; and

WHEREAS, the document titled “SI/SD Administrative Procedures for Development in the Special Flood Hazard Area,” marked as a review copy for the Floodplain Administrator and Ad Hoc Committee and dated June 15, 2026, identifies proposed replacement and inserted language in red and recommended deletions or replacements in red strikethrough; and

WHEREAS, a separate draft ordinance proposes amendments to Chapter 70 and § 197-73 of the Municipal Code to establish and implement a rolling three-year cumulative substantial-improvement review period, and an administrative resolution must not be construed to amend the Municipal Code or make that proposed period operative before the corresponding ordinance becomes effective; and

WHEREAS, the Mayor and City Council desire to adopt uniform written SI/SD procedures as the Building Department’s official standard operating procedures, provide a controlled official version, and require that every change to the adopted procedures receive prior approval of the Mayor and City Council.

BE IT RESOLVED by the Mayor and City Council of the City of Lewes, in session met, a quorum being present at all times thereto, in the manner following to-wit:

Section 1.

Adoption of SI/SD Administrative Procedures. The Mayor and City Council hereby approve the June 15, 2026 redline document titled “SI/SD Administrative Procedures for Development in the Special Flood Hazard Area,” attached to and incorporated into this Resolution as Exhibit A, by accepting all red inserted or replacement language and by deleting or rejecting all red strikethrough language. The resulting text is adopted as the “City of Lewes Substantial Improvement/Substantial Damage Administrative Procedures” (the “Procedures”).

Section 2.

Standard operating procedures. The Procedures shall constitute the official standard operating procedures of the City of Lewes Building Department and Floodplain Administrator for substantial-improvement and substantial-damage administration in the Special Flood Hazard Area. The Building Official, Floodplain Administrator, their qualified designees, and every City department, employee, contractor, consultant, mutual-aid resource, or other person assigned to assist with SI/SD work shall administer the Procedures consistently with the Municipal Code, the City’s adopted Building Code, applicable state law, and federal National Flood Insurance Program requirements.

Section 3.

Prior Mayor and City Council approval required for every change. Except through a subsequent resolution adopted by the Mayor and City Council, no City officer, employee, department, board, committee, contractor, consultant, designee, or agent may amend, revise, supplement, replace, supersede, suspend, waive, reissue, or otherwise change the Procedures, in whole or in part. This requirement includes every change to the body, appendices, tables, definitions, thresholds, methodologies, roles, responsibilities, timeframes, forms, worksheets, checklists, notices, or incorporated local procedures contained in Exhibit A. Any proposed change shall be placed in writing and presented to the Mayor and City Council for approval before the changed text is distributed or used as an official City procedure. A case-specific decision or exercise of discretion expressly authorized by controlling law or by the Procedures is not an amendment to the Procedures, but it shall be documented in the applicable property, permit, enforcement, or disaster file.

Section 4.

Controlling law; no amendment of the Municipal Code. This Resolution and the Procedures are administrative and do not amend, supersede, waive, or create an exception to the Charter, the Municipal Code, the adopted Building Code, federal or state law, or any duly adopted ordinance. If the Procedures conflict with controlling law, controlling law shall govern the matter at issue. The Floodplain Administrator shall document the conflict and submit any proposed conforming amendment to the Mayor and City Council; staff shall not edit the adopted Procedures without the prior approval required by Section 3.

Section 5.

Coordination with proposed three-year cumulative ordinance. Any provision of Exhibit A that states or assumes a three-year cumulative substantial-improvement review period shall become operative only on and after the effective date of an ordinance duly adopted by the Mayor and City Council that establishes that period in the applicable provisions of Chapter 70 and Chapter 197 of the Municipal Code. Until such an ordinance is effective, the Building Department and Floodplain Administrator shall apply the Municipal Code then in effect. Upon adoption of the corresponding ordinance, the City Clerk may insert the ordinance number and effective date in the certified administrative record without altering the substantive text of the Procedures.

Section 6.

External authorities and successor materials. References in the Procedures to federal or state statutes, regulations, forms, software, publications, policies, or training resources shall be administered in accordance with the current legally controlling or successor authority. A change in an external authority does not itself amend the text of the Procedures and does not authorize City staff to edit Exhibit A. Any textual update to a citation, title, link, form, software version, or training reference remains subject to Section 3.

Section 7.

Official copy, version control, and public availability. The City Clerk shall maintain the signed Resolution and attached Exhibit A as the certified official version. The Building Department shall maintain a working copy that identifies the resolution number, adoption date, effective date, and any later Mayor and City Council-approved amendment. The certified version shall be made available for public inspection consistent with applicable City recordkeeping requirements. No draft, staff copy, training copy, or electronically altered copy may be represented as the official Procedures unless it matches the certified version.

Section 8.

Severability. If any provision of this Resolution or the Procedures, or the application of any provision to any person or circumstance, is held invalid, the invalidity shall not affect any other provision or application that can be given effect without the invalid provision or application, and to that end the provisions of this Resolution are severable.

Section 9.

Effective date. This Resolution shall take effect immediately upon its adoption by the Mayor and City Council; provided, however, that Section 5 controls the operative date of every provision dependent upon enactment of the proposed three-year cumulative ordinance.

Adopted by the Mayor and City Council of the City of Lewes on _____, 2026.

I, Timothy Ritzert, Secretary of the City Council of the City of Lewes, do hereby certify that the foregoing is a true and correct copy of the resolution passed by Mayor and City Council at its regular meeting on _____, 2026, at which a quorum was present and voting throughout, and that the same is still in full force and effect.

Secretary

SYNOPSIS

This Resolution adopts the June 15, 2026 SI/SD Administrative Procedures redline as the official standard operating procedures of the City of Lewes Building Department and Floodplain Administrator. It requires prior approval by the Mayor and City Council, through a later resolution, before any part of the adopted Procedures may be changed. It also states that the Procedures do not amend the Municipal Code and that any three-year cumulative-review provisions become operative only when a corresponding ordinance is effective. The City Secretary maintains the certified official version, and staff must use version-controlled copies that conform to it.

REFERENCE SOURCES CHECKED

This reference list is for staff, committee, and City Solicitor review. It is not intended to alter the operative text of the Resolution or Exhibit A.

1. Charter of The City of Lewes, § 4(a), Structure of Government; § 16, Secretary; § 19, City Manager. Official City of Lewes eCode360 text checked June 18, 2026.
2. City of Lewes Municipal Code, Chapter 197, § 197-73B (definitions of substantial damage and substantial improvement) and § 197-73C (Floodplain Administrator designation, delegation, duties, permits, applications, review, inspections, records, substantial-damage determinations, and owner notice). Official eCode360 text checked June 18, 2026.
3. City of Lewes Municipal Code, Chapter 70, including §§ 70-10, 70-25, 70-50, and 70-65, as cited in Exhibit A. Official eCode360 text checked June 18, 2026.
4. 44 CFR Part 59, including §§ 59.1, 59.22, and 59.24, and 44 CFR Part 60, including §§ 60.3 and 60.6. Current eCFR text checked June 18, 2026.
5. 2 CFR Part 200, including §§ 200.318 through 200.320 and § 200.324, for federally funded procurement and cost or price analysis when applicable. Current eCFR text checked June 18, 2026.
6. FEMA P-758, Substantial Improvement/Substantial Damage Desk Reference; FEMA Substantial Damage Estimator Tool and user guidance; and FEMA Policy FP 204-079-01 and companion materials implementing Disaster Recovery Reform Act § 1206.
7. Delaware Department of Natural Resources and Environmental Control, Delaware Substantial Improvement/Substantial Damage Guidance and Resources for Communities.
8. “City of Lewes 3-Year Cumulative SI Ordinance Redline Ad Hoc Draft,” dated April 26, 2026, supplied with this drafting request. The draft proposes the rolling three-year cumulative period addressed in Section 5.
9. “SI/SD Administrative Procedures for Development in the Special Hazard Area,” redline review copy for the Floodplain Administrator and Ad Hoc Committee, dated June 15, 2026, supplied with this drafting request and attached as Exhibit A.
10. City of Lewes Construction Certificate Management Procedures, dated May 1, 2025, referenced within Exhibit A. A copy was not supplied with this drafting request and therefore was not independently reviewed for this draft.

CITY SOLICITOR / STAFF COMPLETION AND VERIFICATION ITEMS

The following review items are not part of the Resolution or Exhibit A:

- Insert the resolution number, adoption date, effective date, and, if adopted, the corresponding three-year cumulative ordinance number and effective date.
- Confirm that adoption by resolution, the amendment-control language, and the certification block conform to the City Solicitor’s preferred form and the meeting agenda.
- Verify the local planning assumptions in Exhibit A concerning 872 structures, four inspectors on staff, nine inspectors needed, and a seven-day inspection target before relying on those figures operationally.
- Obtain and review the City of Lewes Construction Certificate Management Procedures dated May 1, 2025, because Exhibit A incorporates and cross-references that local procedure.
- Replace unresolved web-link placeholders in Exhibit A only through the Mayor and City Council approval process required by Section 3, or retain them unchanged until an approved amendment is adopted.

EXHIBIT A

SI/SD ADMINISTRATIVE PROCEDURES FOR DEVELOPMENT IN THE SPECIAL HAZARD AREA

June 15, 2026 Redline Review Copy

Adopted under Section 1 by accepting all red inserted or replacement language and deleting or rejecting all red strikethrough language.

The following 16 pages reproduce the source redline supplied for adoption.

SI/SD ADMINISTRATIVE PROCEDURES FOR DEVELOPMENT IN THE SPECIAL HAZARD AREA

REVIEW COPY FOR FLOODPLAIN ADMINISTRATOR AND AD HOC COMMITTEE: red text is proposed inserted or replacement language; red strikethrough text is recommended for deletion or replacement.

I. Purpose and Use

The purpose of this document is to outline how the City of Lewes will administer and implement steps to make Substantial Improvement/Substantial Damage (SI/SD) determinations. Communities that participate in the National Flood Insurance Program (NFIP) must adopt and enforce floodplain management regulations that include requirements for SI/SD structures. ~~The Floodplain Administrator or Designee shall apply the federal and City definitions exactly. "Substantial damage" means damage of any origin sustained by a structure where the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. "Substantial improvement" means any reconstruction, rehabilitation, addition, repair, alteration, or other improvement of a structure in the preceding three years, including the work in the application, the cumulative cost of which equals or exceeds 50% of the market value of the structure before the improvement or repair is started. Authority: 44 CFR 59.1; City of Lewes Code Sec. 197-73B.~~

~~Improvements to structures in the regulated floodplain that equal or exceed 50% of the market value, including improvements undertaken after being substantially damaged during a disaster, must comply with local floodplain management regulations. This often means that structures cannot simply be rebuilt to pre-damage conditions. Local officials must ensure that all permits issued for reconstruction comply with local regulations. Improvements, additions, repairs, rehabilitation, reconstruction, alterations, and damage repairs to structures in the Special Flood Hazard Area (SFHA) must be evaluated using the structure-only pre-improvement or pre-damage market value. If the actual cash value/cost of proposed work, or the cost to restore damage to the before-damaged condition, equals or exceeds 50% of that structure-only market value, the structure is SI/SD and must be brought into compliance with the currently adopted City floodplain management regulations and applicable flood-resistant construction provisions. Authority: 44 CFR 59.1; 44 CFR 60.3; City of Lewes Code Sec. 197-73B and 197-73C(4)(a)[7].~~

This document captures all procedures in one ~~easy~~, accessible place so the community can be prepared if disaster strikes. This includes plans, procedures, and processes for actions taken pre-disaster ("blue skies"), immediately following a disaster event, and post-disaster. This document serves as a plan to be used in both day-to-day SI/SD operations as well as all disaster events, to include all types of hazards (flooding, wind, fire, etc.), small and large events, and presidential-declared or non-declared events.

~~This procedure applies to SI and SD determinations for existing structures in the SFHA regardless of the cause of damage, including flood, wind, fire, tornado, tree impact, vehicle impact, earthquake, or other origin. It also applies to phased work, multiple-permit work, emergency repairs, post-disaster repairs, additions, and voluntary improvements.~~

~~This plan was compiled and prepared by the City of Lewes Floodplain Administrator, based on model provided and required _____ by _____ FEMA.~~
 This procedure was compiled and prepared by the City of Lewes Floodplain Administrator using FEMA/NFIP and Delaware floodplain management guidance and must be maintained consistently with the City of Lewes Code, the adopted Building Code, and federal NFIP participation requirements.

SI/SD Admin Procedures

II. Regulations

SI/SD structures are defined and regulated according to the following regulations and legislation. These should be referenced to determine the definition of SI/SD and any legal requirements pertaining to post-disaster permitting.

Code/Ordinance	Title/Requirement	Document location or link	Responsible Department/POC	Effective date	SI/SD
44 CFR Part 59	NFIP definitions, community eligibility, public records commitments, probation/suspension risk	eCFR - 44 CFR 59.1, 59.22, 59.24	Floodplain Administrator/Building Official	Current federal regulation; confirm current eCFR date at adoption	Both
44 CFR Part 60	Minimum floodplain management criteria, permits, flood-resistant construction, floodway/no-rise, V-zone standards, variances	eCFR - 44 CFR 60.3 and 60.6	Floodplain Administrator/Building Official	Current federal regulation; confirm current eCFR date at adoption	Both
City of Lewes Code Ch. 197, Sec. 197-73	Floodplain definitions, administration, permits, application contents, inspections, certifications, variance procedures, enforcement, freeboard	City of Lewes Code / eCode360	Floodplain Administrator/Building Official; Board of Adjustment for variances	March 1, 2015	Both
City of Lewes Code Ch. 70	Adopted Building Code and City amendments to flood load/flood-resistant construction provisions	City of Lewes Code / eCode360	Building Official/Floodplain Administrator	November 13, 2023	Both
2 CFR Part 200 / FEMA PA DRRA Sec. 1206	Procurement, documentation, and reimbursement requirements for federally reimbursed post-disaster code/floodplain administration work	eCFR - 2 CFR Part 200; FEMA PA Section 1206 policy	SD Manager; City finance/procurement; Floodplain Administrator	Applies when federal funding/reimbursement is sought	SD

III. Appeals/Variations

The City of Lewes provisions that regulate the appeals process for development in the floodplain and/or SI/SD are in its regulations. Due to the City of Lewes's adoption of floodplain provisions in the Zoning/Land Use Ordinance as well as its Building Codes, there is one appeal board for these regulations: The City of Lewes provisions that regulate SI/SD administrative review and floodplain variances are in City Code Sec. 197-73G and related Board of Adjustment provisions. This procedure shall distinguish between: (1) administrative reconsideration of SI/SD inputs, such as structure-only market value or actual cash value/cost of work; and (2) a floodplain variance request. Variance requests shall be processed by the City of Lewes Board of Adjustment and must satisfy federal and local variance criteria. Authority: 44 CFR 60.6; City of Lewes Code Sec. 70-65, 197-73G, and 197-90.

1. Board of Adjustment.

- I. Appeals based on the City of Lewes Land Use Ordinance.
- II. Appeals based on the flood provisions in the Building Code.

IV. Permit Process - for development in the floodplain (including SI)

The City of Lewes has a process for all development in the floodplain, including existing structures that must be assessed for substantial improvement. The process is:

1. All development in the floodplain requires a permit to be obtained through the City of Lewes Building Department. Development includes construction, reconstruction, repair, alteration, addition, rehabilitation, filling, grading, site improvements, utility work, manufactured home placement/replacement, storage tanks, watercourse alteration,

SI/SD Admin Procedures

and other development wholly or partially within an identified SFHA. No permit shall be issued until City floodplain requirements and applicable flood-resistant construction provisions are met. Authority: 44 CFR 60.3; City of Lewes Code Sec. 197-73C(3) and C(5).

2. The City of Lewes Building Department/Floodplain Administrator will review the permit and determine if the proposed work constitutes Substantial Improvement. The review shall be documented in the property/permit file before permit issuance. Documentation shall include the worksheet, structure-only market value source, actual cash value/cost documentation, scope of work, photographs when applicable, prior related permits, and the written determination.
3.
 - A Substantial Improvement/Substantial Damage review worksheet shall be completed for work on an existing structure in the SFHA whenever the Floodplain Administrator or Designee needs information to determine whether the work constitutes SI/SD, including improvements, additions, repairs, alterations, rehabilitation, reconstruction, phased work, multiple-permit work, and damage repairs.
 - A 40% ratio may be used only as an internal enhanced-review trigger. It shall not be treated as an exemption from SI/SD review for work below 40%, and it shall not replace the federal/City 50% SI/SD determination threshold unless the City formally adopts a lower threshold by ordinance.
 - ~~If it is determined that the improvement on the structure exceeds the value of the structure by 50% it will be deemed substantially improved and must meet all current floodplain regulations set forth in the Land Use Ordinance and Building Codes.~~ If the actual cash value/cost of proposed improvement work equals or exceeds 50% of the structure-only market value before improvement or repair is started, the structure is substantially improved and must meet all currently adopted City floodplain regulations and applicable flood-resistant construction provisions. Authority: 44 CFR 59.1; City of Lewes Code Sec. 197-73B.
 - ~~Building Department/Floodplain Administrator will issue notice to applicants~~ The Building Department/Floodplain Administrator shall issue a written SI/SD determination or written request for additional information to the applicant and shall maintain the notice in the property/permit file.
 - All plans for SI/SD structures shall demonstrate compliance with City Code Sec. 197-73, Chapter 70 flood-resistant construction requirements, freeboard/elevation requirements, V-zone requirements where applicable, floodway/no-rise requirements where applicable, and the City Construction Certificate Management Procedures for required Elevation Certificates, Floodproofing Certificates, V Zone design certificates, and engineered flood opening certifications.
 - If the applicant needs additional information or would like to contest the market value (tax value) or improvement value (cost per square foot) they can schedule a meeting with the Building Department/Floodplain Administrator and/or submit the information following the policy above. If the applicant requests reconsideration of the SI/SD inputs, the applicant may submit documented evidence of the structure-only market value or actual cash value/cost of improvement or repair. Acceptable evidence may include a qualified appraisal that separates structure value from land, itemized contractor estimates, design professional estimates, or other documentation accepted by the Floodplain Administrator. The reconsideration shall be documented in writing; it is separate from a floodplain variance request.
 - If it is determined that the improvement of the structure does NOT exceed the value of the structure

by 50% it will be deemed non-substantially improved. The proposed work can proceed as proposed and a permit will be issued. But if the scope, materials, or budget changes then a new or revised permit application must be submitted. If the actual cash value/cost of the proposed work does not equal or exceed 50% of the structure-only market value, the work is not SI/SD for that determination. A non-SI/non-SD finding does not waive any other applicable City, state, federal, zoning, building-code, floodplain, floodway, V-zone, utility, certificate, inspection, or permit requirement. If the scope, materials, construction method, or budget changes, the applicant shall submit a revised application and updated SI/SD documentation before proceeding.

4. When a building permit is required, flood provisions found in the IRC and IBC are reviewed. See here for Building Permit Application (Insert link to building department website) When a building permit or floodplain development permit is required, the Floodplain Administrator/Building Official shall review applicable flood provisions in the adopted IBC, IRC, ASCE 24, City amendments, City Code Sec. 197-73, and Chapter 70.

V. Method for Determining Market Value of Structures

The City of Lewes has a methodology for determining the market value of substantially improved structures. The primary method used for determining market value of substantially improved structures is:

The City of Lewes shall use a documented, consistent methodology for determining the structure-only market value of existing structures before the improvement is started or before damage occurred. The value shall exclude land, contents, landscaping, site improvements, and detached accessory items not part of the structure being evaluated, and other non-structure value unless the Floodplain Administrator or Designee documents why inclusion is required by the applicable regulation.

- County will use the most recent "improvements" value on the Sussex County, DE of Assessment and Taxation website. (Insert link to website here)
 - Primary method: use the current Sussex County Assessment Department structure/improvement value for the structure only, adjusted or supplemented as necessary to reflect current market conditions and the pre-improvement/pre-damage condition.
 - For more than one structure on a parcel the Building Department/Floodplain Administrator will contact the Assessment Office to get the value of a specific structure.
 - For multiple structures on one parcel, the property file shall document the structure-specific value used for the structure under review and the source of that value.
 - If the applicant would like to contest the Tax Assessment Value, they may procure their own appraisal.
 - If the applicant contests the structure-only value used by the City, the applicant may submit an appraisal or other valuation documentation acceptable to the Floodplain Administrator.
 - **Must be within the last 12 months**
 - The appraisal or valuation documentation should be dated within 12 months of the application or have an effective date that reflects the pre-improvement or pre-damage condition, as accepted by the Floodplain Administrator or Designee.
 - **Appraisal reports should include:**
 - Appraisal or valuation reports shall include, at minimum:
 - **Intended users, including the property owner, who can then submit it as part of a permit application.**
 - Intended users, including the property owner and the City of Lewes, for SI/SD review purposes.
 - **Must reflect the value of the property before any renovation or alterations**
 - The structure-only market value before the improvement, repair, alteration, or damage occurred.
 - **Separate the market value of a structure from the value of the land**
 - A clear separation of the structure value from land value and non-structure site improvements.
 - **Market Approach must be utilized**
 - A recognized valuation approach appropriate for the structure and assignment, with

methodology, assumptions, comparable data if used, appraiser license/certification information, and signature.

VI. Method for Determining Cost of Improvement

~~The City of Lewes has a methodology for determining the cost of improvement of structures. The primary method used for estimating cost of improvement is:~~

The City of Lewes shall use a documented methodology for determining the actual cash value/cost of proposed improvement work for SI review. The cost shall include all work necessary to complete the proposed scope, whether performed under one permit, multiple permits, owner labor, donated labor, donated materials, or phased construction.

- ~~▪ Itemized costs estimate from a licensed contractor or design professional. Primary method: require an itemized cost estimate from a licensed contractor, design professional, or other qualified professional acceptable to the Floodplain Administrator or Designee.~~
- ~~○ Substantial Improvement/Substantial Damage Desk Reference (fema.gov) Cost estimate shall include an itemized list of the items found in 4-5 to 4-7 of the Substantial Improvement/Substantial Damage Desk Reference (fema.gov)~~

The cost estimate shall include, at minimum, structural work; interior and exterior finishes; demolition, debris removal, moving or altering building components; electrical, plumbing, mechanical, HVAC, utility and service equipment; built-in appliances and fixtures; construction management and supervision; contractor overhead and profit; labor; materials; and any other work necessary to complete the proposed improvement unless specifically excluded by federal, state, and City rules.

 - ~~▪ Labor must be included, and CANNOT be volunteered, discounted, or donated. Labor and materials must be included at market value. Owner labor, volunteer labor, donated labor, discounted labor, donated materials, and discounted materials shall not be excluded from the SI/SD cost calculation; they shall be valued at local market rates appropriate for the work.~~
 - ~~▪ Itemized estimates must be signed by a licensed professional attesting that the information provided is accurate. Intentional underreporting, segmented permits, or omitted scope may result in permit denial, enforcement action, stop-work orders, revised SI/SD determinations, or withholding of final approval.~~
 - ~~▪ Electric and Plumbing Permits are obtained through Lewes BPW or Appropriate Agency; but for the purposes of SI, must be included in the cost on a Floodplain Permit Application. Electrical, plumbing, mechanical, utility, and service-equipment work, including work permitted through Lewes BPW or another appropriate agency, shall be included in the SI/SD cost calculation when part of the proposed improvement or repair scope.~~
- ~~▪ If the Floodplain Administrator or Designee doesn't agree with estimate provided, they may at their discretion use the most recently published International Code Council – Building Valuation Data: [Building Valuation Data - ICC \(iccsafe.org\)](http://www.iccsafe.org) to determine a value of work based on building types and square footage impacted by proposed work. If ICC Building Valuation Data or another cost guide is used, the property file shall document the building type, occupancy, square footage, affected area, valuation table/date, assumptions, and why the Floodplain Administrator or Designee selected that method.~~
- ~~▪ Phased work and/or multiple permits

 - ~~○ Multiple Permits: The City issues separate one permit for all systems. Therefore, the applicant must provide the combined value of all the proposed work to make a substantial improvement/damage determination.~~

Multiple permits: The applicant shall disclose and the Floodplain Administrator or Designee shall evaluate the combined value of all related work on the structure, including building, trade, utility, demolition, repair, addition, and related permits, when determining whether the cumulative cost equals or exceeds the SI/SD threshold.~~

SI/SD Admin Procedures

- Phased Improvements: The term “phased improvement” refers to a single improvement that is broken into parts. For several reasons, an applicant may wish to schedule anticipated improvements over a period of time, and they may request separate permits for each phase. The Floodplain Administrator or Designee, at its discretion, will ensure that phased improvements do not circumvent the substantial improvement requirements. Phased or segmented work shall be reviewed to determine whether the phases are part of a single improvement, related scope, or common plan of development. The City shall not allow applicants to divide work into separate permits to avoid SI/SD compliance.
 - ~~The Building Department/Floodplain Administrator will consider permits issued in the previous 12 months to determine SI.~~ The Floodplain Administrator or Designee shall evaluate previous and related permits as required by the City definition of substantial improvement and by City Code Sec. 197-73C(4)(a)[7]. A 12-month review period may be used as an administrative screening minimum, but it shall not be treated as a legal ceiling if the City Code requires cumulative review or if phased/related work would otherwise circumvent SI/SD requirements.

VII. Method for Determining Cost of Damage/Repair

~~The City of Lewes has a methodology for determining the cost of damage/repair of structures. The primary method used for estimating cost of improvement is:~~

The City of Lewes shall use a documented methodology for determining the actual cash value/cost of all work necessary to repair and restore the damaged structure to its before-damaged condition, regardless of the amount of work the owner elects to perform.

- ~~The City of Lewes will first use the Preliminary Damage Assessment “destroyed” category – waterline at the roofline or higher or complete failure of two or more major structural Preliminary Damage Assessment (PDA) categories may be used for triage and inspection prioritization only. A “destroyed” category may create a rebuttable presumption for immediate enforcement and notice purposes, but final SD determinations shall be address-specific and documented with structure-only market value, repair/restoration cost, inspection notes, photographs, and written notice to the owner.~~
~~components (e.g., collapse of basement walls, foundation, walls, or roof) to determine structures are substantially damaged:~~
- ~~Building Valuation Data – ICC(iccsafe.org)~~ For properties not deemed “destroyed” the City will use most recently published International Code Council – Building Valuation Data: Building Valuation Data – ICC (iccsafe.org) to determine a value of repair based on building types and square footage of damage. For properties not triaged as destroyed, the City may use FEMA SDE, ICC Building Valuation Data, qualified estimates, insurance/adjuster information, inspection data, or other objective cost methods accepted by the Floodplain Administrator or Designee to estimate the cost to repair and restore the structure to its before-damaged condition. The selected method and assumptions shall be documented in the property file.
- If an owner would like to appeal the damage/repair value, then they can provide an itemized cost estimate from a licensed contractor or design professional. ~~Owner-submitted repair estimates must cover the full cost to restore the structure to the before-damaged condition, even when the owner proposes partial repairs or elects not to perform all required work.~~
 - ~~Substantial Improvement/Substantial Damage Desk Reference (fema.gov)~~ ~~Cost estimate shall include an itemized list of the items found in 4-5 to 4-7 of the Substantial Improvement/Substantial Damage Desk Reference (fema.gov)~~

The cost estimate shall include all repair/restoration work and associated labor, materials, demolition, structural elements, interior/exterior finishes, utilities, mechanical/electrical/plumbing, service equipment, construction management/supervision, overhead, and profit unless specifically excluded by federal, state, and City rules.

- ~~Labor must be included, and CANNOT be volunteered, discounted, or donated. Labor and materials must be included at market value. Owner labor, volunteer labor, donated labor, discounted labor, donated materials, and discounted materials shall not be excluded from the SD cost calculation; they shall be valued at local market rates appropriate for the work.~~
- Itemized estimate must be signed by licensed professional attesting that the information provided is accurate.

VIII. Substantial Damage – Procedures

~~When a flood disaster strikes there are many damage assessments that occur by a variety of federal, State, local, and other organizations to determine response and recovery needs. However, Substantial Damage Inspections are required by locally adopted regulations, usually found in the building codes, that require the Community’s Building Official/Floodplain Administrator to make determination of whether a structure is damaged more than 50% of its market value. These SD inspections are required to occur on all structures in the Special Flood Hazard Area (SFHA) and occur when any damage happens. This could be damage attributed to flood, wind, tornado, earthquake, tree, vehicle, fire, etc. Below are the procedures to follow to implement Substantial Damage Determinations: When a disaster or damage event occurs, several assessments may be performed for response, recovery, insurance, or disaster-declaration purposes. Those assessments do not replace the City SI/SD determination. The Floodplain Administrator or Designee shall determine whether an existing structure in the SFHA has sustained damage of any origin where the cost to restore the structure to its before-damaged condition equals or exceeds 50% of the market value of the structure before the damage occurred. SD determinations apply to damage caused by flood, wind, tornado, earthquake, tree impact, vehicle impact, fire, or any other origin. Authority: 44 CFR 59.1; City of Lewes Code Sec. 197-73B and 197-73C(2)(o)(p).~~

1. Roles/Responsibilities

~~The City of Lewes has a variety of internal staff involved in substantial damage. The Substantial Damage Manger for the City is the Building Official and/or the Floodplain Administrator. The City of Lewes has a variety of internal staff involved in substantial damage administration. The Substantial Damage Manager for the City is the Building Official and/or Floodplain Administrator, who may delegate tasks to qualified staff or contractors but remains responsible for documented SI/SD administration under City Code and NFIP participation requirements.~~

Responsibility	Title(s) of Staff	Office or Department	Before/Immediately After/ After Event
SD Manager	Building Official/Floodplain Administrator or designee	Building Department	ALL
Maintaining SD Admin Procedure	Building Official/Floodplain Administrator or Designee	Building Department	BEFORE

SI/SD Admin Procedures

Identifying Impact area(s)	Police/Fire Building Official/Floodplain Administrator Building Inspectors/Code Enforcement Road Crews (BPW/Maintenance)	Office of Emergency Services Building Department Department of Public Works Police/Fire Maintenance Office of Emergency Services; Building Department; Lewes BPW/Maintenance; Police/Fire; Public Works or other City departments as assigned	IMMEDIATELY AFTER
Coordinating with community departments, including fire, police, and emergency services, planning, and building	Mayor, City Manager, Police/fire, Building Official, Lewes BPW	Office of Emergency Services, Mayor, City Manager, Police/Fire, Lewes BPW, Building Official	IMMEDIATELY AFTER

Responsibility	Title(s) of Staff	Office or Department	Before/Immediately After/ After Event
Organizing and training staff	Floodplain Administrator or Designee	Building Department	IMMEDIATELY AFTER
Communicating with Public – repair/rebuild permits, SD, and reporting damage	Public Information Officer	City Manager or Designee	AFTER (< 2 days)
Conducting Preliminary Damage Assessments (PDA's)	All staff	Building Department	AFTER (< 3 days)
Conducting SD Inspections	Building Official, Floodplain Manger, Building Inspectors	Building Department	AFTER (< 7 days)
Making SD determinations	Building Official/Floodplain Administrator or Designee	Building Department	AFTER (< 7 days)
Issuing SD Determinations	Floodplain Administrator or Designee	Building Department	AFTER (< 7 days)
Managing appeals/variances	N/A	Building and Planning Department	AFTER

Permitting for repairs and rebuilding	N/A	Building Department	AFTER
Maintaining SD Data	N/A	Building Department	AFTER
Recording Costs & SD Activities	N/A	Building Department/City Staff	AFTER (< 180 days)

2. Impact Area(s)

- Delaware Bay to the Lewes – Rehoboth Canal.
- Canary Creek.
- Pilottown Rd’
- Donovan Smith Trailer Park.

~~A process for determining the impact area post-disaster can be found here:~~
 A process for determining the impact area post-disaster shall be maintained by the Floodplain Administrator and Emergency/OES coordinator and shall include maps, addresses, inspection areas, staffing assignments, safety protocols, and documentation procedures.

- For flood damage:
 - ~~The City of Lewes Building Official/Floodplain Administrator will identify where flood damage has occurred throughout the County’s identified SFHA. There are a variety of distinct post-disaster assessments/inspections other than SD, and other teams should be coordinated as needed. For example, the~~ The City of Lewes Floodplain Administrator or Designee will identify where damage has occurred throughout the City’s identified SFHA. Distinct post-disaster assessments/inspections other than SD may be conducted for emergency response, disaster declaration, or assistance purposes, and other teams should be coordinated as needed. For example, the ~~Office of Emergency Services will likely conduct Preliminary Disaster Assessments (PDA’s) for the purposes of a disaster declaration. These assessments are not substantial damage determinations but can be used by the County to identify damaged areas.~~ Office of Emergency Services or emergency management partners may conduct Preliminary Damage Assessments (PDAs) for disaster-declaration or response purposes. These assessments are not SI/SD determinations but may be used by the City to identify damaged areas, prioritize inspections, and document address-specific impacts.
 - Other sources:
 - ~~Department Board~~ of Public Works staff will report damage to the Floodplain Administrator or Designee.
 - Monitor local news reports and National Weather Service.
 - 7-Day Forecast [39.95N 75.3W 38.77N 75.14W](#) (weather.gov)
 - ~~FEMA and MDEM updates~~ FEMA and Delaware emergency-management updates, including DNREC/FEMA floodplain guidance when applicable.
- For fire damage:
 - ~~The County Fire Departments respond, and applicants seek permits to rebuild~~ The responding fire department(s) and City Building Department shall coordinate so damaged structures in the SFHA are flagged for permit review

before repair, rehabilitation, reconstruction, or rebuilding begins.

- For other damage, not limited to wind, vehicles, trees, etc., the Building Inspector(s) will be notified through a permit application. **When the City becomes aware of damage through complaints, emergency calls, inspections, utility disconnects, insurance inquiries, or other sources, the Floodplain Administrator or Designee shall determine whether an SD review is needed before repair work proceeds.**

3. Training/Resources

Providing pre/post-disaster training ensures that staff know what to do after an event. Applicable training can be delivered by the community, State, or FEMA, and include, but are not limited to [Independent Study \(IS\)-284: Using the SDE Tool](#); [IS-285: SDE for Floodplain Administrators](#); [E/L/G273: Managing Floodplain Development Through NFIP](#); [E/L/G 284: Advanced Floodplain Management Concepts SI/SD Module](#); and [E/L/G 194: Advanced Floodplain Management Concepts](#); [E/L/G 285: Providing Post-Disaster SD Technical Assistance to Communities](#). Information on classroom and field courses offered by FEMA can be found here: [FEMA - Emergency Management Institute \(EMI\)](#).

The city will also assure that staff have been trained on these materials:

- I. City of Lewes Hazard Mitigation Plan.
- II. City of Lewes Emergency Response Plan.
- III. FEMA P-758 SI/SD Desk Reference: [Substantial Improvement/Substantial Damage Desk Reference \(fema.gov\)](#).
- IV. City of Lewes SI/SD Administrative Procedures.
- V. **Staff training should also include the City Construction Certificate Management Procedures, FEMA SDE procedures, current City Code Sec. 197-73 and Chapter 70 amendments, documentation standards, notice templates, enforcement procedures, and DRRR Section 1206 cost documentation requirements.**

4. Public Outreach

The City of Lewes has a strategy and associated products for immediate post-disaster public communications. Having these documents prepared prior to an event will avoid confusion and stress immediately following an event.

- I. City of Lewes Webpage.
- II. Social Media Post.

SI/SD Admin Procedures

The following communications methods are used for immediate post-disaster communication to the public:

- ~~County hall meetings~~
City public meetings, community meetings, or post-disaster applicant information sessions.
- ~~Community website~~
- ~~City website~~
- Social media (Facebook)
- Public Service Announcements (PSAs) on radio
- OES – Code Red notification system
- Handouts, newsletters, brochures, mailers, info kiosks available to residents
- Public outreach shall clearly state that owners of damaged structures in the SFHA must obtain required permits before repair, rehabilitation, reconstruction, or rebuilding; that temporary emergency protective measures are limited to securing property or preventing additional damage; and that unpermitted or noncompliant repair work may be subject to enforcement.

5. Inspections

City of Lewes inspections will be conducted by City Building Code/Inspection staff - when safe - to inspect damaged properties and collect SD data. If needed the city will enter a contract with its 3rd party engineer to assist in SD inspections. Inspections will be documented on an SD Worksheet. Inspection documentation shall include address, parcel number, flood zone, inspector, date/time, observed damage, photographs, safety limitations, source of market value, repair/restoration-cost method, and whether immediate notice or stop-work/enforcement action is needed.

~~In some cases, County Emergency Management Staff will have provided the Building Department its preliminary disaster assessment (PDA) information, which will be categorized by:~~

In some cases, emergency management partners may provide the Building Department with Preliminary Damage Assessment (PDA) information, which may be categorized by:

- Affected – property damage due to floods (no flood waters in structure)
- Minor - less than 18” of water on lowest living floor (below ~~receptacles electrical outlets~~)
- Major - more than 18” of water on lowest living floor (above ~~receptacles electrical outlets~~)
- ~~Destroyed – structures completely flooded up to ceiling, moved off foundation, not on site anymore~~
Destroyed - structure completely flooded up to ceiling, moved off foundation, no longer on site, collapsed, or otherwise presenting damage indicators requiring immediate SD review.

~~For the purposes of SD determinations during a wide-scale event, the City will deem any “destroyed” properties as SD. Inspectors shall prioritize any structure categorized as major and minor for SD inspections. But follow-up with other properties as time allows.~~ For wide-scale event triage, the City may presume properties categorized as "destroyed" require immediate SD notice and enforcement controls. Final SD determinations shall be address-specific and supported by documented market value, repair/restoration cost, inspection information, photographs, and written determination. Inspectors should prioritize structures categorized as major and minor for SD inspections and follow up with other affected properties as resources allow.

- Note that PDA data must follow the categories above and be documented to a specific address and include photographs. PDA data shall not be used as the sole basis for a final SD determination unless the Floodplain Administrator or Designee documents why the available evidence is sufficient under the City procedure and applicable law.

How many days? (For a wide-scale event)				
872	X	0.0625	=	54.5 days
		(Time to assess each building – 30 mins)		
Note: Calculation doesn't include travel time and assumes 8-hour days.				

For the City to complete SD Inspections in 7 days we'll deploy 9 inspectors, currently 4 inspectors on staff. To accomplish this the City will **maintain a scalable staffing plan identifying City staff, mutual aid, qualified contractors, inspection teams, training prerequisites, procurement method, documentation requirements, and reimbursement tracking before an event.**

6. SI/SD Determinations

After staff have conducted inspections and collected data, the Floodplain Administrator or Designee will make SI/SD determinations, and document on the [SD Worksheet](#). The methods above (Method to Determine Market Value and Method to Determine Value of Damage/Repair) will be used to determine the market value and value of damage/repair. On the worksheet, the Floodplain Administrator or Designee will calculate the % damaged and maintain a record in the property file. **Each final determination shall include the formula used, structure-only market value source, repair/restoration cost source, percentage calculation, photographs or inspection notes where applicable, determination date, notice date, preparer/reviewer, and any reconsideration or variance documents. Maintain the record permanently or as required by the more protective federal, City, and state records-retention requirement.**

7. Issuing Determinations

Communicating SI/SD determinations to affected property owners is required by City regulations. Determinations are a necessary step to issuing permits for compliant rebuilding and are a requirement for administering a compliant floodplain management program in the City of Lewes. **The City will issue immediate public information after a damage event advising that permits are required before repair, rehabilitation, reconstruction, or rebuilding in the SFHA. Address-specific written determinations should be issued as soon as the Floodplain Administrator or Designee completes the documented calculation and review.**

In flood events SD Determinations are needed by property owners who maintain flood insurance through the NFIP and would like to access [Increased Cost of Compliance \(ICC\)](#) coverage. The Floodplain Administrator or Designee is responsible for issuing these determinations.

City of Lewes procedure for communicating the results of the SI/SD determinations to structure owners. The following methods are utilized:

- Letter to structure owners/residents
- Paper handed directly to the structure owner/resident
- Post the determination at a physical place on the property

Letter templates and documents used to notify residents of determinations can be found here:

- Notice of Substantial Damage
- **Notice of Non-Substantial Damage.**
- **Letters shall be issued as soon practicable after the City completes the documented SI/SD determination. Authority: City of Lewes Code Sec. 197-73C(2)(p).**

8. Appeals/Variances

~~The City of Lewes has a process and other supporting materials for receiving, reviewing, and making decisions on appeals or requesting variances. The process and materials can be found here:~~
The City of Lewes shall maintain written procedures and forms for: (1) administrative reconsideration of SI/SD market value or improvement/repair cost inputs; and (2) floodplain variance requests to the Board of Adjustment.

- ~~If a property owner receives a notice of "Substantial Damage" or "Non-Substantial Damage" and disagrees with the market value and/or damage/repair value, you can contact the Building Official/floodplain administrator to discuss the submission of the following documentation:~~
If a property owner receives an SI/SD determination and disagrees with the structure-only market value or actual cash value/cost of improvement or repair, the owner may contact the Floodplain Administrator or Designee and submit written documentation for administrative reconsideration. A variance request is separate and must comply with City Code Sec. 197-73G and 44 CFR 60.6.

9. Permitting for Repairs and Rebuilding

Issuing permits is a regular part of floodplain management but is especially important following a disaster. Repairing and rebuilding SD structures in compliance with local regulations is critical to maintaining good standing in the NFIP and protecting structure owners from future disasters. Below are the City's permitting procedures during blue skies, applicable to substantial improvement projects, and post-disaster/ emergency permitting procedures.

- ~~The City of Lewes will conduct periodic inspections of damaged properties after a disaster to ensure permits are being obtained for repair and rebuilding. In the case of properties deemed substantially damaged the City will coordinate with utility companies to ensure utilities are not restored until County permits are obtained.~~
The City of Lewes will conduct periodic inspections of damaged properties after a disaster to ensure required permits are obtained for repair and rebuilding. For properties deemed substantially damaged, the City should coordinate with Lewes BPW, utility providers, and appropriate agencies to prevent unsafe or noncompliant utility restoration until required City permits, inspections, and approvals are obtained.

a. SD Data

~~The City of Lewes process for documenting and storing SD determination data can be found here:~~
The City of Lewes process for documenting and storing SD determination data is as follows:

- ~~The Building Department will maintain this data (SD Worksheets, Letters, etc.) in its property/inspection records and will be maintained by the Building Official/Floodplain Administrator.~~
The Building Department/Floodplain Administrator shall maintain SI/SD records in the property/inspection records and the City floodplain permit records. Records shall include worksheets, applications, scope descriptions, market value documentation, cost estimates, owner/contractor affidavits, photographs, inspection notes, determinations, notices, reconsideration records, variance applications/decisions, permits, enforcement records, Elevation Certificates, Floodproofing Certificates, V Zone design certificates, engineered flood opening certifications, final inspection records, and certificates of occupancy or final approvals. Cross-reference and follow the City Construction Certificate Management Procedures for required floodplain-related certificates.

b. Monitoring

Finally, once the city returns to blue sky operations, it is important to reflect on what went well and what could be improved. Tracking best practices and evaluating things like response times, staff needs and more can highlight opportunities to respond faster and stronger next time.

A process for (i.e., implementation plan) for evaluating and continuously improving these substantial damage administrative procedures is maintained by the Floodplain Administrator or Designee and is updated yearly in April.

After each activation or major SI/SD workload, the Floodplain Administrator or Designee should conduct an after-action review covering staffing, inspection timeframes, documentation quality, notice timing, public outreach, permit compliance, enforcement, reimbursement documentation, and needed ordinance/procedure updates.

c. Record Costs and Track SD Activities (only applies to federally declared disasters)

Recording costs and tracking SD activities may be necessary to obtain resources or reimbursement for disaster response, such as through FEMA Public Assistance reimbursement for activities made eligible by DRRRA Section 1206 or other grants and funding sources. Before using contract labor, mutual aid, or federally reimbursed services, coordinate with City finance/procurement staff so procurement and records comply with 2 CFR Part 200 and FEMA Public Assistance requirements.

- DRRRA Section 1206 funding defines a period of eligibility to be no longer than 180 days after the date of a major disaster declaration. FEMA does not have the authority to extend this deadline. See Section A, Applicability, of the Building Code and Floodplain Management Administration and Enforcement Policy for more information.
 - ~~To receive reimbursement, communities must submit all supporting documentation necessary to demonstrate the work completed and the location of the work; all documentation associated with work completed through Emergency Mutual Assistance Compact (EMAC) resource request or intrastate/interlocal mutual aid request; and, if work was performed by contract labor, all documentation demonstrating federal procurement rules in 2 Code of Federal Regulations Part 200 were followed.~~ To support reimbursement, the SD Manager shall maintain address-level and cost-level documentation showing: work performed; location of work; dates; staff time; equipment; materials; mutual aid or EMAC documentation; contracts; procurement method; competition or emergency/exigency justification; contractor oversight; invoices; payment records; cost or price analysis where required; procurement history; and documentation showing compliance with 2 CFR Part 200 procurement standards when contract labor is used.

The SD Manager will be responsible for coordinating and submitting for reimbursement.

- Reimbursement files shall be retained with disaster finance records and cross-referenced to SI/SD inspection/determination files. The Floodplain Administrator or Designee should not rely on reimbursement documentation alone as proof of SI/SD compliance; the property file must still contain the address-specific determination record.

Appendix

- Forms:
 - SI/SD Worksheet
 - Homeowners Application Affidavit Agreement
 - Contractor Affidavit Substantial Improvement

SI/SD Admin Procedures

- Letters:
 - Letter of SD
 - Letter of Non-SD
 - Letter of SI
 - Letter of Non-SI

PROPOSED APPENDIX A - REFERENCES AND AUTHORITIES

- 44 CFR 59.1 - NFIP definitions of substantial damage, substantial improvement, variance, and violation.
- 44 CFR 59.22(a)(9)(iii) - community commitment to maintain public inspection and furnish elevation and floodproofing information for insurance-rating purposes.
- 44 CFR 59.24 - probation/suspension risk when a community fails to adequately enforce floodplain management regulations.
- 44 CFR 60.3 - minimum floodplain management criteria, including permits, review of required federal/state permits, flood-resistant construction, elevation/floodproofing records, floodway/no-rise, and coastal high hazard area standards.
- 44 CFR 60.6 - floodplain variance procedures and record/report requirements.
- 2 CFR Part 200, including Secs. 200.318 through 200.320 and 200.324 - procurement procedures, competition, procurement methods, procurement history, and cost/price analysis for federally funded work.
- City of Lewes Code Sec. 70-65 - Establishment of appeals process.
- City of Lewes Code Sec. 197-73B - definitions of substantial damage, substantial improvement, and violation.
- City of Lewes Code Sec. 197-73C - Floodplain Administrator duties, permits required, application contents, review/approval/disapproval, inspections, records, and notice to owners of substantially damaged structures.
- City of Lewes Code Sec. 197-73G - Board of Adjustment floodplain variance provisions.
- City of Lewes Code Sec. 197-73H - enforcement, notices of violation, and penalties.
- City of Lewes Code Sec. 197-73I and City Code Chapter 70 - freeboard and adopted flood-resistant construction provisions, including City amendments to flood load/elevation requirements.
- City of Lewes Code Sec. 197-90 - Application and public hearing.
- FEMA P-758, Substantial Improvement/Substantial Damage Desk Reference, and FEMA SDE guidance - technical guidance for documentation and SI/SD calculation methods.
- City of Lewes Construction Certificate Management Procedures, May 1, 2025 - local procedure for Elevation Certificates, Floodproofing Certificates, V Zone design certificates, and engineered opening certificates.

PROPOSED APPENDIX B - REVISED CITY OF LEWES SI/SD WORKSHEET

Section	Required information/documentation
Property / permit	Owner; applicant; address; tax parcel; permit number; structure type; flood zone; FIRM panel/date; BFE; design flood elevation/freeboard requirement; description of all proposed or repair work.
Market value	Structure-only market value before improvement or before damage occurred; source; date/effective date; land value excluded; multiple-structure parcel documentation.
Cost of work / repair	Actual cash value/cost of all proposed improvement work or all work necessary to repair/restore damage to before-damaged conditions, regardless of work actually performed. Include labor, materials, donated/discounted labor/materials at market value, MEP/utility work, demolition, finishes, overhead, and profit.
Formula	SI/SD ratio = Cost of improvement or cost to repair/restore / structure-only market value x 100. SI/SD if ratio equals or exceeds 50%, unless a lower threshold is formally adopted by ordinance.
Prior / phased work	List previous, related, phased, or multiple permits and determine whether cumulative costs must be included under City Code and this procedure.
Determination	Substantial Improvement; Substantial Damage; Not SI/SD; Additional information required; Reconsideration pending. Include determination date and official signature.
Attachments	Cost estimate; appraisal/assessment source; photos; inspection notes; owner/contractor affidavits; plans; certificates; notices; appeal/reconsideration/variance documents.

PROPOSED APPENDIX C - SI/SD FILE CHECKLIST

- Permit/floodplain development application and full scope of work.
- FIRM/flood zone, BFE, freeboard/design elevation, floodway/V-zone status, and map source.
- Structure-only market value source, effective date, and calculation method.
- Itemized cost estimate or repair/restoration cost method, including all required cost categories.
- Prior, related, phased, or multiple permits reviewed for cumulative-cost evaluation.
- Photographs, inspection notes, safety notes, and PDA/SDE data when applicable.
- Written SI/SD determination, notice date, delivery method, and any owner response.
- Administrative reconsideration materials, if submitted.
- Variance application, findings, decision, and written insurance-risk notice if applicable.
- Approved plans, permits, inspection records, certificates, and final approval/CO.
- Elevation Certificate, Floodproofing Certificate, V Zone certificate, engineered opening certification, or other technical certification as required by City procedure.
- Enforcement records, stop-work orders, notices of violation, or corrective actions if applicable.

PROPOSED APPENDIX D - NOTICE AND DETERMINATION TEMPLATE CONTROLS

- Notices should be retained permanently in the property/permit file with proof of delivery, owner response, reconsideration materials, variance records, and final compliance documentation.
- Substantial Damage notices should state that the determination is based on damage of any origin, and that repair, reconstruction, rehabilitation, or rebuilding may not proceed without required City permits and floodplain compliance review.
- Each determination notice should identify the property, permit/application number, flood zone, structure-only market value source, cost-of-work or cost-to-repair source, SI/SD ratio, determination, consequence of the determination, appeal/reconsideration instructions, permit requirements, and date of issuance.
- Use separate written templates for Notice of Substantial Improvement, Notice of Non-Substantial Improvement, Notice of Substantial Damage, Notice of Non-Substantial Damage, request for additional information, stop-work/hold notice, and variance/reconsideration acknowledgement.

PROPOSED APPENDIX E - DRRR SECTION 1206 / FEMA PA DOCUMENTATION CHECKLIST

- Major disaster declaration date and 180-day eligibility window documentation.
- Description of eligible building-code/floodplain-management administration and enforcement activities.
- Address-level list of inspections, determinations, notices, and permit/enforcement actions.
- Staff timesheets, labor rates, equipment, materials, and direct administrative costs.
- Mutual aid/EMAC requests, approvals, mission assignments, invoices, and work locations.
- Contracts, scope of work, procurement method, competition documents, emergency/exigency justification if used, contractor selection rationale, and contract price basis.
- Invoices, payment records, contractor oversight records, deliverables, and closeout documentation.
- Evidence of compliance with 2 CFR Part 200 procurement standards when federal reimbursement is sought.

FINAL(?) DRAFT REVISION

City of Lewes, DE

Thursday, April 30, 2026

Presented: 05/13/2026 - Ordinance Review Ad Hoc Committee

Chapter 63. Beaches

[HISTORY: Adopted by the City Council of the City of Lewes as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Community Events – See Ch. 80

Docks - See Ch. **86**.

Dogs on beaches - See Ch. **88**, Art. II. [See note below in § 63-6(B)]

Littering — See Ch. **121**.

Loitering — See Ch. **123**.

[Adopted 8-4-1947; amended 5-12-1980]

§ 63-1. Scope.

This Chapter provides guidance and restrictions for the usage of the City Beach as that term is defined in Section 63-2.

§ 63-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated.

- (a) CITY BEACH means any Delaware Bay shoreline within the City of Lewes including the Restricted Area, whether or not guarded.
- (b) PEAK SEASON means the Friday of Memorial Day weekend through and including September 30 of each year.
- (c) RESTRICTED AREA is the beach area encompassing the guarded area of the City Beach extending from a point 100 feet west of Savannah Road to a point 275 feet easterly from Georgia Avenue including a swimming area that shall extend offshore a distance of 300 feet. Buoys will mark the swimming area during the Peak Season. The Restricted Area includes the recreational areas now known as Savannah Beach and Johnnie Walker Beach.
- (d) RESTRICTED WATER EQUIPMENT means: (i) any hard-shell (plastic, wood, fiberglass, or metal) boat or raft, (ii) any inflatable capable of seating/carrying more than two people, and (iii) any motorized or wind-powered equipment for personal use of any kind. Examples include and are not limited to kayaks, canoes, stand up paddleboards, surfboards, row boats, sailboats, personal watercraft, efoils, underwater scooters, floating lounges, multi-

FINAL(?) DRAFT REVISION

person floating mats, and any like equipment that the lifeguard staff deems potentially dangerous to the user or a danger or nuisance to others.

- (e) RESTRICTED BEACH EQUIPMENT means any shelter or canopy closed on two or more sides, any shelter or canopy with metal legs or supporting structures, any shelter or canopy covering greater than 64 square feet, and any toy or game involving projectiles that the lifeguard staff deems potentially harmful.
- (f) SPECIAL EVENT means any public assembly or gathering of people which may, because of the location, time or anticipated number of persons involved, be reasonably expected to have a significant effect upon the ordinary use of the beach, public streets, rights-of-way, sidewalks, or any other public areas. By way of example and not in limitation, "special event" includes parties, weddings, bonfires, fairs, festivals, parades, bicycle rides/races, rallies, marches, processions, walking events, and concerts.

§ 63-3. Activities Prohibited or Regulated in Restricted Area During Peak Season.

A. During the Peak Season, the following activities are prohibited within the Restricted Area:

1. Boating.
2. Crabbing, fishing, seining, or netting (larger than handheld nets).
3. Storage of personal items on the beach.
4. Use of any Restricted Water Equipment.
5. Use of any Restricted Beach Equipment.
6. Fires of any kind without a permit (see Section 63-6(E)).
7. Digging or causing a hole or trench deeper than 12 inches.
8. Preparing hot food by use of grills, hibachi, camp stoves, or other cooking equipment, with or without a bonfire permit.
9. Sale of any food, goods, or services without a permit or concession to do so.
10. Smoking of any tobacco or cannabis product, or use of any e-cigar/cigarette or vaping device.
11. Use of glass containers.

B. No dogs shall be allowed in the Restricted Area during the Peak Season, provided that nothing contained in this subsection shall prohibit any certified service animal or dog acting for any law enforcement agency, or acting for any branch of the U.S. armed forces. To the extent dogs are allowed upon the beach as aforesaid, the owner or person in control of such dog shall keep the dog under leash and shall carry and use a bag or other device to pick up and remove from the beach any excrement which said dog shall drop.

C. Lifeguards may take reasonable actions to restrict activities or equipment for the protection of wildlife.

§ 63-4. Lifeguard Discretion and Enforcement.

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- A. Any lifeguard on duty may require the movement away from the shoreline or elsewhere on the beach of any beach equipment or shelter that is otherwise permitted if the lifeguard determines that it may obstruct the lifeguard's view of the water or would otherwise impede the ability to perform lifeguarding duties.
- B. The Captain of the Lewes Beach Patrol is hereby authorized to exercise reasonable discretion to determine and declare the beach and surf area within the City of Lewes closed due to unsafe weather, tide, surf, water conditions, or any other hazard or unsafe situation as determined by the Captain. The Captain is further authorized to enforce all beach rules, regulations, and ordinances adopted by the City of Lewes or otherwise applicable to the beach and surf area. The term "Captain," as used herein, shall also include a deputy or acting Captain as designated by the Captain of the Lewes Beach Patrol.

§ 63-5. Activities Prohibited on All City Beaches During Peak Season

- A. Fishing. In addition to the restriction stated in Section 63-3(A)(2), it shall be unlawful during the Peak Season for any person or entity to engage in fishing on that portion of the City Beach extending from the eastern boundary of the development known as "Pilot Point" to 340 feet eastward of the westerlymost boundary line of the property of Lewes Yacht Club from 8:00 a.m., prevailing time, until 6:30 p.m., prevailing time.
- B. Horses. It shall be unlawful for any person to ride, walk, or exercise a horse upon any City Beach during the Peak Season.

§ 63-6. Activities Prohibited or Regulated on All City Beaches Year-Round

- A. At any date and time, and on any City Beach, the following activities are prohibited:
 - 1. Fires of any kind without a permit (see Section 63-6(E)).
 - 2. Within 300 feet of the shoreline, operating a jet-ski or other personal watercraft defined by the U.S. Coast Guard as a Class A inboard vessel.
- B. Dogs. [\[Adapted from Chapter 88, Article II, section 88-9, which should be repealed together with section 88-10 to avoid conflicts and confusion.\]](#) In addition to the prohibition found in section 63-3(B) pertaining to dogs in the Restricted Area during Peak Season, it shall be unlawful for any person who is the owner or who has control thereof to permit or suffer any dog to go upon any City Beach without being attended by a person or persons responsible for the control of such dog; provided that nothing contained in this subsection shall prohibit any certified service animal or dog acting for any law enforcement agency, or acting for any branch of the U.S. armed forces. To the extent dogs are allowed upon the beach as aforesaid, the owner or person in control of such dog shall keep the dog under leash and shall carry and use a bag or other device to pick up and remove from the beach any excrement which said dog shall drop.
- C. Vehicles. It shall be unlawful for any person to operate or permit to be operated a motor vehicle, licensed or unlicensed, on any City Beach; provided, however, that nothing

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contained herein shall prohibit any motor vehicle of the City of Lewes, emergency vehicles, vehicles engaged in beach maintenance, repair, or improvement, including vehicles upon the beach making an inspection of the beach, and other motor vehicles authorized by the City of Lewes from being operated upon the beach or strand.

D. Hours. It shall be unlawful for any person to be on any City Beach between the hours of 12:00 midnight, prevailing time, until 6:00 a.m. the following morning, prevailing time; provided, however, that the provisions of this section shall not be applicable to any public official on the beach in his official capacity, any police officer in the performance of his official capacity duty, persons upon the beach engaged in beach repair, maintenance, improvement or inspection, or any person upon the beach because of any emergency.

E. Open Fires.

1. Fires Generally. It shall be unlawful for any person to openly burn or set fire, or to cause to have openly burned or permit to have openly burned, upon any City Beach any leaves, brush, wood, or other combustible matter. Fires contained within a fire ring or barrel (bonfire) may be permitted in accordance with an approved open fire permit.
2. Bonfires. It shall be unlawful for any person to have a beach fire (or bonfire) at any City Beach without receiving a permit and paying the fee required by the Parks and Marina Department in accordance with the instructions and forms provided by the City of Lewes. Permits can be purchased via the city website (www.ci.lewes.de.us).
3. Extinguishment and Cleanup. All fires must be extinguished and the beach cleaned up by 11:00 p.m. Fires may not be burned directly on the sand. All fires must be contained within a fire ring or barrel. All residue from the bonfire, including burned wood or coals, must be completely removed from the beach and disposed of in a fireproof receptacle and removed from the beach. It shall be unlawful for any residue from a fire to be buried, dumped in the bay, dunes, or any public trash receptacle.

§ 63-7. Special Events on the Beach.

It shall be unlawful for any person without a permit to conduct or assist in conducting a Special Event seaward of the dune line on any City Beach.

§ 63-8. Application for Special Event permit.

- A. Any person desiring to have a Special Event on a City Beach shall file an application with the Parks and Marina Department in accordance with the instructions and forms provided by the City of Lewes website (www.ci.lewes.de.us), responding to all questions therein, at least two business days prior to the date of the Special Event, and including payment of any permit fee specified therein.
- B. Upon the filing of the application, the Parks and Marina Department shall endorse approval upon the application, if it complies with this section and if in the Parks and

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Marina Department's judgment the proposed event is consistent with past uses of the beach and is not apt to disturb neighboring property owners or tenants. If the application is rejected, the Parks and Marina Department shall notify the applicant of the disapproval with the reason or reasons therefor.

§ 63-9. Enforcement.

Any person or entity violating a provision of this Chapter 63 may be subject to a fine of \$200. For a second or subsequent violation, any person or entity shall be subject to a fine of \$500 for each such violation. Each day that a violation of any of the provisions of this Chapter continues shall be deemed and taken to be a separate and distinct violation.

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CHAPTER 63 CROSS-REFERENCE GUIDE

11 December 2025

CURRENT CHAPTER 63	PROPOSED CHAPTER 63
	<p><i>New Section:</i></p> <p>63-1 Scope. This Chapter provides guidance and restrictions for the usage of the City Beach as that term is defined in Section 63-2(a).</p>
<p>63-1 Restricted area established. There is hereby established a restricted area within the City of Lewes which shall encompass the patrolled area of beach and shall extend offshore a distance of 300 feet, extending from a point 100 feet west of Savannah Road to a point 500 feet west of the westerly property line of Pilot Point.</p>	<p><i>Revised: All existing and new defined terms moved to a single Section 63-2.</i></p> <p>§ 63-2. Definitions.</p> <p>As used in this chapter, the following terms shall have the meanings indicated.</p> <p>(a) CITY BEACH means any Delaware Bay shoreline within the City of Lewes including the Restricted Area, whether or not guarded.</p> <p>(b) PEAK SEASON means the Friday of Memorial Day weekend through and including September 30 of each year.</p> <p>(c) RESTRICTED AREA is the beach area encompassing the guarded area of the City Beach extending from a point 100 feet west of Savannah Road to a point 275 feet easterly from Georgia Avenue including a swimming area that shall extend offshore a distance of 300 feet. Buoys will mark the swimming area during the Peak Season.</p> <p>(d) RESTRICTED WATER EQUIPMENT means: (i) any hard-shell (plastic, wood, fiberglass, or metal) boat or raft, (ii) any inflatable capable of seating/carrying more than two people, and (iii) any motorized or wind-powered equipment for personal use of any kind. Examples include and are not limited to kayaks, canoes, stand up paddleboards, surfboards, row boats, sailboats, personal watercraft, efoils, underwater scooters, floating lounges, multi-person floating mats, and any like equipment that the lifeguard staff deems potentially dangerous to the user or a danger or nuisance to others.</p>

	<p>(e) RESTRICTED BEACH EQUIPMENT means any shelter or canopy closed on two or more sides, any shelter or canopy with metal legs or supporting structures, any shelter or canopy covering greater than 64 square feet, and any toy or game involving projectiles that the lifeguard staff deems potentially harmful.</p> <p>(f) SPECIAL EVENT means any pre-organized, pre-planned, multi-person gathering [lasting longer than twenty minutes,?] including without limitation, parties, weddings, or bonfires</p>
<p>63-2 Restrictions. From May 1 to September 30, the following activities are prohibited within the restricted area established by § 63-1:</p> <ul style="list-style-type: none"> A. Boating. B. Crabbing, fishing, or seining. C. Four-post canopies. D. Storage of personal items on the beach overnight. E. Launching or use of kayaks or paddleboards. F. Smoking, vaping, or use of tobacco products. G. Glass containers. H. Set up, use, or launching a kiteboard. I. Windsurfing. 	<p><i>Statement of restrictions revised, integrating definitions:</i></p> <p>63-3. Activities Prohibited or Regulated in Restricted Area During Peak Season.</p> <p>A. During the Peak Season, the following activities are prohibited within the Restricted Area:</p> <ul style="list-style-type: none"> 1. Boating. 2. Crabbing, fishing, seining, or netting (larger than handheld nets). 3. Storage of personal items on the beach. 4. Sleeping, loitering, or camping between the hours of 11 p.m., prevailing time, and 6 a.m. the following morning. [Could be merged w/section 63-6(D) by changing one hour in either direction?] 5. Use of any Restricted Water Equipment. 6. Use of any Restricted Beach Equipment. 7. Fires of any kind without a permit (see Section 63-6(E)). 8. Digging or causing a hole or trench deeper than 12 inches. [Is this necessary here in light of section 63-6(A)(2)?] 9. Preparing hot food by use of grills, hibachi, camp stoves, or other cooking equipment, with or without a bonfire permit. 10. Sale of any food, goods, or services without a permit or concession to do so. 11. Smoking of any tobacco or cannabis product, or use of any e-cigar/cigarette or vaping device. 12. Holding Special Events without a permit. <p>B. No dogs shall be allowed in the Restricted Area during the Peak Season, provided that nothing contained in this subsection shall prohibit any certified service animal or dog acting for any law enforcement agency, or acting for any branch of the</p>

	<p>U.S. armed forces. To the extent dogs are allowed upon the beach as aforesaid, the owner or person in control of such dog shall keep the dog under leash and shall carry and use a bag or other device to pick up and remove from the beach any excrement which said dog shall drop.</p> <p>C. Lifeguards may take reasonable actions to restrict activities or equipment for the protection of wildlife.</p>
<p>63-3 Violations and Penalties. Any person, firm or corporation violating any of the provisions of this article shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$200 and imprisonment for a term of not less than 10 days nor more than 30 days for the first such conviction. For a second or subsequent conviction, any person, firm or corporation shall, upon conviction, be subject to a fine of not less than \$50 nor more than \$500 and imprisonment for a term of not less than 20 days nor more than 60 days for each such conviction. Each day that a violation of any of the provisions of this article continues shall be deemed and taken to be a separate and distinct violation.</p>	<p><i>All general enforcement and penalties are moved to 63-9, below.</i></p>
	<p><i>New Section:</i></p> <p>63-4 Lifeguard Discretion.</p> <p>A. Any lifeguard on duty may require the movement away from the shoreline or elsewhere on the beach of any beach equipment or shelter that is otherwise permitted if the lifeguard determines that it may obstruct the lifeguard’s view of the water or would otherwise impede the ability to perform lifeguarding duties.</p> <p>B. The Captain of the Lewes Beach Patrol is hereby authorized to exercise reasonable discretion to determine and declare the beach and surf area within the City of Lewes closed due to unsafe weather, tide, surf, water conditions, or any other hazard or unsafe situation as determined by the Captain. The Captain is further authorized to enforce all beach rules, regulations, and ordinances adopted by the City of Lewes or otherwise applicable to the beach and surf area[, including the issuance of violations and fines as provided in Section 63-9?]. The term “Captain,” as used herein, shall also include a deputy or acting Captain as</p>

	designated by the Captain of the Lewes Beach Patrol.
63-4 Sleeping and lying on beaches during certain hours prohibited. It shall be unlawful for any person to sleep, lie, loiter on, occupy as sleeping quarters or be under the guise or pretending to sleep on any part of the public beaches within the corporate limits of the City of Lewes or on any part of the public beaches under the jurisdiction of the City of Lewes between 11:00 p.m., prevailing time, and 7:00 a.m., prevailing time.	<i>Addressed in 63-3.A.4.</i>
63-5 Violations and penalties. Any person, firm or corporation violating any of the provisions of this article shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$200 and imprisonment for a term of not less than 10 days nor more than 30 days for the first such conviction. For a second or subsequent conviction, any person, firm or corporation shall, upon conviction, be subject to a fine of not less than \$50 nor more than \$500 and imprisonment for a term of not less than 20 days nor more than 60 days for each such conviction. Each day that a violation of any of the provisions of this article continues shall be deemed and taken to be a separate and distinct violation.	<i>All general enforcement and penalties are moved to 63-9, below</i>
	<i>New Section – Restrictions applicable to Peak Season and on all City Beaches.</i> § 63-5. Activities Prohibited on All City Beaches During Peak Season A. Fishing. In addition to the restriction stated in Section 63-3(A)(2), it shall be unlawful during the Peak Season for any person or entity to fish, or to permit or cause any person or entity to fish, on any City Beach from 8:00 a.m., prevailing time, until 6:30 p.m., prevailing time. B. Horses. It shall be unlawful for any person to ride, walk, or exercise a horse upon any City Beach during the Peak Season.
63-6 Operation on beaches restricted. It shall be unlawful for any person to operate or permit to be operated a motor vehicle, licensed or unlicensed, on the beach or strand within the corporate limits of the City of Lewes or on the beach	<i>Revised – Year-round restrictions on all City Beaches aggregated into a single Section 63-6. Vehicles covered in Section 63-5.C. with restrictions added.</i>

or strand under the jurisdiction of the City of Lewes from Roosevelt Inlet east to the Cape May — Lewes Ferry Terminal; provided, however, that nothing contained herein shall prohibit any motor vehicle of the City of Lewes, emergency vehicles, vehicles of concessionaires, vehicles engaged in beach maintenance, repair or improvement, including vehicles upon the beach making an inspection of the beach, and other motor vehicles authorized by the City Council of the City of Lewes from being operated upon the beach or strand.

63-6. Activities Prohibited or Regulated on All City Beaches Year-Round

A. At any date and time, and on any City Beach, the following activities are prohibited.:

1. Fires of any kind without a permit (see Section 63-6(E)).
2. Digging or causing a hole or trench deeper than 12 inches.
3. Operating a motorboat or jet-ski (Class A inboard vessel as defined by the U.S. Coast Guard) within 300 feet of the shoreline.

B. Dogs. [Adapted from Chapter 88, Article II, section 88-9, which should be repealed together with section 88-10 to avoid conflicts and confusion.] In addition to the prohibition found in section 63-3(B) pertaining to dogs in the Restricted Area during Peak Season, it shall be unlawful for any person who is the owner or who has control thereof to permit or suffer any dog to go upon any City Beach without being attended by a person or persons responsible for the control of such dog; provided that nothing contained in this subsection shall prohibit any certified service animal or dog acting for any law enforcement agency, or acting for any branch of the U.S. armed forces. To the extent dogs are allowed upon the beach as aforesaid, the owner or person in control of such dog shall keep the dog under leash and shall carry and use a bag or other device to pick up and remove from the beach any excrement which said dog shall drop.

C. Vehicles. It shall be unlawful for any person to operate or permit to be operated a motor vehicle, licensed or unlicensed, on any City Beach; provided, however, that nothing contained herein shall prohibit any motor vehicle of the City of Lewes, emergency vehicles, vehicles of permit-holding concessionaires, vehicles engaged in beach maintenance, repair, or improvement, including vehicles upon the beach making an inspection of the beach, and other motor vehicles authorized by the City of Lewes from being operated upon the beach or strand.

D. Hours. It shall be unlawful for any person to be on any City Beach between the hours of 12:00 midnight, prevailing time, until 6:00 a.m. the following morning, prevailing time; provided, however, that the provisions of this section shall not be applicable to any public official on the beach in his official capacity, any police officer in the

	<p>performance of his official capacity duty, persons upon the beach engaged in beach repair, maintenance, improvement or inspection, or any person upon the beach because of any emergency.</p> <p>E. Open Fires.</p> <p>1. Fires Generally. It shall be unlawful for any person to openly burn or set fire, or to cause to have openly burned or permit to have openly burned, upon any City Beach any leaves, brush, wood, or other combustible matter. Fires contained within a fire ring or barrel (bonfire) may be permitted in accordance with an approved open fire permit.</p> <p>2. Bonfires. It shall be unlawful for any person to have a beach fire (or bonfire) at any City Beach without receiving a permit and paying the fee required by the Parks and Marina Department in accordance with the instructions and forms provided by the City of Lewes. Permits can be purchased via the city website (www.ci.lewes.de.us).</p> <p>3. Extinguishment and Cleanup. All fires must be extinguished and the beach cleaned up by 11:00 p.m. Fires may not be burned directly on the sand. All fires must be contained within a fire ring or barrel. All residue from the bonfire, including burned wood or coals, must be completely removed from the beach and disposed of in a proper trash receptacle. It shall be unlawful for any residue from a fire to be buried, dumped in the bay, dunes, or any public trash receptacle.</p>
<p>63-7 Violations and penalties. Any person, firm or corporation violating any of the provisions of this article shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$200 and imprisonment for a term of not less than 10 days nor more than 30 days for the first such conviction. For a second or subsequent conviction, any person, firm or corporation shall, upon conviction, be subject to a fine of not less than \$50 nor more than \$500 and imprisonment for a term of not less than 20 days nor more than 60 days for each such conviction. Each day that a violation of any of the provisions of this article continues shall be deemed and taken to be a separate and distinct violation.</p>	<p><i>All general enforcement and penalties are moved to 63-9, below</i></p>

<p>63-8 Horses prohibited on beaches during certain time of year. It shall be unlawful for any person to ride, walk or exercise a horse upon any public beach located within the corporate limits of the City of Lewes or upon any public beach under the jurisdiction of the City of Lewes from the first day of April until the 30th day of September, both inclusive, of any calendar year.</p>	<p><i>See new Section 63-5.</i></p>
<p>63-9 Violations and penalties. Any person violating any of the provisions of § 63-8 above shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$25 nor more than \$100 or imprisoned for a period not to exceed 10 days, or both, and shall pay the cost of prosecution.</p>	<p><i>All general enforcement and penalties are moved to 63-9, below</i></p>
<p>63-10 Establishment of hours; exceptions. It shall be unlawful for any person to be on Lewes Beach from Roosevelt Inlet southeasterly to the Cape May — Lewes Ferry Terminal between the hours of 12:00 midnight, prevailing time, until 6:00 a.m. the following morning, prevailing time; provided, however, that the provisions of this section shall not be applicable to any public official on the beach in his official capacity, any police officer in the performance of his official capacity duty, persons upon the beach engaged in beach repair, maintenance, improvement or inspection or any person upon the beach because of any emergency.</p>	<p><i>See Sections 63-6.D., above.</i></p>
<p>63-11 Violations and penalties. Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$25 nor more than \$100 or imprisoned not less than 10 days nor more than 30 days, or both, and shall pay the costs of prosecution.</p>	<p><i>All general enforcement and penalties are moved to 63-9, below.</i></p>
<p>63-12 Permit required. It shall be unlawful for any person without a permit to conduct or permit to be conducted a party north of the dune line on Lewes Beach from Roosevelt Inlet to the extension of the western property line of the Lewes — Cape May Ferry.</p>	<p>63-7. Special Events on the Beach. It shall be unlawful for any person without a permit to conduct or assist in conducting a Special Event north of the dune line on any City Beach.</p>
<p>63-13 A. When any person desires to have a party on Lewes Beach, as defined in § 63-12, such person shall file an application with the City Manager between the hours of 9:00 a.m. and 4:00 p.m.,</p>	<p>63-8. Application for Special Event permit. A. Any person desiring to have a Special Event on a City Beach shall file an application with the Parks and Marina Department in accordance with</p>

<p>Monday through Friday, and at least 24 hours prior to the date of the party, setting forth the following information: [Amended 8-13-2007]</p> <p>(1) The location of the party. (2) The date and time of the party. (3) The number of persons expected to attend. (4) The provision made for cleaning the beach after the party. (5) The size and nature of the party. (6) Whether or not a contained fire is included in the permit.</p> <p>B. Upon the filing of the application, the City Manager shall endorse his approval upon the application, if it complies with this section and if in his judgment the proposed party is consistent with past uses of the beach and is not apt to disturb neighboring property owners or tenants, or his disapproval with the reason or reasons therefor.</p> <p>C. The fee shall be \$50 for each application; provided, however, that an organization with an IRC § 501(c)(3) designation is exempt.</p>	<p>the instructions and forms provided by the City of Lewes website (www.ci.lewes.de.us), responding to all questions therein, at least two business days prior to the date of the Special Event, and including payment of any permit fee specified therein.</p> <p>B. Upon the filing of the application, the Parks and Marina Department shall endorse approval upon the application, if it complies with this section and if in the Parks and Marina Department's judgment the proposed event is consistent with past uses of the beach and is not apt to disturb neighboring property owners or tenants. If the application is rejected, the Parks and Marina Department shall notify the applicant of the disapproval with the reason or reasons therefor.</p>
<p>63-14 Violations and penalties.</p> <p>A. Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$25 nor more than \$50 and shall pay the costs of prosecution.</p> <p>B. Any violation of the conditions set forth in the application will cause the permit to become null and void.</p>	<p><i>All general enforcement and penalties are moved to 63-9, below.</i></p>
<p>63-15 Open fires prohibited.</p> <p>It shall be unlawful for any person to openly burn or set fire or to cause to have openly burned or permit to have openly burned upon any beach within the corporate limits of the City or on any beach under the jurisdiction of the City any leaves, brush, wood or other combustible matter. Fires contained within a fire ring, barrel, or barbecue grill may be permitted in accordance with an approved permit pursuant to § 63-13.</p>	<p><i>See Section 63-3, above.</i></p>
<p>63-16 Violations and penalties.</p> <p>Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$25 nor more than \$100 or be imprisoned for a period of not less than 10 days nor more than 20 days, or both, and shall pay the costs of prosecution.</p>	<p><i>All general enforcement and penalties are moved to 63-9, below.</i></p>

<p>63-17 (Jet Skis) Definitions. For the purposes of this article, the following definition shall be applicable unless the context clearly indicates to the contrary: PERSONAL WATERCRAFT Any class A in-board vessel (less than 16 feet in length) as defined by the United States Coast Guard which uses either an internal-combustion engine powering a water jet-pump or a propeller as its primary source of propulsion and which is designed to be operated either by a person or persons sitting, standing or kneeling on the vessel, or by a water skier via remote control, instead of in the conventional manner of vessel operation, such as riding in the vessel and which are known as "jet skis."</p>	<p><i>See Section 63-2(d) above.</i></p>
<p>63-18 Operation restricted. It shall be unlawful for any person to operate personal watercrafts within a distance of 300 feet of any beach within the corporate limits of the City of Lewes or within any beach under the jurisdiction and control of the City of Lewes.</p>	<p><i>See Section 63-2(d) above.</i></p>
<p>63-19 Violations and penalties. Any person convicted of violation of any provision of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof in a court of competent jurisdiction, shall be fined not less than \$300 nor more than \$500 or imprisoned for a term of not more than 20 days, or both, or have the jet ski impounded for a period of 30 days, or all of these, and shall pay the cost of prosecution.</p>	<p><i>All general enforcement and penalties are moved to 63-9, below.</i></p>
<p>63-20 Fishing on beach prohibited. It shall be unlawful for any person, firm or corporation to fish or permit or cause any person, firm or corporation to fish in that area of Lewes Beach extending from the eastern boundary of the development known as "Pilot Point" to 340 feet eastward of the westerlymost boundary line of the property of Lewes Yacht Club from 8:00 a.m., prevailing time, until 6:30 p.m., prevailing time, on the same day from May 1 to September 30, both dates inclusive, of each year.</p>	<p><i>See Section 63-3.A.2. and Section 63-5.</i></p>
<p>63-21 Violations and penalties. Any person, firm or corporation violating any of the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction in a court of competent jurisdiction, shall be fined not less than</p>	<p><i>All general enforcement and penalties are moved to 63-9, below.</i></p>

<p>\$25 nor more than \$50 or be imprisoned for a term not less than 10 days nor more than 20 days and shall pay the costs of prosecution. For the purposes of this article, each day that a violation of any of the provisions of this article continues shall be deemed to be a separate and distinct offense.</p>	
	<p><i>New enforcement clause to apply to the entire Chapter 63:</i> 63-9. Enforcement. Any person or entity violating a provision of this Chapter 63 may be subject to a fine of not less than \$25 or more than \$200. For a second or subsequent violation, any person, firm or corporation shall be subject to a fine of not less than \$50 nor more than \$500 for each such violation. Each day that a violation of any of the provisions of this Chapter continues shall be deemed and taken to be a separate and distinct violation.</p>

City of Lewes, DE
Friday, February 6, 2026

Chapter 63. Beaches

[HISTORY: Adopted by the City Council of the City of Lewes as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Community Events – See Ch. 80

Docks - See Ch. **86**.

Dogs on beaches - See Ch. **88**, Art. II. [See note below in § 63-6(B)]

Littering — See Ch. **121**.

Loitering — See Ch. **123**.

[Adopted 8-4-1947; amended 5-12-1980]

§ 63-1. Scope.

This Chapter provides guidance and restrictions for the usage of the City Beach as that term is defined in Section 63-2.

§ 63-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated.

- (a) CITY BEACH means any Delaware Bay shoreline within the City of Lewes including the Restricted Area, whether or not guarded.
- (b) PEAK SEASON means the Friday of Memorial Day weekend through and including September 30 of each year.
- (c) RESTRICTED AREA is the beach area encompassing the guarded area of the City Beach extending from a point 100 feet west of Savannah Road to a point 275 feet easterly from Georgia Avenue including a swimming area that shall extend offshore a distance of 300 feet. Buoys will mark the swimming area during the Peak Season. The Restricted Area includes the recreational areas now known as Savannah Beach and Johnnie Walker Beach.
- (d) RESTRICTED WATER EQUIPMENT means: (i) any hard-shell (plastic, wood, fiberglass, or metal) boat or raft, (ii) any inflatable capable of seating/carrying more than two people, and (iii) any motorized or wind-powered equipment for personal use of any kind. Examples include and are not limited to kayaks, canoes, stand up paddleboards, surfboards, row boats, sailboats, personal watercraft, efoils, underwater scooters, floating lounges, multi-

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person floating mats, and any like equipment that the lifeguard staff deems potentially dangerous to the user or a danger or nuisance to others.

- (e) RESTRICTED BEACH EQUIPMENT means any shelter or canopy closed on two or more sides, any shelter or canopy with metal legs or supporting structures, any shelter or canopy covering greater than 64 square feet, and any toy or game involving projectiles that the lifeguard staff deems potentially harmful.
- (f) SPECIAL EVENT means any pre-organized, pre-planned, multi-person gathering [lasting longer than twenty minutes,?] including without limitation, parties, weddings, or bonfires.

§ 63-3. Activities Prohibited or Regulated in Restricted Area During Peak Season.

A. During the Peak Season, the following activities are prohibited within the Restricted Area:

1. Boating.
2. Crabbing, fishing, seining, or netting (larger than handheld nets).
3. Storage of personal items on the beach.
4. Sleeping, loitering, or camping between the hours of 11 p.m., prevailing time, and 6 a.m. the following morning. [Could be merged w/section 63-6(D) by changing one hour in either direction?]
5. Use of any Restricted Water Equipment.
6. Use of any Restricted Beach Equipment.
7. Fires of any kind without a permit (see Section 63-6(E)).
8. Digging or causing a hole or trench deeper than 12 inches. [Is this necessary here in light of section 63-6(A)(2)?]
9. Preparing hot food by use of grills, hibachi, camp stoves, or other cooking equipment, with or without a bonfire permit.
10. Sale of any food, goods, or services without a permit or concession to do so.
11. Smoking of any tobacco or cannabis product, or use of any e-cigar/cigarette or vaping device.
12. Holding Special Events without a permit pursuant to section 63-8.

B. No dogs shall be allowed in the Restricted Area during the Peak Season, provided that nothing contained in this subsection shall prohibit any certified service animal or dog acting for any law enforcement agency, or acting for any branch of the U.S. armed forces. To the extent dogs are allowed upon the beach as aforesaid, the owner or person in control of such dog shall keep the dog under leash and shall carry and use a bag or other device to pick up and remove from the beach any excrement which said dog shall drop.

C. Lifeguards may take reasonable actions to restrict activities or equipment for the protection of wildlife.

§ 63-4. Lifeguard Discretion and Enforcement.

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A. Any lifeguard on duty may require the movement away from the shoreline or elsewhere on the beach of any beach equipment or shelter that is otherwise permitted if the lifeguard determines that it may obstruct the lifeguard's view of the water or would otherwise impede the ability to perform lifeguarding duties.

B. The Captain of the Lewes Beach Patrol is hereby authorized to exercise reasonable discretion to determine and declare the beach and surf area within the City of Lewes closed due to unsafe weather, tide, surf, water conditions, or any other hazard or unsafe situation as determined by the Captain. The Captain is further authorized to enforce all beach rules, regulations, and ordinances adopted by the City of Lewes or otherwise applicable to the beach and surf area. The term "Captain," as used herein, shall also include a deputy or acting Captain as designated by the Captain of the Lewes Beach Patrol.

§ 63-5. Activities Prohibited on All City Beaches During Peak Season

- A. Fishing. In addition to the restriction stated in Section 63-3(A)(2), it shall be unlawful during the Peak Season for any person or entity to engage in fishing on that portion of the City Beach extending from the eastern boundary of the development known as "Pilot Point" to 340 feet eastward of the westerlymost boundary line of the property of Lewes Yacht Club from 8:00 a.m., prevailing time, until 6:30 p.m., prevailing time.
- B. Horses. It shall be unlawful for any person to ride, walk, or exercise a horse upon any City Beach during the Peak Season.

§ 63-6. Activities Prohibited or Regulated on All City Beaches Year-Round

- A. At any date and time, and on any City Beach, the following activities are prohibited:-
1. Fires of any kind without a permit (see Section 63-6(E)).
 2. Digging or causing a hole or trench deeper than 12 inches.
 3. Within 300 feet of the shoreline, operating a jet-ski or other personal watercraft defined by the U.S. Coast Guard as a Class A inboard vessel.
- B. Dogs. [Adapted from Chapter 88, Article II, section 88-9, which should be repealed together with section 88-10 to avoid conflicts and confusion.] In addition to the prohibition found in section 63-3(B) pertaining to dogs in the Restricted Area during Peak Season, it shall be unlawful for any person who is the owner or who has control thereof to permit or suffer any dog to go upon any City Beach without being attended by a person or persons responsible for the control of such dog; provided that nothing contained in this subsection shall prohibit any certified service animal or dog acting for any law enforcement agency, or acting for any branch of the U.S. armed forces. To the extent dogs are allowed upon the beach as aforesaid, the owner or person in control of such dog shall keep the dog under leash and shall carry and use a bag or other device to pick up and remove from the beach any excrement which said dog shall drop.
- C. Vehicles. It shall be unlawful for any person to operate or permit to be operated a motor vehicle, licensed or unlicensed, on any City Beach; provided, however, that nothing

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contained herein shall prohibit any motor vehicle of the City of Lewes, emergency vehicles, vehicles of permit-holding concessionaires, vehicles engaged in beach maintenance, repair, or improvement, including vehicles upon the beach making an inspection of the beach, and other motor vehicles authorized by the City of Lewes from being operated upon the beach or strand.

D. Hours. It shall be unlawful for any person to be on any City Beach between the hours of 12:00 midnight, prevailing time, until 6:00 a.m. the following morning, prevailing time; provided, however, that the provisions of this section shall not be applicable to any public official on the beach in his official capacity, any police officer in the performance of his official capacity duty, persons upon the beach engaged in beach repair, maintenance, improvement or inspection, or any person upon the beach because of any emergency.

E. Open Fires.

1. Fires Generally. It shall be unlawful for any person to openly burn or set fire, or to cause to have openly burned or permit to have openly burned, upon any City Beach any leaves, brush, wood, or other combustible matter. Fires contained within a fire ring or barrel (bonfire) may be permitted in accordance with an approved open fire permit.
2. Bonfires. It shall be unlawful for any person to have a beach fire (or bonfire) at any City Beach without receiving a permit and paying the fee required by the Parks and Marina Department in accordance with the instructions and forms provided by the City of Lewes. Permits can be purchased via the city website (www.ci.lewes.de.us).
3. Extinguishment and Cleanup. All fires must be extinguished and the beach cleaned up by 11:00 p.m. Fires may not be burned directly on the sand. All fires must be contained within a fire ring or barrel. All residue from the bonfire, including burned wood or coals, must be completely removed from the beach and disposed of in a fireproof receptacle and removed from the beach. It shall be unlawful for any residue from a fire to be buried, dumped in the bay, dunes, or any public trash receptacle.

§ 63-7. Special Events on the Beach.

It shall be unlawful for any person without a permit to conduct or assist in conducting a Special Event seaward of the dune line on any City Beach.

§ 63-8. Application for Special Event permit.

- A. Any person desiring to have a Special Event on a City Beach shall file an application with the Parks and Marina Department in accordance with the instructions and forms provided by the City of Lewes website (www.ci.lewes.de.us), responding to all questions therein, at least two business days prior to the date of the Special Event, and including payment of any permit fee specified therein.

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- B. Upon the filing of the application, the Parks and Marina Department shall endorse approval upon the application, if it complies with this section and if in the Parks and Marina Department's judgment the proposed event is consistent with past uses of the beach and is not apt to disturb neighboring property owners or tenants. If the application is rejected, the Parks and Marina Department shall notify the applicant of the disapproval with the reason or reasons therefor.

§ 63-9. Enforcement.

Any person or entity violating a provision of this Chapter 63 may be subject to a fine of not less than \$25 or more than \$200. For a second or subsequent violation, any person, firm or corporation shall be subject to a fine of not less than \$50 nor more than \$500 for each such violation. Each day that a violation of any of the provisions of this Chapter continues shall be deemed and taken to be a separate and distinct violation.

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City of Lewes, DE

~~Friday, February 6,~~ Wednesday, April 22, 2026

Chapter 63. Beaches

[HISTORY: Adopted by the City Council of the City of Lewes as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Community Events – See Ch. 80

Docks - See Ch. **86**.

Dogs on beaches - See Ch. **88**, Art. II. [See note below in § 63-6(B)]

Littering — See Ch. **121**.

Loitering — See Ch. **123**.

[Adopted 8-4-1947; amended 5-12-1980]

§ 63-1. Scope.

This Chapter provides guidance and restrictions for the usage of the City Beach as that term is defined in Section 63-2.

§ 63-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated.

- (a) CITY BEACH means any Delaware Bay shoreline within the City of Lewes including the Restricted Area, whether or not guarded.
- (b) PEAK SEASON means the Friday of Memorial Day weekend through and including September 30 of each year.
- (c) RESTRICTED AREA is the beach area encompassing the guarded area of the City Beach extending from a point 100 feet west of Savannah Road to a point 275 feet easterly from Georgia Avenue including a swimming area that shall extend offshore a distance of 300 feet. Buoys will mark the swimming area during the Peak Season. The Restricted Area includes the recreational areas now known as Savannah Beach and Johnnie Walker Beach.
- (d) RESTRICTED WATER EQUIPMENT means: (i) any hard-shell (plastic, wood, fiberglass, or metal) boat or raft, (ii) any inflatable capable of seating/carrying more than two people, and (iii) any motorized or wind-powered equipment for personal use of any kind. Examples include and are not limited to kayaks, canoes, stand up paddleboards, surfboards, row boats, sailboats, personal watercraft, efoils, underwater scooters, floating lounges, multi-

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person floating mats, and any like equipment that the lifeguard staff deems potentially dangerous to the user or a danger or nuisance to others.

- (e) RESTRICTED BEACH EQUIPMENT means any shelter or canopy closed on two or more sides, any shelter or canopy with metal legs or supporting structures, any shelter or canopy covering greater than 64 square feet, and any toy or game involving projectiles that the lifeguard staff deems potentially harmful.
- (f) SPECIAL EVENT means any ~~pre-organized, pre-planned, multi-person gathering [lasting longer than twenty minutes,?] including without limitation, parties, weddings, or bonfires.~~ public assembly or gathering of people which may, because of the location, time or anticipated number of persons involved, be reasonably expected to have a significant effect upon the ordinary use of the beach, public streets, rights-of-way, sidewalks, or any other public areas. By way of example and not in limitation, "special event" includes parties, weddings, bonfires, fairs, festivals, parades, motorcades, bicycle rides/races, rallies, marches, processions, walking events and concerts. Private social gatherings on private property or funeral processions are not included.

§ 63-3. Activities Prohibited or Regulated in Restricted Area During Peak Season.

A. During the Peak Season, the following activities are prohibited within the Restricted Area:

1. Boating.
2. Crabbing, fishing, seining, or netting (larger than handheld nets).
3. Storage of personal items on the beach.
- ~~4. Sleeping, loitering, or camping between the hours of 11 p.m., prevailing time, and 6 a.m. the following morning. [Could be merged w/section 63-6(D) by changing one hour in either direction?] No longer necessary in light of section 63-6(D).~~
- ~~5.4.~~ Use of any Restricted Water Equipment.
- ~~6.5.~~ Use of any Restricted Beach Equipment.
- ~~7.6.~~ Fires of any kind without a permit (see Section 63-6(E)).
- ~~8.7.~~ Digging or causing a hole or trench deeper than 12 inches. [Is this necessary here in light of section 63-6(A)(2)?] [Parks & Rec advocates repeating this here, but it is surplusage. Do we want to keep it here, or strike it as questionable drafting practice?]
- ~~9.8.~~ Preparing hot food by use of grills, hibachi, camp stoves, or other cooking equipment, with or without a bonfire permit.
- ~~10.9.~~ Sale of any food, goods, or services without a permit or concession to do so.
- ~~11.10.~~ Smoking of any tobacco or cannabis product, or use of any e-cigar/cigarette or vaping device.
- ~~12.11.~~ Holding Special Events without a permit pursuant to section 63-8. [Similar to paragraphs (4) and (7) above, is this necessary here in light of sections 63-7 and 63-8?]

B. No dogs shall be allowed in the Restricted Area during the Peak Season, provided that nothing contained in this subsection shall prohibit any certified service animal or dog acting for any law enforcement agency, or acting for any branch of the U.S. armed forces. To the

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extent dogs are allowed upon the beach as aforesaid, the owner or person in control of such dog shall keep the dog under leash and shall carry and use a bag or other device to pick up and remove from the beach any excrement which said dog shall drop.

- C. Lifeguards may take reasonable actions to restrict activities or equipment for the protection of wildlife.

§ 63-4. Lifeguard Discretion and Enforcement.

A. Any lifeguard on duty may require the movement away from the shoreline or elsewhere on the beach of any beach equipment or shelter that is otherwise permitted if the lifeguard determines that it may obstruct the lifeguard's view of the water or would otherwise impede the ability to perform lifeguarding duties.

B. The Captain of the Lewes Beach Patrol is hereby authorized to exercise reasonable discretion to determine and declare the beach and surf area within the City of Lewes closed due to unsafe weather, tide, surf, water conditions, or any other hazard or unsafe situation as determined by the Captain. The Captain is further authorized to enforce all beach rules, regulations, and ordinances adopted by the City of Lewes or otherwise applicable to the beach and surf area. The term "Captain," as used herein, shall also include a deputy or acting Captain as designated by the Captain of the Lewes Beach Patrol.

§ 63-5. Activities Prohibited on All City Beaches During Peak Season

- A. Fishing. In addition to the restriction stated in Section 63-3(A)(2), it shall be unlawful during the Peak Season for any person or entity to engage in fishing on that portion of the City Beach extending from the eastern boundary of the development known as "Pilot Point" to 340 feet eastward of the westerlymost boundary line of the property of Lewes Yacht Club from 8:00 a.m., prevailing time, until 6:30 p.m., prevailing time.
- B. Horses. It shall be unlawful for any person to ride, walk, or exercise a horse upon any City Beach during the Peak Season.

§ 63-6. Activities Prohibited or Regulated on All City Beaches Year-Round

- A. At any date and time, and on any City Beach, the following activities are prohibited:-
1. Fires of any kind without a permit (see Section 63-6(E)).
 2. Digging or causing a hole or trench deeper than 12 inches.
 3. Within 300 feet of the shoreline, operating a jet-ski or other personal watercraft defined by the U.S. Coast Guard as a Class A inboard vessel.
- B. Dogs. [\[Adapted from Chapter 88, Article II, section 88-9, which should be repealed together with section 88-10 to avoid conflicts and confusion.\]](#) In addition to the prohibition found in section 63-3(B) pertaining to dogs in the Restricted Area during Peak Season, it shall be unlawful for any person who is the owner or who has control thereof to permit or suffer any dog to go upon any City Beach without being attended by a person or

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persons responsible for the control of such dog; provided that nothing contained in this subsection shall prohibit any certified service animal or dog acting for any law enforcement agency, or acting for any branch of the U.S. armed forces. To the extent dogs are allowed upon the beach as aforesaid, the owner or person in control of such dog shall keep the dog under leash and shall carry and use a bag or other device to pick up and remove from the beach any excrement which said dog shall drop.

- C. Vehicles. It shall be unlawful for any person to operate or permit to be operated a motor vehicle, licensed or unlicensed, on any City Beach; provided, however, that nothing contained herein shall prohibit any motor vehicle of the City of Lewes, emergency vehicles, ~~vehicles of permit-holding concessionaires,~~ vehicles engaged in beach maintenance, repair, or improvement, including vehicles upon the beach making an inspection of the beach, and other motor vehicles authorized by the City of Lewes from being operated upon the beach or strand.
- D. Hours. It shall be unlawful for any person to be on any City Beach between the hours of 12:00 midnight, prevailing time, until 6:00 a.m. the following morning, prevailing time; provided, however, that the provisions of this section shall not be applicable to any public official on the beach in his official capacity, any police officer in the performance of his official capacity duty, persons upon the beach engaged in beach repair, maintenance, improvement or inspection, or any person upon the beach because of any emergency.
- E. Open Fires.
1. Fires Generally. It shall be unlawful for any person to openly burn or set fire, or to cause to have openly burned or permit to have openly burned, upon any City Beach any leaves, brush, wood, or other combustible matter. Fires contained within a fire ring or barrel (bonfire) may be permitted in accordance with an approved open fire permit.
 2. Bonfires. It shall be unlawful for any person to have a beach fire (or bonfire) at any City Beach without receiving a permit and paying the fee required by the Parks and Marina Department in accordance with the instructions and forms provided by the City of Lewes. Permits can be purchased via the city website (www.ci.lewes.de.us).
 3. Extinguishment and Cleanup. All fires must be extinguished and the beach cleaned up by 11:00 p.m. Fires may not be burned directly on the sand. All fires must be contained within a fire ring or barrel. All residue from the bonfire, including burned wood or coals, must be completely removed from the beach and disposed of in a fireproof receptacle and removed from the beach. It shall be unlawful for any residue from a fire to be buried, dumped in the bay, dunes, or any public trash receptacle.

§ 63-7. Special Events on the Beach.

It shall be unlawful for any person without a permit to conduct or assist in conducting a Special Event seaward of the dune line on any City Beach.

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§ 63-8. Application for Special Event permit.

- A. Any person desiring to have a Special Event on a City Beach shall file an application with the Parks and Marina Department in accordance with the instructions and forms provided by the City of Lewes website (www.ci.lewes.de.us), responding to all questions therein, at least two business days prior to the date of the Special Event, and including payment of any permit fee specified therein.
- B. Upon the filing of the application, the Parks and Marina Department shall endorse approval upon the application, if it complies with this section and if in the Parks and Marina Department's judgment the proposed event is consistent with past uses of the beach and is not apt to disturb neighboring property owners or tenants. If the application is rejected, the Parks and Marina Department shall notify the applicant of the disapproval with the reason or reasons therefor.

§ 63-9. Enforcement.

Any person or entity violating a provision of this Chapter 63 may be subject to a fine of ~~not less than \$25 or more than \$200~~[we should assign a fixed fine, per previous discussion with Lt. Azato]. For a second or subsequent violation, any person, firm or corporation shall be subject to a fine of ~~not less than \$50 nor more than \$500~~ for each such violation [same here]. Each day that a violation of any of the provisions of this Chapter continues shall be deemed and taken to be a separate and distinct violation.

DRAFT REVISION

FINAL REVISION*As Approved by the Ad Hoc Ordinance Committee*

*City of Lewes, DE
Wednesday, May 13, 2026*

Chapter 63. Beaches

[HISTORY: Adopted by the City Council of the City of Lewes as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Community Events – See Ch. 80

Docks - See Ch. **86**.

Dogs on beaches - See Ch. **88**, Art. II. [See note below in § 63-6(B)]

Littering — See Ch. **121**.

Loitering — See Ch. **123**.

[Adopted 8-4-1947; amended 5-12-1980]

§ 63-1. Scope.

This Chapter provides guidance and restrictions for the usage of the City Beach as that term is defined in Section 63-2.

§ 63-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated.

- (a) CITY BEACH means any Delaware Bay shoreline within the City of Lewes including the Restricted Area, whether or not guarded.
- (b) PEAK SEASON means the Friday of Memorial Day weekend through and including September 30 of each year.
- (c) RESTRICTED AREA is the beach area encompassing the guarded area of the City Beach extending from a point 100 feet west of Savannah Road to a point 275 feet easterly from Georgia Avenue including a swimming area that shall extend offshore a distance of 300 feet. Buoys will mark the swimming area during the Peak Season. The Restricted Area includes the recreational areas now known as Savannah Beach and Johnnie Walker Beach.
- (d) RESTRICTED WATER EQUIPMENT means: (i) any hard-shell (plastic, wood, fiberglass, or metal) boat or raft, (ii) any inflatable capable of seating/carrying more than two people, and (iii) any motorized or wind-powered equipment for personal use of any kind. Examples include and are not limited to kayaks, canoes, stand up paddleboards, surfboards, row boats, sailboats, personal watercraft, efoils, underwater scooters, floating lounges, multi-person floating mats, and any like equipment that the lifeguard staff deems potentially dangerous to the user or a danger or nuisance to others.

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- (e) RESTRICTED BEACH EQUIPMENT means any shelter or canopy closed on two or more sides, any shelter or canopy with metal legs or supporting structures, any shelter or canopy covering greater than 64 square feet, and any toy or game involving projectiles that the lifeguard staff deems potentially harmful.
- (f) SPECIAL EVENT means any public assembly or gathering of people which may, because of the location, time or anticipated number of persons involved, be reasonably expected to have a significant effect upon the ordinary use of the beach, public streets, alleys, rights-of-way, sidewalks, or any other public areas. By way of example and not in limitation, "special event" includes parties, weddings, bonfires, fairs, festivals, parades, bicycle rides/races, rallies, marches, processions, walking events, and concerts.

§ 63-3. Activities Prohibited or Regulated in Restricted Area During Peak Season.

A. During the Peak Season, the following activities are prohibited within the Restricted Area:

1. Boating.
2. Crabbing, fishing, seining, or netting (larger than handheld nets).
3. Storage of personal items on the beach.
4. Use of any Restricted Water Equipment.
5. Use of any Restricted Beach Equipment.
6. Fires of any kind without a permit (see Section 63-6(E)).
7. Digging or causing a hole or trench deeper than 12 inches.
8. Preparing hot food by use of grills, hibachi, camp stoves, or other cooking equipment, with or without a bonfire permit.
9. Sale of any food, goods, or services without a permit or concession to do so.
10. Smoking of any tobacco or cannabis product, or use of any e-cigar/cigarette or vaping device.
11. Use of glass containers.

B. No dogs shall be allowed in the Restricted Area during the Peak Season, provided that nothing contained in this subsection shall prohibit any certified service animal or dog acting for any law enforcement agency, or acting for any branch of the U.S. armed forces. To the extent dogs are allowed upon the beach as aforesaid, the owner or person in control of such dog shall keep the dog under leash and shall carry and use a bag or other device to pick up and remove from the beach any excrement which said dog shall drop.

C. Lifeguards may take reasonable actions to restrict activities or equipment for the protection of wildlife.

§ 63-4. Lifeguard Discretion and Enforcement.

A. Any lifeguard on duty may require the movement away from the shoreline or elsewhere on the beach of any beach equipment or shelter that is otherwise permitted if the

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lifeguard determines that it may obstruct the lifeguard's view of the water or would otherwise impede the ability to perform lifeguarding duties.

- B. The Captain of the Lewes Beach Patrol is hereby authorized to exercise reasonable discretion to determine and declare the beach and surf area within the City of Lewes closed due to unsafe weather, tide, surf, water conditions, or any other hazard or unsafe situation as determined by the Captain. The Captain is further authorized to enforce all beach rules, regulations, and ordinances adopted by the City of Lewes or otherwise applicable to the beach and surf area. The term "Captain," as used herein, shall also include a deputy or acting Captain as designated by the Captain of the Lewes Beach Patrol.

§ 63-5. Activities Prohibited on All City Beaches During Peak Season

- A. Fishing. In addition to the restriction stated in Section 63-3(A)(2), it shall be unlawful during the Peak Season for any person or entity to engage in fishing on that portion of the City Beach extending from the eastern boundary of the development known as "Pilot Point" to 340 feet eastward of the westerlymost boundary line of the property of Lewes Yacht Club from 8:00 a.m., prevailing time, until 6:30 p.m., prevailing time.
- B. Horses. It shall be unlawful for any person to ride, walk, or exercise a horse upon any City Beach during the Peak Season.

§ 63-6. Activities Prohibited or Regulated on All City Beaches Year-Round

- A. At any date and time, and on any City Beach, the following activities are prohibited.:
1. Fires of any kind without a permit (see Section 63-6(E)).
 2. Within 300 feet of the shoreline, operating a jet-ski or other personal watercraft defined by the U.S. Coast Guard as a Class A inboard vessel.
- B. Dogs. [\[Adapted from Chapter 88, Article II, section 88-9, which should be repealed together with section 88-10 to avoid conflicts and confusion.\]](#) In addition to the prohibition found in section 63-3(B) pertaining to dogs in the Restricted Area during Peak Season, it shall be unlawful for any person who is the owner or who has control thereof to permit or suffer any dog to go upon any City Beach without being attended by a person or persons responsible for the control of such dog; provided that nothing contained in this subsection shall prohibit any certified service animal or dog acting for any law enforcement agency, or acting for any branch of the U.S. armed forces. To the extent dogs are allowed upon the beach as aforesaid, the owner or person in control of such dog shall keep the dog under leash and shall carry and use a bag or other device to pick up and remove from the beach any excrement which said dog shall drop.
- C. Vehicles. It shall be unlawful for any person to operate or permit to be operated a motor vehicle, licensed or unlicensed, on any City Beach; provided, however, that nothing contained herein shall prohibit any motor vehicle of the City of Lewes, emergency vehicles, vehicles engaged in beach maintenance, repair, or improvement, including

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vehicles upon the beach making an inspection of the beach, and other motor vehicles authorized by the City of Lewes from being operated upon the beach or strand.

D. Hours. It shall be unlawful for any person to be on any City Beach between the hours of 12:00 midnight, prevailing time, until 6:00 a.m. the following morning, prevailing time; provided, however, that the provisions of this section shall not be applicable to any public official on the beach in his official capacity, any police officer in the performance of his official capacity duty, persons upon the beach engaged in beach repair, maintenance, improvement or inspection, or any person upon the beach because of any emergency.

E. Open Fires.

1. Fires Generally. It shall be unlawful for any person to openly burn or set fire, or to cause to have openly burned or permit to have openly burned, upon any City Beach any leaves, brush, wood, or other combustible matter. Fires contained within a fire ring or barrel (bonfire) may be permitted in accordance with an approved open fire permit.
2. Bonfires. It shall be unlawful for any person to have a beach fire (or bonfire) at any City Beach without receiving a permit and paying the fee required by the Parks and Marina Department in accordance with the instructions and forms provided by the City of Lewes. Permits can be purchased via the city website (www.ci.lewes.de.us).
3. Extinguishment and Cleanup. All fires must be extinguished and the beach cleaned up by 11:00 p.m. Fires may not be burned directly on the sand. All fires must be contained within a fire ring or barrel. All residue from the bonfire, including burned wood or coals, must be disposed of in a fireproof receptacle and completely removed from the beach. It shall be unlawful for any residue from a fire to be buried, dumped in the bay, dunes, or any public trash receptacle.

§ 63-7. Special Events on the Beach.

It shall be unlawful for any person without a permit to conduct or assist in conducting a Special Event seaward of the dune line on any City Beach.

§ 63-8. Application for Special Event permit.

- A. Any person desiring to have a Special Event on a City Beach shall file an application with the Parks and Marina Department in accordance with the instructions and forms provided by the City of Lewes website (www.ci.lewes.de.us), responding to all questions therein, at least two business days prior to the date of the Special Event, and including payment of any permit fee specified therein.
- B. Upon the filing of the application, the Parks and Marina Department shall endorse approval upon the application, if it complies with this section and if in the Parks and Marina Department's judgment the proposed event is consistent with past uses of the beach and is not apt to disturb neighboring property owners or tenants. If the application

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is rejected, the Parks and Marina Department shall notify the applicant of the disapproval with the reason or reasons therefor.

§ 63-9. Enforcement.

Any person or entity violating a provision of this Chapter 63 may be subject to a fine of \$200. For a second or subsequent violation, any person or entity shall be subject to a fine of \$500 for each such violation. Each day that a violation of any of the provisions of this Chapter continues shall be deemed and taken to be a separate and distinct violation.

FINAL REVISION

As Approved by the Ad Hoc Ordinance Committee

OPERATING POLICIES AND PROCEDURES
for the
ORDINANCE REVIEW AD HOC COMMITTEE

1. Mission Statement

The mission of the Ordinance Review Ad Hoc Committee (“ORAHC”) is to conduct a comprehensive review of the Lewes City Code. The committee is charged with identifying and recommending revisions to the City Code, including reviewing and proposing amendments identified by the Mayor and City Council, city commissions, committees, and city staff. The purpose of this work is to reduce redundancy, resolve inconsistencies, and clarify language in order to create a code that is cohesive, accessible, and aligned with the City’s values, priorities, and current needs.

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2. Review Process:

a. Initiating Review. ORAHC will initiate review and revision of designated provisions of the Lewes City Code under the following circumstances:

- i. Upon request by the Mayor and City Council.
- ii. Upon request by City Commissions and Committees having responsibility for implementation or enforcement of the applicable portions of the Code.
- iii. Upon request by City staff having responsibility for implementation or enforcement of the applicable portions of the Code.
- iv. By ORAHC *sua sponte* subject to concurrence by applicable City stakeholders.

b. Revision Process.

- i. ORAHC will meet with stakeholders, meaning City officials, Committees, Commissions or staff that implement or enforce the applicable Code provisions. The purpose of the meeting is to understand the stakeholders’ concerns with the current ordinance and to identify specific improvements.
- ii. ORAHC will designate one or more of its members to spearhead the review and revisions, working with one or more representatives from the applicable stakeholder(s). This working group will discuss practical implications of Code changes and will consider ordinances from other jurisdictions to synthesize a proposed revision that reflects the City’s needs and character. ORAHC members of the working group will attend meetings of the

applicable stakeholders and stakeholder representatives will attend meetings of ORAHC as necessary to join in discussions about Code revisions.

- iii. As and when the working group generates a draft for consideration, it will be presented by the working group to: (a) the stakeholder(s) whether it be a senior City staffer, a Committee, a Commission or the Mayor and City Council; and (b) the full ORAHC.
- iv. The working group will reconvene and produce successive drafts of the revised Code provisions to reflect input of the full ORAHC and stakeholders. Unless otherwise mutually agreed, the Code revision will remain on the agendas of each participant (ORAHC and stakeholder) for each successive meeting until the revision is approved by both as a joint proposal.
- v. **The functional objective is to have ORAHC complete a joint draft with the applicable stakeholder(s) amending or restating the applicable Code provisions to be presented by ORAHC to the Mayor and City Council for consideration and approval.**
- vi. In the event that, despite best efforts, ORAHC and the stakeholders cannot reach full agreement on proposed Code revisions, then the joint proposal will identify the points of difference as alternative language, with explanation for consideration by the Mayor and City Council.
- vii. Members of the working group will attend public meetings of the Mayor and City Council where the proposed Code change will be considered, and they will be prepared to guide the discussion and respond to questions. The working group will remain active to further revise and re-propose any Code changes as the Mayor and City Council may request.

Adopted by the Ordinance Review Ad Hoc Committee on July ____, 2026.

Dennis Reardon, Chairman