



NEW CASTLE COUNTY COUNCIL COMMUNITY SERVICES COMMITTEE MEETING

Co-Chair: Penrose Hollins, Fourth District
Co-Chair: Jea P. Street, Tenth District

September 24, 2024
3:00 PM

VIRTUAL ZOOM WEBINAR MEETING** &
LOUIS L. REDDING CITY/COUNTY BUILDING
1ST FLOOR COUNCIL CHAMBERS
800 N. FRENCH STREET, WILMINGTON, DE 19801

AGENDA

A. Meeting Call to Order/Roll Call

B. Approval of Minutes Community Services Committee Meeting 06-25-2024

C. Review/Discussion of Resolution(s)

D. Review/Discussion of Ordinance(s)

°24-087: TO AMEND NEW CASTLE COUNTY CODE CHAPTER 40 ("UNIFIED DEVELOPMENT CODE" OR "UDC"), ARTICLE 3 ("USE REGULATIONS"), ARTICLE 4 ("DISTRICT AND BULK STANDARDS"), ARTICLE 33 ("DEFINITIONS"), AND APPENDIX 7 ("GUIDING PRINCIPLES FOR DEVELOPMENT"), REGARDING EXPANDING THE ACCESSORY DWELLING UNIT REGULATIONS TO PROVIDE EQUITABLE AFFORDABLE HOUSING OPPORTUNITIES AND THE ABILITY TO AGE IN PLACE, AND UPDATING THE GUIDING PRINCIPLES TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN

Prime Sponsor(s): Mr. Hollins

°24-139: TO APPROPRIATE \$150,000 IN THE NEW CASTLE COUNTY AFFORDABLE HOUSING FUND, WITH FUNDS THAT ORIGINATED FROM THE GENERAL TAX STABILIZATION RESERVE, FOR A CONTRACT WITH CORNERSTONE WEST CDC TO BE ADMINISTERED BY THE DEPARTMENT OF COMMUNITY SERVICES

Prime Sponsor(s): Mr. Hollins, Mr. Street

°24-140: TO APPROPRIATE \$98,000 IN THE NEW CASTLE COUNTY AFFORDABLE HOUSING FUND, WITH FUNDS THAT ORIGINATED FROM THE GENERAL TAX STABILIZATION RESERVE, FOR A CONTRACT WITH GOOD NEIGHBORS TO BE ADMINISTERED BY THE DEPARTMENT OF COMMUNITY SERVICES

Prime Sponsor(s): Mr. Hollins, Mr. Street

°24-142: AMEND THE GRANTS BUDGET: APPROPRIATE FEDERAL FUNDS OF \$100,000 FROM THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TO THE COC PERMANENT SUPPORTIVE HOUSING GRANT, WHICH IS ADMINISTERED BY THE DEPARTMENT OF COMMUNITY SERVICES, DIVISION OF COMMUNITY DEVELOPMENT AND

HOUSING

Prime Sponsor(s): Mr. Hollins, Mr. Street

E. Presentations

- Newark Library Project Presentation by Chuck Wray, Quinn Evans Architects
- Accessory Dwelling Units (ADUs)

F. Other**G. Public Comment****H. Adjournment****AGENDA POSTED:SEPTEMBER 17, 2024**

*The agenda is posted (7) seven days in advance of the scheduled meeting in compliance with 29 *Del. C.* Section 10004(e)(2). The meeting may go into Executive Session to address issues that arise at the time of the meeting.

**Under Title 29, Section 10006A of the Delaware Code, New Castle County Council is holding this meeting as a telephone and video conference, utilizing  Webinar. In addition, this meeting is open to the public in Council Chambers (800 N. French Street, Wilmington, DE 19801). The link to join the meeting via computer, smart device, or smartphone is : <https://zoom.us/j/377322142> You may also call into the meeting (audio) using the following call in numbers: 1-312-626-6799 or +1-646-558-8656 or +1-346-248-7799 or +1-669-900-9128 or +1-253-215-8782 or +1-301-715-8592. Then enter the Webinar ID: 377 322 142. If you do not have a good connection with one, please try the others. Additional information regarding phone functionality during the meeting is available at: <https://support.zoom.us/hc/en-us/articles/360029527911-Live-Training-Webinars>

Meeting materials, including a meeting agenda, legislation to be addressed during the meeting, and other materials related to the meeting are electronically accessible at <https://www.nccde.org/2351/Agendas-and-Minutes>. Members of the public joining the meeting may be provided an opportunity to make comments in real time. A comment period will be administered by a moderator to ensure everyone may have an opportunity to comment.

If permitted to comment, you will not be able to speak until called upon by the moderator. For those appearing virtually, there are functions in the program that allow you to do this. Please see the link in the previous paragraph.

Prime Sponsor(s): Mr. Hollins
Requested by: Land Use
Date of introduction: May 28, 2024

ORDINANCE NO. 24-087

TO AMEND NEW CASTLE COUNTY CODE CHAPTER 40 (“UNIFIED DEVELOPMENT CODE” OR “UDC”), ARTICLE 3 (“USE REGULATIONS”), ARTICLE 4 (“DISTRICT AND BULK STANDARDS”), ARTICLE 33 (“DEFINITIONS”), AND APPENDIX 7 (“GUIDING PRINCIPLES FOR DEVELOPMENT”) , REGARDING EXPANDING THE ACCESSORY DWELLING UNIT REGULATIONS TO PROVIDE EQUITABLE AFFORDABLE HOUSING OPPORTUNITIES AND THE ABILITY TO AGE IN PLACE, AND UPDATING THE GUIDING PRINCIPLES TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN

1 **WHEREAS**, County Council adopted Substitute No. 2 to Ordinance No. 22-024 as
2 Amended by Floor Amendment No. 1 (“New Castle County Comprehensive Plan 2050”
3 or “Comprehensive Plan”), on July 26, 2022, and the County Executive approved the
4 Ordinance on August 4, 2022; and
5

6 **WHEREAS**, in April of 2007, County Council adopted Substitute No. 1 to
7 Ordinance No. 07-001 creating the Accessory Dwelling Unit (“ADU”) provisions to:
8

- 9 • Provide senior homeowners with a means of obtaining rental income,
10 companionship, security, and services, thereby enabling them to stay more
11 comfortably in homes and neighborhoods they might otherwise be forced to leave;
12
- 13 • Create additional housing units in areas where infrastructure is already in place;
14
- 15 • Provide housing units for persons with special needs facilitate the supply of
16 housing available to households with moderate incomes; and
17

18 **WHEREAS**, in March of 2017, County Council adopted Ordinance No. 16-117 to
19 increase the cap on ADUs from 0.2 percent single family detached homes to 0.4 percent
20 of single family detached homes; and
21

22 **WHEREAS**, in the seventeen years since adoption of the ADU provisions, fewer
23 than 400 accessory dwelling unit permits have been issued, about one quarter of which
24 were for detached ADUs; and
25

26 **WHEREAS**, the Delaware Housing Needs Assessment 2015-2022, issued by the
27 Delaware State Housing Authority, indicates an existing need for affordable housing in
28 New Castle County; and
29

30 **WHEREAS**, the New Castle County Comprehensive Plan directs the County to
31 increase the variety and range of safe, quality housing options for all, in a diversity of
32 locations; focus on revitalizing and preserving areas already developed, while responsibly
33 guiding future development in a manner that is consistent with adjacent communities; and
34

35 **WHEREAS**, the New Castle County Comprehensive Plan identified ADUs as a
36 method for addressing the affordable housing needs in the County; and
37

38 **WHEREAS**, the County recognizes the importance of updating its development
39 regulations to be consistent with, and implement, the New Castle County Comprehensive
40 Plan; and
41

42 **WHEREAS**, County Council has determined that the provisions of this Ordinance
43 substantially advance, and are reasonably and rationally related to, legitimate
44 government interests (i.e., promoting the health, safety, morals, convenience, order,
45 prosperity and/or welfare of the present and future inhabitants of this State).
46

47 **NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:**
48

49 **Section 1.** *New Castle County Code* Chapter 40 (“Unified Development Code”
50 or “UDC”), Article 3 (“Use Regulations”), Division 40.03.100 (“Use Regulations”), is
51 hereby amended by adding the material that is underscored and deleting the material
52 that is bracketed and stricken, as set forth below:

Table 40.03.110A. General Use Table									Table 40.03.110B. General Use Table							Table 40.03.110C. General Use Table	
Zoning District (Urban and Suburban-Transition Character) Y=permitted, N=prohibited, L=limited review, S=special use review, A=accessory									Zoning District (Suburban and Special Character)							Additional Standards (all districts)	
Land Use	TN*	ST	MM	ON	OR	CR	BP	I	CN	S***	SE	NC**	HI	EX	SR	Parking	Limited & Special Use Standards
... Residential									Residential							Residential	
...Manufactured home park	N	N	L	N	N	N	N	N	N	N	N	L	N	N	N	2.25/du.	Section 40.03.306
Small single-family <u>detached dwelling</u>	L	L	N	N	N	[L]N	N	N	[L]N	L	N	L	N	N	N	2.0/du.	[---]Only permitted as an ADU (Section 40.03.410) ...

55 **Section 2.** *New Castle County Code* Chapter 40 (“Unified Development Code”
56 or “UDC”), Article 3 (“Use Regulations”), Division 40.03.400 (“Individual Use
57 Standards”), is hereby amended by adding the material that is underscored and
58 deleting the material that is bracketed and stricken, as set forth below:
59

60 **Sec. 40.03.410. Accessory uses, residential.**
61

62 Residential uses may have accessory buildings and accessory uses provided they
63 conform to the following standards...
64

65 I. *Accessory dwelling unit (ADU).*
66

- 67 1. Only one (1) ADU is permitted per single-family ...
68
69 7. On any lot [~~greater than two (2)~~]one half (1/2) of an acre or more, one (1)
70 freestanding accessory structure may be constructed or used as an
71 ADU[~~The freestanding~~] provided that the dwelling unit [may be located in
72 any yard, provided that it]meets the same front, street, side and rear yard
73 setbacks as required for the principal dwelling. ...
74
75 12. ~~[The total number of building permits issued for ADUs in unincorporated~~
76 ~~New Castle County shall not exceed four tenths (0.4) percent of the total~~
77 ~~of single family detached homes in the County based an assessment~~
78 ~~records.]~~A detached ADU may be either a Small Single-Family or Single-
79 Family Detached dwelling.
80
81 13. An ADU is the only detached accessory residential structure that may
82 provide quarters for sleeping.
83
84 14. Ardens exception for existing ADUs. ...
85
86 ~~[14. The Department of Land Use shall advise New Castle Council in writing~~
87 ~~ADUs are reaching the cap; the Department at that time will render a~~
88 ~~recommendation to Council on whether the cap should be raised and if so,~~
89 ~~by how much.]~~
90

91 **Section 3.** *New Castle County Code* Chapter 40 (“Unified Development Code”
92 or “UDC”), Article 4 (“District and Bulk Standards”), Division 40.04.100 (“District
93 performance standards”), is hereby amended by adding the material that is
94 underscored and deleting the material that is bracketed and stricken, as set forth
95 below:
96

97 **Sec. 40.04.110. District and bulk standards.**

98
99 This Section contains the basic district standards applicable to all uses. Table 40.04.110
100 contains intensity, lot, bulk and exterior storage standards. These standards may be
101 modified by the Department pursuant to Article 26.

102
103 A. *Minimum open space ratio.* ...

104
105 B. ~~[Minimum-s]~~Site area. ~~[Minimum-s]~~Site area is the [minimum] area required
106 ~~[before]~~for any new uses recognized by this Chapter ~~[may]~~to be permitted in the
107 zoning district. The number identified is the minimum site area unless otherwise
108 specified.

109 No land shall be rezoned unless the proposed zoning district meets minimum site
110 area requirements. In determining minimum site area requirements for rezoning
111 applications, contiguous parcels of the same zoning shall be considered in the
112 calculation.

113
114 C. Maximum building height. ...

115
116 D. Minimum lot area. ...

Table 40.04.110A. DISTRICT AND BULK STANDARDS								Table 40.04.110B. DISTRICT AND BULK STANDARDS								Table 40.04.110C. DISTRICT AND BULK STANDARDS	
District Standards								Lot, and Building Standards								Storage and Comments	
		Density		Floor Area Ratio				Minimum							Max.	Exterior Storage	Notes
Zoning District & Type	Min. OSR/LSR	Max. Gross	Max Net	Max. Gross	Max Net	Utilities (on-site, public)	[Min.] Site Area	Lot Area	Lot Width (feet)	Front and Street Yards (feet)	Side Yard (feet)	Rear Yard (feet)	Paving street yard/ other yard (feet)	Unit Mix (%)	Build-ing Height (feet)	Percent of Lot Area	
Suburban Reserve (SR)...								Suburban Reserve (SR)...								Suburban Reserve (SR)...	

Section 4. New Castle County Code Chapter 40 (“Unified Development Code” or “UDC”), Article 33 (“Definitions”), Division 40.33.200 (“Use definitions”), is hereby amended by adding the material that is underscored and deleting the material that is bracketed and stricken, as set forth below:

Sec. 40.33.220. Residential uses.

A. *Single-family detached*. These are detached dwelling...

K. *Manufactured home park*. A development designed...

L. *Small single-family*. The small single-family house is an affordable unit specially designed and built to serve the needs of individuals or small households who need small, compact, affordable housing. It is not intended to meet the needs of large families. ~~[Three (3)]~~ Two (2) types of housing are provided: single-family detached one (1) story~~[,] and single-family detached two (2) story[, and single-story attached]~~. The small scale of these units permits them to fit into existing neighborhoods without threatening the neighborhood character.

M. *Accessory dwelling unit (ADU)*. This is a second, subordinate...

Section 5. New Castle County Code Chapter 40 (“Unified Development Code” or “UDC”), Article 33 (“Definitions”), Division 40.33.300 (“General definitions”), is hereby amended by adding the material that is underscored and deleting the material that is bracketed and stricken, as set forth below:

Division 40.33.300. General definitions.

This Division contains the definition of words used in this Chapter ...

Dwelling, single-family detached. A dwelling unit, including a manufactured home, designed for and occupied by not more than one (1) family and having no roof, wall or floor in common with any other dwelling unit. ~~[With the exception of small single-family housing (Section 40.07.340), the following shall apply]:~~

A. It has a minimum of seven hundred fifty (750) square feet of gross floor area.

B. It has a minimum width along any exterior front, side and rear elevation of twenty (20) feet, exclusive of any garage area. If applicable, it ~~[shall]~~ must be multiple transportation sections at least ten (10) feet wide unless transportable in three (3) or more sections, in which case only one (1) section need be ten (10) feet wide.

C. It is permanently ...

Dwelling, small single-family detached. A one (1) or two (2) story dwelling unit, designed for and occupied by not more than one (1) family and having no roof, wall or floor in common with any other dwelling unit. The following applies:

- A. It has a minimum of four hundred (400) square feet of gross floor area and less than seven hundred fifty (750) square feet of gross floor area.
- B. It is of light-frame or masonry construction and permanently mounted on a solid foundation or pier foundation system in accordance with Chapter 6.
- C. All utilities must be permanently connected in accordance with the County plumbing and mechanical codes.
- D. The dwelling must have a weather-resistant exterior covering material comparable in appearance, quality and durability to brick, stone, treated lumber, masonry, or masonry veneer, which shall extend to the foundation.
- E. The siding of all dwellings must be continuous so as to enclose any joining of two (2) or more sections.
- F. It complies with all other pertinent sections of the building and housing codes of the County, and the fire and health codes of the State.

Dwelling unit. One (1) or more rooms physically...

Lot, flag. ...

Lot line. A property line dividing one (1) lot from another or from a street or other public place. A lease line shall not be interpreted to be a lot line. There are basically four (4) types of lot lines—front, rear, side, and street. See Figure 40.33.312.

- A. Front lot line.* The street lot line from which the unit takes access[; or w]. Where more than one (1) street yard could safely provide [this] access, the street serving the smallest traffic volume unless otherwise determined by the Department. For parcels with no street frontage the front lot line must be determined by the Department.
- B. Rear lot line.* The lot line opposite or nearly opposite the front lot line. In the case of a lot without a clearly identified rear lot line, that line shall be construed to be a ten (10) foot long line drawn parallel with the front street line.
- C. Side lot line.* The lot line that runs generally perpendicular or at angles to the street or any line that is not a front, street or rear lot line.
- D. Street lot line.* Any lot line that is also a street right-of-way line.

Lot-line house....

209
210 *Yard. ...*

211
212 *Yard, front.* A yard extending the full width of the lot between the front lot line and the
213 parts of the principal building erected thereon.

214
215 *Yard, rear.* A yard extending the full width of the lot between the rear lot line and the
216 parts of the principal building erected thereon. For a corner lot, the rear yard shall not
217 extend beyond the building setback line on the side street.

218
219 *Yard, side.* A yard between the parts of the principal building and the adjacent side lot
220 line [~~of the lot~~] and extending from the front yard to the rear yard.

221
222 *Yard, street.* A yard extending the full width of the lot between the street lot line and
223 the parts of the principal building erected thereon setting back from and nearest such
224 street line.

225
226 *Zero (0) lot line. ...*

227
228 **Section 6. New Castle County Code** Chapter 40 (“Unified Development Code
229 or “UDC”), Appendix 7 (“Guiding Principles for Development”), is hereby amended by
230 adding the material that is underscored and deleting the material that is bracketed and
231 stricken, as set forth below:

232
233 **APPENDIX 7: GUIDING PRINCIPLES FOR DEVELOPMENT**

234
235 **1. Purpose and Applicability. ...**

236
237 **2. Character Areas.**

238
239 A. The Comprehensive Development Plan ...

240
241 B. The Guiding Principles achieve the foregoing through dividing the County into
242 ~~[five (5)]~~six (6) Character Areas, consistent with the ~~[eight (8) future land use~~
243 ~~categories designated by the Comprehensive Development Plan: Residential~~
244 ~~Neighborhood, Mixed Residential Neighborhood, Corridor, Center, and New~~
245 ~~Community Development]~~Future Land Use Designations and policies in the New
246 Castle County Comprehensive Development Plan. For additional clarity, the
247 relationship between zoning districts, future land use categories, and their
248 corresponding character area designations, are shown below:
249

250
251
252
253

Table 1
Character Area Relationships

Zoning Districts	Strategies for State Policies and Spending Areas	Comprehensive Development Plan Future Land Use Categories	General Description	Guiding Principles Character Areas
<u>S, ST, TN</u>	<u>Levels 1 & 2</u>	<u>Hamlets & Villages/ Residential Developed/ Residential Developed</u>	<u>Moderate to High Density/Mix of Dwelling Unit Types/Neighborhood Scale Commercial and Office Uses Areas providing walkable, transit-supportive, community centers that transition to surrounding suburban areas</u>	<u>Traditional Community Development</u>
<u>S</u>	<u>Levels 1 & 2</u>	<u>Residential/Residential Developed</u>	<u>Low to Moderate Density Residential/Mix of Dwelling Unit Types</u>	<u>Suburban Community Development</u>
<u>S, SE, SR, NC</u>	<u>Levels 1,2,3, & 4</u>	<u>Residential/Residential Developed</u>	<u>Very Low to Moderate Density Residential/Mix of Dwelling Unit Types</u>	<u>Residential Neighborhood</u>
<u>All</u>	<u>Levels 1,2,3, & 4</u>	<u>Resource Preservation</u>	<u>Discourage New Development/Protect natural resources and preserve green fields</u>	<u>Resource Preservation</u>
[SE, SR, S, applicable NC districts]	[Levels 1, 2 & 3]	[Very Low Density Residential]	☐ [0-1 dwelling units/acre] ☐ [Protect natural resources and preserve green fields]	[Residential Neighborhood]
[S, ST applicable NC districts]	[Levels 1 & 2]	[Low Density Residential]	☐ [1-3 dwelling units/acre-] ☐ [Minimize new development until population and employment growth justifies expansion of the public sewer system] ☐ [Protect natural resources and preserve green fields]	[Residential Neighborhood]
[ST, TN, applicable NC districts]	[Levels 1 & 2]	[Medium Density Residential]	[2-8 dwelling units/acre]	[Residential Mixed Neighborhood]

[ST, TN, applicable NC districts]	[Levels 1 & 2]	[High Density Residential]	[> 8 dwelling units/acre]	[Residential Mixed Neighborhood]
CN, CR, ON, OR, BP, I, applicable NC Districts	Levels 1 & 2	Type 1 (Commercial Corridor Development)/Type 2 (Employment-based Corridor Development)/Community Development Areas	- Higher densities - Redevelopment or mixed-use centers - Transit supportive	Corridor
CN, CR, ON, OR, BP, I, and HI	Levels 1 & 2	Business Flex and Manufacturing	- High intensity commercial and employment-based uses permitting integrated residential - Redevelopment or mixed-use centers - Transit supportive	Commercial and Employment Centers
[CN, CR, ON, OR, BP]	[Levels 1 & 2]	[New Community Development Area]	[Density goal 3-5 dwelling units per acre] [Areas providing walkable, transit-supportive, community centers that transition to surrounding suburban areas]	[New Community Development]
[SE, SR]	[Levels 2, 3 & 4]	[Resource & Rural Preservation]	☐ [Minimize new development] ☐ [Protect natural resources and preserve green fields]	[Not addressed — regulated by existing UDC standards]

C. The Comprehensive Development Plan has ...

3. Guiding Principles and Character Areas.

A. ~~[The Guiding Principles align]~~ This Appendix provides specific guidance on four (4) of the six (6) ~~[five (5)]~~ character areas ~~[to the future land use categories in the Comprehensive Development Plan:]~~; Residential Neighborhood, ~~[Mixed Residential Neighborhood]~~ Suburban Community Development, Commercial and Employment Centers, and Corridors, and New Community Development. This ~~[e]~~ Appendix does not address ~~[Heavy Industrial and]~~ Resource ~~[& Rural]~~ Preservation category ~~[ies are not addressed here because they are regulated by the UDC, and do not require the kind of design and amenity regulations established in these Guiding Principles]~~ since land use policy set by the Comprehensive Development Plan is to encourage preservation efforts in

268 Resource Preservation Areas. Design standards for Traditional Community
269 Development are in Article 25 Design.

270
271 B. The following table summarizes the Guiding Principles for each character area:

272
273

Table 2
Summary of Design Principles

	Residential Neighborhood	[Mixed Residential Neighborhood] Suburban Community Development	Corridors	Commercial and Employment Centers	[New] Traditional Community Development
Vision	[Primarily Single-Family detached, low densities] <u>Very Low to Moderate Density Residential/Mix of Dwelling Unit Types</u>	[Mix of residential types, from high density single family to apartments, with small scale commercial] <u>Low to Moderate Density Residential/Mix of Dwelling Unit Types</u>	Mix of commercial and employment-based uses with supportive residential higher densities Redevelopment or mixed-use centers transit supportive	High intensity commercial and employment-based uses permitting integrated residential Redevelopment or mixed-use centers Transit supportive	Mix of <u>residential and institutional uses may include supportive commercial or employment-based uses</u> [; may include supportive residential]
Building:					
Facade Design	No special considerations except in Home Town or Neighborhood Preservation districts	Highly articulated facade with a high level of transparency	Highly articulated facade with a high level of transparency, with more flexible standards away from the corridor	Moderately to highly articulated facade with a high level of transparency, with flexible standards for designated “B” streets	Moderately articulated facade with transparency, with flexible standards for designated “B” streets
Orientation	No special considerations except in Home Town or	Front-facing entry element (porch, stoop, etc.)	High level of ground floor pedestrian interest and transparency	High level of ground floor pedestrian interest and transparency	Accessible by vehicles with ground floor pedestrian

	Residential Neighborhood	[Mixed Residential Neighborhood] Suburban Community Development	Corridors	Commercial and Employment Centers	[New] Traditional Community Development
	Neighborhood Preservation districts		with front-facing entries (canopy, courtyard, etc.)	with front-facing entries (canopy, courtyard, etc.)	interest and transparency internal to the development
Transition Adjacent to Single-Family	No special considerations	Lower scale adjacent to Residential Neighborhoods	Lower scale adjacent to Residential Neighborhoods	Lower scale adjacent to Residential Neighborhoods	Lower scale adjacent to Residential Neighborhoods
Site:					
Building Placement	Buildings located to allow for front and rear yards	Buildings located near the sidewalk edge or set back	Buildings located near the sidewalk edge	Buildings set back from the sidewalk edge or along sidewalks at exterior	Buildings set back from the sidewalk edge or along sidewalks at exterior
Parking	No special considerations	Parking dispersed in small modules / [Quantity limited]	Parking located to the rear or side of buildings in small modules	Parking located to the rear of buildings in small modules or Parking set back from the sidewalk edge in landscaped lots	Parking set back from the sidewalk edge in landscaped lots / Sufficient quantity
Pedestrian & Bicycle Circulation	Sidewalks and paths provide multi-modal connections	Sidewalks and paths provide multi-modal connections	Buildings are connected to the street & transit / sidewalks, bike lanes and multi-	Buildings are connected to the street & transit / sidewalks, bike lanes and multi-	Multi-modal paths and sidewalks connect buildings and parking

	Residential Neighborhood	[Mixed Residential Neighborhood] Suburban Community Development	Corridors	Commercial and Employment Centers	[New] Traditional Community Development
			modal paths connect to greenways and neighborhoods	modal; paths connect to greenways & neighborhoods	
Vehicular Circulation	Streets provide sufficient connectivity / narrow drive lanes for new subdivisions	Narrow drive lanes / street provide sufficient connectivity	Narrow drive lanes / limited curb cuts / off-street connections between parcels	Narrow drive lanes / limited curb cuts / off-street connections between parcels	Narrow drive lanes / limited curb cuts / off- street connections between parcels
Stormwater Management	Stormwater management practices should be integrated into site features such as rooftops, landscape islands, and paved areas, to intercept and retain rainfall runoff throughout the site in order to mimic pre-developed hydrology and reduce overall development costs associated with high land value.				
Amenities:					
Open / Civic Spaces	High level of passive open space oriented around natural features	Open space primarily provided as patios and courtyards limited urban landscaping to promote pedestrian orientation and reduce visual impacts of parking	Some open space provided as patios and courtyards significant landscaping to reduce visual impacts of parking and enhance community image	Significant perimeter landscaping to enhance community image or transition in scale where adjoining other uses.	Significant perimeter landscaping or transition in scale where adjoining other uses

4. Residential Neighborhood.

A. *Vision.*

1. The Residential Neighborhood designation [~~is for New Castle County's predominantly single-family neighborhoods. The designation~~] applies to areas primarily identified as Residential Developed in the Comprehensive Development Plan~~[consisting primarily of single-family dwellings on individual lots and is intended to preserve and protect the existing character of the residential neighborhood. Typical uses include single family housing, parks, and compatible uses such as schools and daycare centers]~~.
2. The vision is to protect the residential neighborhoods from encroaching commercial uses and incompatible development that would compromise the quality of life and character of these areas. This directs incompatible development away from the neighborhoods to Corridor[, and Center[, and New Community Development] character areas [and] providing[es] a broad array of neighborhood conservation measures to control the pace and type of change within existing residential areas.
3. At an appropriate scale and design, [~~however,~~]neighborhood-serving retail, service, and institutional uses [~~should~~]may be located close to these neighborhoods.

- B. *Building Design.* Height and maximum allowable density are as set out in the UDC for the Suburban (S), Suburban Estate (SE), Suburban Reserve (SR) and applicable Neighborhood Conservation (NC) [~~and Suburban Transition (ST)~~] districts. Building design generally is not regulated in these districts unless specifically mentioned in the UDC.

C. *Site Design...*

5. ~~[Mixed Residential Neighborhood]~~Suburban Community Development.

A. *Vision.*

1. [~~This category~~]The Suburban Community Development applies to undeveloped areas primarily identified as Residential the high (9-plus dwelling units per acre) and medium (3-9 dwelling units per acre) density residential land use categories. These are identified as existing communities in the Comprehensive Development Plan and are primarily located north of the Canal. [~~While t~~]The Comprehensive Development Plan [identifies few policies specific to these land use categories, they do]encourages a diverse range of housing near employment and commercial areas, [and]transit services, and affordable housing.

- 321
- 322 2. This designation is applied primarily to areas with a mix of housing types,
- 323 including multi-family housing. It is intended to preserve and protect the
- 324 existing character and state of the residential neighborhood. ~~[Typical uses~~
- 325 ~~include low and medium-scale apartments, semi-detached, twin, atrium,~~
- 326 ~~weak-link and townhouse types and quadraplexes. Pedestrian-oriented~~
- 327 ~~retail, institutional and commercial amenities are permitted only in TN-~~
- 328 ~~zoned parcels.]~~
- 329
- 330 3. New development ~~[will]~~should transition in mass and scale to adjacent
- 331 ~~[structures in]~~residential neighborhoods ~~[in a way that]~~to protect[s] the
- 332 neighborhood's aesthetic quality and livability~~[- New development will]~~
- 333 while providing[e] open space or recreational amenities for residents.
- 334
- 335 4. The development may include both "A" and "B" streets to offer design
- 336 flexibility while ensuring that the development provides high design quality
- 337 along streets with both vehicular and pedestrian traffic.
- 338

339 B. *Building Design.*

340

- 341 1. ~~[Make the building visually and architecturally pleasing by]~~Buildings should
- 342 ~~vary[ing the]~~ in height, color, setbacks, materials, texture, landscaping,
- 343 trim and roof shape.
- 344
- 345 2. Orientation...
- 346

347 C. Frontage

		<u>“A” Streets</u>	<u>“B” Streets</u>
<u>Awning/Canopy</u>	<u>Use of an awning or canopy above transparent glass windows or other ground floor pedestrian interest areas.</u>	■	■
<u>Balcony</u>	<u>An unenclosed platform that projects from the wall of a building a minimum of 6’ and is surrounded by a railing, balustrade, or parapet.</u>	■	■
<u>Courtyard</u>	<u>A court, patio or other indentation in the building facade at least 6’ deep – building entry doors may face onto the patio from any direction.</u>	■	■
<u>Gallery/Arcade</u>	<u>Roofed (or partially roofed), arcade, gallery, veranda or pergola elements that are not enclosed on more than two sides.</u>	■	■
<u>Front porch</u>	<u>A roofed but unenclosed entry element with a minimum depth of 8’.</u>	■	■
<u>Stoop</u>	<u>A raised and unenclosed (may be roofed) landing and stairway.</u>	■	■
<u>Projected entry</u>	<u>An entry that extends exterior from the front of the building plane, and has a height and width in scale to the dimensions of the building, such that its presence clearly indicates a primary entrance.</u>		■
<u>Recessed entry</u>	<u>An entry that recesses into the front of the building plane, and has a height and width in scale to the dimensions of the building, such that its presence clearly indicates a primary entrance. A Recessed Entry can be integrated with the building’s roof plane.</u>		■

[D]E.Amenities...

6. Corridor. ...

7. Commercial and Employment Centers. ...

8. [New]Traditional Community Development.

A. Vision.

1. [New]Traditional Community Development is the character area [of new growth south of the C & D Canal, and] that includes [those] areas currently served by sewer and [the proposed first phase expansion of the Southern Sewer Service Area] designated by the Future Land Use Map as either Residential or Hamlets & Villages and developed as either an Affordable Housing Planned Development, Hamlet or Village. Directing growth to these areas avoids land consumption and provides a fiscally responsible, compact development pattern. Accommodating development in a smaller geographic area reduces the size of the area that must be served by infrastructure, thereby decreasing development expenditures that are reflected in the cost of living for residents.

2. The development may include both "A" and "B" streets...

B. Building Design. ...

C. Site Design. ...

D. Amenities. ...

9. General Concepts....

10. Amenities....

Section 7. Consistent with Comprehensive Development Plan. New Castle County Council finds that the provisions of this Ordinance are consistent with the spirit and intent of the New Castle County Comprehensive Development Plan.

Section 8. Inconsistent Ordinances and Resolutions Repealed. All ordinances or parts of ordinances and all resolutions or parts of resolutions that may be in conflict herewith are hereby repealed except to the extent they remain applicable to land use matters reviewed under previous Code provisions as provided in Chapter 40 of the *New Castle County Code*.

392 **Section 9. Severability.** The provisions of this Ordinance shall be severable. If
393 any provision of this Ordinance is found by any court of competent jurisdiction to be
394 unconstitutional or void, the remaining provisions of this Ordinance shall remain valid,
395 unless the court finds that that the valid provisions of this Ordinance are so essentially
396 and inseparably connected with, and so dependent upon, the unconstitutional or void
397 provision that it cannot be presumed that County Council would have enacted the
398 remaining valid provisions, without the unconstitutional or void one, or unless the court
399 finds that the remaining valid provisions, standing alone, are incomplete and incapable
400 of being executed in accordance with the County Council's intent. If any provision of this
401 Ordinance or any zoning map or portion thereof is found to be unconstitutional or void,
402 all applicable former ordinances, resolutions, zoning maps or portions thereof shall
403 become applicable and shall be considered as continuations thereof as not as new
404 enactments regardless if severability is possible.

405
406 **Section 10. Effective Date.** This Ordinance shall become effective immediately
407 upon its adoption by County Council and approval by the County Executive or as
408 otherwise provided in 9 *Del. C.* § 1156 and shall not apply to any land use application
409 filed prior to the adoption date of this Ordinance.

Adopted by County Council of
New Castle County on:

Karen Hartley-Nagle
President of County Council
New Castle County

Approved on:

Matthew Meyer
County Executive
New Castle County

SYNOPSIS:

Sec. 40.03.110. This amendment removes small single-family from the Commercial Neighborhood (CN) and Commercial Regional (CR) zoning districts. This amendment also permits small single-family as an ADU.

Sec. 40.03.410. This amendment permits detached ADUs on lots one half (1/2) of an acre or larger. Removes cap on ADUs and requirement for the Department to provide an annual report. This amendment also clarifies that detached ADUs can be either single-family detached or small single-family detached dwelling units and that ADUs are the only permissible detached accessory structure providing quarters for sleeping.

Sec. 40.04.110. This amendment changes minimum site area to site area since this column has a maximum acreage as well as a minimum acreage. This amendment also provides front yard setback requirements.

Sec. 40.33.220. This amendment reduces the number of housing types available as small single family dwellings from three to two.

Div. 40.33.300. This amendment defines small single-family detached dwellings differentiating them from mobile homes. This amendment also defines front yard and requires that for lots that have no street frontage that the Department determines the front lot line.

Appendix 7. This amendment modifies the Guiding Principles for Development to be consistent with changes in the 2022 Update to the Comprehensive Development Plan.

FISCAL NOTE: This Ordinance will have no discernible fiscal impact.



Department of Land Use

**DEPARTMENT OF LAND USE
RECOMMENDATION REPORT**

**Ordinance No. 24-087
Application No. 2024-0299-T
Accessory Dwelling Units (ADUs)**

July 16, 2024

Sponsor: Councilman Hollins (District 4)

Description: To Amend New Castle County Code Chapter 40 (also known as the Unified Development Code or “UDC”) Regarding Accessory Dwelling Units (ADUs) and Updating the Guiding Principles for Residential Character Areas

EXECUTIVE SUMMARY

New Castle County has had provisions for permitting subordinate residential accommodations on parcels having single family detached dwellings for roughly half a century. Until 2007, this was only a very limited option based on acreage requirements. Ordinance 07-001 expanded opportunities for all county residents regardless of lot size or relation to the tenant, to establish an Accessory Dwelling Unit (detached only for lots at least 2 acres). It also included important protections to maintain the character and stability of existing communities. Ordinance 24-087 furthers the achievement objectives of Ordinance 07-001, by reducing the minimum lot size for detached ADUs from 2 acres to 0.5 acres and permitting small single-family homes (400-750 SF) to serve as ADUs, while retaining the important protections that have been part of the UDC for nearly 20 years. It also updates the Guiding Principles of Development for Residential Character Areas to be consistent with the 2022 New Castle County Comprehensive Plan. The changes to the UDC proposed by Ordinance 24-087 reflect the extensive outreach regarding affordable housing during and after the adoption of the 2022 Update to the New Castle County Comprehensive Plan.

The Department of Land Use has considered the Standards for Text Amendment in Section 40.31.420 of the New Castle County Code and comments received from other agencies and the public. Based on this analysis, the Department recommends APPROVAL of Ordinance No. 24-087

DESCRIPTION

Ordinance 24-087 (Application 2024-0299-T) is an implementation product of the 2022 New Castle County Comprehensive Plan as well as additional outreach efforts to state agencies and the public. The ordinance proposes the following primary objectives:

- Expand eligibility for detached ADUs in the County
- Eliminate the cap on ADUs
- Diversify ADU housing types by permitting Small Single-Family Homes as ADUs
- Update the Guiding Principles to be consistent with the New Castle County Comprehensive Plan

BACKGROUND

New Castle County has long had provisions permitting subordinate residential accommodations on parcels having single family detached dwellings. For a period nearly all residential parcels (R-1-A, R-1-BB, R-1-B, and R-2) permitted an accessory building to have a “*second floor for sleeping or living quarters*,” however this was intended to be limited to family members or “*regular employees of the family occupying the primary dwelling*”¹ Over the years several changes were made including restricting these accessory living quarters to lots at least 5 acres in size.²

Adoption of the UDC and Guest House Provisions (Ordinances 97-172 & 98-080)

On December 31, 1997, New Castle County adopted the Unified Development Code, which brought a new zoning format, as well as a great number of important changes. Provisions related to accessory living quarters, however, were largely unchanged from those in the former Code. Now defined as a “*Guest House*,” they were still limited to residential lots greater than 5 acres and not to be made “*available to the general public for compensation*.”³

On September 22, 1998, the County amended the Guest House provisions, as part of an omnibus bill, Ordinance 98-080, reducing the minimum lot size from 5 acres to 3 acres, while limiting the maximum size of the guest house to 50% of the primary dwelling.⁴ These provisions remained in place until being replaced by the ADU provisions.

Adoption of Accessory Dwelling Unit Provisions - Ordinance 07-001

On April 10, 2007, the County adopted Ordinance 07-001 permitting Accessory Dwelling Units (ADUs) on lots with single-family detached dwellings. The primary goals for the ordinance were to:

¹ 1975 New Castle County Zoning Code Section 23-22

² Former Code (December 31, 1997) Section 40-53.B(1)d

³ New Castle County Unified Development Code, Section 40.03.410.H, (December 31, 1997)

⁴ Ordinance 98-080

- Provide senior homeowners with a means of obtaining rental income, companionship, security, and services, thereby enabling them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave;
- Create additional housing units in areas where infrastructure is already in place;
- Provide housing units for persons with special needs; and
- Address housing needs in the County

The ordinance permitted ADUs under the following conditions:

- 1 ADU per single-family detached lot
- ADUs were only permitted to be either within the home or attached to the dwelling unit, unless the lot is greater than 2 acres, which permitted a detached ADU
- Apartment conversions are not permitted after the ADU is established
- The owner must live in one of the dwelling units and record an affidavit
- 1 additional off street parking space required

It also included requirements that the ADU be compliant with the Building Code, have adequate sewer or septic capacity and if it is to serve as a rental unit, register with the County. An additional limitation was set that the total number of building permits for ADUs not exceed 0.2% of all single-family detached homes. This limitation was put in place to prevent a potential proliferation of ADUs from impacting the character of single-family detached dwelling unit neighborhoods. ADUs replaced Guest Houses in the UDC, which were only permitted on lots greater than 3 acres.

Exceptions in the Ardens – Ordinance 07-153

After adopting provisions for ADUs in the UDC, the County worked with the Trustees of Arden, Ardencroft, and Ardentown to craft an amendment to the code that would recognize existing ADUs within their jurisdictional boundaries. The County adopted Ordinance 07-153 on February 26, 2008, granting legal status for ADUs that were certified individually by the Village Trustees prior to May 1, 2007.

Increasing the Cap on ADUs – Ordinance 16-117

In October of 2016, nearly a decade after adopting provisions for ADUs, the County approved its 214th ADU, at which time the 0.2% cap on ADUs was achieved. After that point it would require 500 new single-family homes to be constructed for every 1 ADU permitted. On February 28, 2017, County Council adopted Ordinance 16-117 increasing the cap from 0.2% to 0.4%, and requiring that the Department report to County Council when the number of ADUs approaches the cap.

PLUS REVIEW (Preliminary Land Use Service)

This ordinance was not submitted to PLUS for review, however the Department sought out and received positive feedback and recommendations from reviewing agencies including the Office of State Planning, DNREC, DHSA and DelDOT. Additionally, the changes proposed by Ordinance 24-087 are specific strategies in the 2022 Update to the New Castle County Comprehensive Development Plan (NCC2050), which was supported by all participating agencies in PLUS.

Planning Board Public Hearing - July 2, 2024

Dawn Thompson, Planning Manager for the Department of Land Use presented Ordinance 24-087 at the July 2nd joint New Castle County Department of Land Use and Planning Board Public Hearing. During her presentation, she discussed how the ordinance was derived from recommendations of the New Castle County Comprehensive Plan and public events including:

- Housing Information Session – April 26, 2023,
- Claymont Library Affordable Housing Press Event - September 27, 2023
- Housing Panel Discussion (Senator Huxtable, UD, Newark) - November 8, 2023

Planning Board members had several questions and comments in response to the presentation. Ms. Drake inquired about height restrictions for ADUs. Antoni Sekowski, Assistant Land Use Manager for the Department of Land Use, explained that ADUs are required to meet all the same district and bulk standards that the primary dwelling does, including height. Ms. Visvardis asked if ADUs are required to be family members or if the unit could be rented out. Mr. Sekowski explained that the existing ADU provisions permit rental of the unit out to individuals other than family members. He further explained that while renting the unit is permissible the property owner must reside in either the primary dwelling or the ADU, and that should either unit be a rental that it is required to be registered with the County. Charuni Patibanda, General Manager for the Department of Land Use, stated that part of the motivation for retaining those provisions is to prevent ADUs from being used for short term rental units (Airbnb). Ms. Peterson inquired if there is a required separation distance. Mr. Sekowski explained that ADUs are required to meet the same setbacks as the primary dwelling unit. Mr. Snowden identified that the ordinance primarily addresses detached ADUs and doesn't propose any changes for ADUs within the dwelling. Mr. Sekowski confirmed this.

Support

At the Public hearing three members of the public spoke in favor of Ordinance 24-087: (1) Councilman Cartier, (2) Frederick Mitsdarfer, III, Esq., and (3) Stephanie Rizzo. Councilman Cartier voiced support for the Ordinance 24-087, and stated that considering the County's ageing population, the ordinance will bring important and necessary changes. He further expressed that fears surrounding ADUs are largely overblown, and that existing protections paired with the cost associated with constructing an ADU mitigate potential impacts to neighborhoods. Frederick Mitsdarfer, III, Esq., representing Tarabiccios Grosso, LLP, voiced support for ordinance while

acknowledging concerns voiced by Ms. Casey, and a concern regarding upper limits on ADU GFA. Stephanie Rizzo, New Castle County Community Services, Administrator for the Inclusionary Housing Program, voiced support for the ordinance, explaining the ordinance if passed will provide for more affordable housing units and options for both aging in place and kids returning from college.

Opposition

At the Public hearing two members of the public spoke in opposition of Ordinance 24-087: (1) Donna Casey, President of Asbury Chase Maintenance Corporation and (2) Gail Costello, Vice President and Treasurer of the Asbury Chase Maintenance Corporation. Ms. Casey voiced concern that the ordinance might prevent maintenance corporations from banning ADUs. Ms. Costello, stated that she understood the concept of the ordinance but voiced concern that communities have to have the ability to exercise their deed restrictions, stating that they already had issues enforcing their deed restrictions. Ms. Peterson asked Ms. Costello what was impeding their community from exercising their deed restrictions. Ms. Costello cited eviction laws and money needed to hire lawyers as impediments.

General

Shawn Tucker, Esq. identified with the concerns voiced by the residents from Asbury Chase and recommended that the Department consider an amendment to the ordinance to make it easier for homeowners' associations to restrict ADUs.

Rebuttal

Charuni Patibanda, General Manager for the Department of Land Use provided a rebuttal. She explained that Ordinance 24-087, does not circumvent a community's deed restrictions. She explained that deed restrictions or bylaws for an HOA control if an ADU is permissible within a community. She further concurred with Councilman Cartier's statements regarding costs and building code restrictions regarding the construction of ADUs.

Comments received while the record was open

While the record was open the Department of Land Use received written correspondence supporting Ordinance 24-087 from Jerome Heisler Jr., the Department of Natural Resources and Environmental Control, and the New Castle County Housing Advisory Board.

Analysis

As the American Planning Association (APA) identifies, ADUs provide a number of important benefits to communities that permit them including:

- Offer an affordable and independent housing option to the owner's grown son or daughter just starting out or to an elderly parent or two who might need a helping hand nearby.
- The unit could also be leased to unrelated individuals or newly established families, which would provide the dual benefit of providing affordable housing to the ADU occupant and supplemental rental income to the owner.
- Supplemental income could offset the high cost of a home mortgage, utilities, and real estate taxes.
- Leasing an ADU to a young person or family can provide an elderly homeowner with a sense of security and an opportunity to exchange needed work around the house and yard for a discount on rent.⁵

AARP and affordable housing experts have worked with the APA and concur with the benefits identified for aging population and addressing the missing middle of housing stock that is sorely lacking in the market.⁶ While New Castle County has had provisions permitting living quarters in accessory structures dating back more than half a century, limitations on lot size and tenants made them largely an option for farmers or wealthy residents in the county, out of reach for most county residents.

This was until New Castle County took the progressive step of permitting Accessory Dwelling Units on all single family detached dwelling lots in 2007. The objective of diversifying affordable housing opportunities to address needs in the County in areas where infrastructure already exists, provided individuals with special needs as well as senior residents the opportunity to live near family members independently with dignity. Since the adoption of Ordinance 07-001 a few small modifications to the ADU provisions have been made to recognize existing ADUs in the Ardens, and to increase the cap from 0.2% to 0.4% of all single-family detached dwellings.

While in the last 17 years just under 400 ADUs have been established (about 3 attached for every 1 detached ADU) it is important to acknowledge, allowing an ADU on any single family detached dwelling lot was not a foregone conclusion, the ordinance only passed by 1 vote.⁷ New Castle County like many other local governments, faced concerns regarding *"ADUs changing the character of their neighborhoods or overburdening existing infrastructure."*⁸

To address those concerns, the ADU provisions in the UDC have always included important protections for neighborhoods to assure retention of the character of their neighborhoods and that existing infrastructure will not be overburdened, including:

⁵ PAS QuickNotes 19, American Planning Association, April 1, 2009, <https://planning-org-uploaded-media.s3.amazonaws.com/document/PASQuickNotes19.pdf> (Accessed July 5, 2024)

⁶ Expanding ADU Development and Occupancy: Solutions for Removing Local Barriers to ADU Construction, AARP, https://planning-org-uploaded-media.s3.amazonaws.com/publication/download_pdf/Expanding-ADU-Development-and-Occupancy.pdf (Accessed 7/3/2024)

⁷ Council Legislation - O07001 <https://www3.newcastlede.gov/legislation/search/> (Accessed: 7/5/2024)

⁸ Accessory Dwelling Units, American Planning Association, <https://www.planning.org/knowledgebase/accessorydwellings/> (Accessed 7/3/2024)

- Only 1 ADU is permitted per single-family residential detached lot (detached or attached).
- Only 1 home occupation is permitted per residential lot.
- Once an ADU is established, the primary structure cannot be used for apartment conversion and only 1 of the dwelling units may be rented.
- The property owner needs to occupy and reside in either the principal dwelling unit or the ADU as their principal legal residence. An affidavit of owner occupancy is required to accompany the application for a building permit for the ADU.
- The site must include 1 additional off-street parking space required for the ADU, in addition to the number of spaces required for the existing single-family detached dwelling.
- If the ADU is to be rented and prior to the issuance of a certificate of occupancy, the property owner shall register the ADU pursuant to the requirements of Chapter 19.
- Adequate sanitary sewer or septic capacity must be available to accommodate the ADU.
- The ADU is required to be in conformance with the Building and Drainage Codes.
- The ADU is required to meet all setbacks that the primary dwelling unit does.

Ordinance 24-087 retains these important protections, while improving on the existing provisions. Ordinance 24-087 (Application 2024-0299-T) is an implementation product of substantial outreach and public feedback received during and after the comprehensive planning process seeking expanded opportunities for quality affordable housing in the county that provides for special needs and aging populations, better allowing them to live near family members independently with dignity.

The existing ADU provisions permit attached dwelling units on any single-family detached dwelling unit, however, only lots greater than 2 acres are permitted to have a detached ADU. These lots are most frequently in the Suburban Estate and Suburban Reserve districts, lacking public sewer service, frequently served by well, and usually a distance from services such as hospitals, grocery stores and other services needed by our aging population. Much of our aging population lives on lots smaller than 2 acres, should they wish to live in a detached ADU and have their children live in the primary dwelling, they would need to relocate from their current house and community. Ordinance 24-087 will reduce the minimum lot size for detached ADUs from 2 acres to 0.5 acres, creating opportunities in the Suburban and Neighborhood Conservation districts, that are largely served by public sewer and water and typically are near service and retail opportunities.

The existing ADU provisions also require that an ADU meet the same size requirements of the primary dwelling (750 SF), which is frequently impractically large for older single individuals. Ordinance 24-087 permits small single-family detached dwellings to be detached ADUs. These are homes that are either 1 or 2 stories in height, between 400 and 750 square feet in size, light frame or masonry construction, and is permanently mounted on a foundation. These changes are sensitive to the housing needs, while assuring that detached ADUs are high quality and permanent structures.

Ordinance 24-087 will also eliminate the cap on the total number of ADUs with respect to existing single-family detached dwelling units. The cap was instituted as a control mechanism out of precaution that permitting ADUs could result in a substantial number of ADUs being approved in a short duration of time. In 17 years, the County has only reached the cap once, and it took nearly 10 years into the program. This demonstrates that between the cost for establishing and ADU and protections that are proposed to remain, that the ADU regulations will remain effective at preserving the character of neighborhoods and not overburdening existing infrastructure.

At the public hearing concerns were voiced that the ordinance would require that ADUs be permitted regardless of Homeowner Association (HOA) rules and deed restrictions. Additionally, it was asserted that the ordinance could be amended to reduce voting requirements within an HOA to make it easier to forbid ADUs. As General Manager Patibanda explained, HOA rules and deed restrictions are private, and the County is not party to them, as such the UDC does not impact their ability to be exercised. In the same vein, the UDC does not regulate the voting rules in an HOA.

In addition to updates proposed for the ADU provisions in the code, Ordinance 24-087 proposes important updates to the Guiding Principles for residential character areas, bringing them in line with the 2022 Update to the New Castle County Comprehensive Development Plan, thereby providing clear design guidance for residential developments.

Ordinance 24-087 is consistent with the 2022 Update to the New Castle County Comprehensive Development Plan, feedback received from public events over the last 2 years since the plan was adopted, as well as guidance from the APA, AARP, and affordable housing experts. If adopted, it will expand important opportunities for aging in place, diversifying our housing stock, and providing rental opportunities for county residents.

Standards of Review

Pursuant to Section 40.31.420 of the New Castle County Code, in determining whether a text amendment shall be recommended or approved, all of the following factors shall be considered:

A. Implementation of a new portion of the Comprehensive Development Plan.

While earlier County Comprehensive Plans have identified the need to provide affordable housing opportunities, the need to diversify our housing stock, and the importance of providing viable options for residents to age in place, the 2022 Comprehensive Development Plan specifically identifies ADUs as part of a solution to many of the existing housing issues within the County. It recognizes that:

- ADUs create opportunities for aging in place by providing space near family members for older residents.
- ADUs may serve as rental homes to provide affordable housing for low-income residents and an additional revenue source for owners.

- ADUs also provide an opportunity to meet housing needs while not sacrificing green fields.

B. Implementation and achievement of the Comprehensive Plan's goals and objectives.

Ordinance 24-087 is an important step in achieving several Goals of the 2022 New Castle County Comprehensive Development Plan, helping the County achieve Several important Goals in and Objectives in the Comprehensive Plan, most directly Goal 4:

Goal 4: Healthy, safe housing options throughout the County are diverse, meeting needs of people of all incomes, ages, abilities, and races, while maintaining design and form of the built environment that integrates with existing communities.

Objective 4.1: Increase variety and range of price-points of safe, quality housing options, in a diversity of locations.

Strategy 4.1.2: Modify existing ADU provisions by removing regulatory barriers. Eliminate the limit on the percentage of permitted ADUs in the county, as well as assess current lot size requirements for detached ADUs.

C. Consistency with the provisions of this Chapter and the standards for similar uses.

Ordinance 24-087 proposes revisions to existing provisions of Chapter 40, which will remain consistent with the standards for similar uses.

D. Necessity to respond to State and/or Federal legislation.

N/A

E. Flexibility in meeting the objectives of this Chapter.

The intent of the Unified Development Code, as stated in Section 40.01.015 is:

"to protect the interests of both current and future County residents and neighbors from the potential adverse impacts of land uses..."

"to encourage greater flexibility and more development options while *minimizing* development impact on current property owners and the environment..."

"to promote and protect the health, safety, prosperity, convenience, general welfare and quality of life for all present and future citizens of the County."

Section 40.01.015.A & F expand on these principles:

“Providing an adequate supply of affordable housing for County residents.”

“Provide options for special housing types that provide affordable housing that are consistent with the character of the area”

As discussed above Ordinance 24-087 will retain important protections for communities, while expanding affordable housing opportunities, and better allowing our aging population to age in place in the communities they love, near the services and support they need.

F. Changes to conditions, interpretations, and/or clarifications to existing language for new uses.

N/A

G. Consideration of specific problems found in this Chapter.

N/A

DEPARTMENT OF LAND USE RECOMMENDATION

The Department of Land Use has considered the Standards for Text Amendment in Section 40.31.420 of the *New Castle County Code* and comments received from other agencies and the public. Based on this analysis, the Department recommends **APPROVAL** of Ordinance No. 24-087.

PLANNING BOARD RECOMMENDATION

At the business meeting held on July 16, 2024, the Planning Board considered the recommendation provided by the Department of Land Use as well as comments from outside agencies and the public.

On a motion made by Ms. Drake and seconded by Mr. Cantrell, the Board voted to recommend **APPROVAL** of Ordinance 24-087 as recommended by the Department of Land Use.

The motion was adopted by a vote of 5-0-0-4 (In Favor: Cantrell, Cochran, Drake, Gray, Visvardis; In Opposition: None; Abstention: None; Absent: Cahill-Krout, Daigle, Peterson, Snowden).

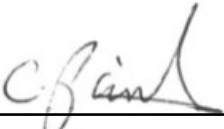
Prior to the vote, the following discussion occurred:

Matthew Rogers read the Department of Land Use recommendation into the record. Ms. Visvardis verified the requirement that the owner of the property reside in one of the dwelling units and

inquired about the result of a sale of the property. Mr. Rogers responded that when an ADU is established the property owner is required to record an affidavit at the Recorder of Deeds and the restriction runs with the land unless the ADU is disestablished. Ms. Drake verified with the Department that only owners looking to occupy one of the two dwellings would be able to purchase the property. Ms. Patibanda explained that the restriction prevents the commercialization of buying homes typically for the short-term rental market. Mr. Cantrell inquired about the concerns voiced by residents of Asbury Chase with respect to HOA restrictions and the potential for being overrun by ADUs. Mr. Rogers explained that there are no changes how ADUs are considered by HOAs and that if private deed restrictions or HOA rules do not permit ADUs a homeowner would not be able to construct an ADU on their property. Ms. Patibanda expanded on this explaining that the ordinance does not circumvent deed restrictions from being built. She further explained that the Department does not have a role in the enforcement of private deed restrictions. Ms. Peterson, stated that one of the concerns was that their deed restrictions did not prevent ADUs. Ms. Patibanda reaffirmed that should the development wish to impose limitations on ADUs, as private contracts they would be able to do so, while noting that there have been effort at the State level to curtail HOAs ability to enact such restrictions. Board members and Ms. Patibanda discussed other areas that HOAs have enacted limitations including solar panels and close lines. The Board and the Department also discussed updating the FAQ sheet and online documentation regarding ADUs to make sure applicants understand that they should check their deed restrictions. Ms. Drake asked the Department to discuss what qualifies as an ADU and if pop-up structures as found at Home Depot or Amazon would qualify. Mr. Rogers explained that structures are required to either be stick or masonry built and have a permanent foundation. Ms. Patibanda explained that the intent is to prevent substandard homes from being constructed, protecting the character of the neighborhood. She further discussed affordable housing crisis in Delaware providing statistics. Mr. Cochran discussed the rigor of permit review process with respect to ADUs. Ms. Patibanda and Mr. Rogers further explained the permit review and regulatory requirements for ADUs. Ms. Patibanda further emphasized the Department's support for the ordinance and discussed the importance of ADUs in addressing affordable housing needs within the county, while acknowledging community concerns. Ms. Gray verified the definition of a manufactured home park with the Department and if the ordinance would permit a trailer. Mr. Rogers explained that the definitions of single family dwelling and small single family dwelling do not permit a trailer to be an ADU.

STATUTORY GUIDELINES

In the phraseology of 9 Delaware Code, Section 2603(a), the Department finds that this text amendment would promote the convenience, order, and welfare of the present and future inhabitants of this state.



Charuni Patibanda
General Manager
Department of Land Use

8/16/2024

date



Karen Peterson
Chair
Planning Board

8/16/2024

date

Prime Sponsor(s): Mr. Hollins, Mr. Street
Requested by: Community Services
Date of introduction: September 17, 2024

ORDINANCE NO. 24-139

TO APPROPRIATE \$150,000 IN THE NEW CASTLE COUNTY AFFORDABLE HOUSING FUND, WITH FUNDS THAT ORIGINATED FROM THE GENERAL TAX STABILIZATION RESERVE, FOR A CONTRACT WITH CORNERSTONE WEST CDC TO BE ADMINISTERED BY THE DEPARTMENT OF COMMUNITY SERVICES

1 **WHEREAS**, Ordinance 21-110 established the Affordable Housing Fund to preserve and
2 develop affordable housing within New Castle County (NCC Code 14.01.020); and
3

4 **WHEREAS**, Ordinance 21-111 allocated \$15,000,000 from the General Fund Tax
5 Stabilization Fund to the Affordable Housing Fund; and
6

7 **WHEREAS**, New Castle County Department of Community Services held public
8 stakeholder meetings to receive feedback and input on the Affordable Housing Fund created to
9 preserve and create affordable housing in New Castle County; and
10

11 **WHEREAS**, from that feedback, New Castle County Department of Community Services
12 released a public Request for Proposal for eligible applicants to apply for funding through the
13 Affordable Housing Fund; and
14

15 **WHEREAS**, Cornerstone West CDC was identified during this process to assist three
16 units with free home repairs in New Castle County that will ensure affordability for three
17 households over the next fifteen years; and
18

19 **WHEREAS**, the Housing Trust Fund is a separate fund from the Affordable Housing
20 Fund, and the Housing Trust Fund can only be expended for projects within unincorporated
21 areas of New Castle County and there are no Housing Trust Funds included in the funding of
22 this Ordinance; and
23

24 **WHEREAS**, the revenue measures heretofore adopted by County Council are necessary
25 to preserve and develop affordable housing within New Castle County; and
26

27 **WHEREAS**, each contract or purchase order funded through this Affordable Housing
28 Fund appropriation will be submitted on a Resolution for Council's consideration as required by
29 *New Castle County Code § 2.02.004*.
30

31 **NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:**
32

33 Section 1. To preserve and develop an affordable housing project, \$150,000 in the New
34 Castle County Affordable Housing Fund is hereby appropriated to be administered by the
35 Department of Community Services.
36

37 Section 2. This Ordinance shall become effective immediately upon its adoption by
38 County Council and approval by the County Executive, or as otherwise provided in 9 *Del. C. §*
39 1156.

Adopted by County Council of
New Castle County on:

Karen Hartley-Nagle
President of County Council
of New Castle County

Approved on:

Matthew Meyer
County Executive
New Castle County

SYNOPSIS: This Ordinance, if approved, appropriates \$150,000 in the New Castle County Affordable Housing Fund. The available funding in the Affordable Housing Fund was transferred from the General Fund via Ordinance 21-111. There are no Housing Trust Funds included in the funding of this Ordinance. The funds will be administered by the Department of Community Services for Cornerstone West CDC to assist three units with free home repairs in New Castle County that will ensure affordability for three households over the next fifteen years.

FISCAL NOTE: This Ordinance, if approved, will appropriate \$150,000 in the New Castle County Affordable Housing Fund. There is no discernible impact to the Operating Budget since this is an appropriation in the Affordable Housing Fund. The intent is to appropriate funds in the Grant and Fixed Charges Budget Line Item. The balance of the Affordable Housing Fund is \$13,394,041.01 as of June 30, 2024.

Prime Sponsor(s): Mr. Hollins, Mr. Street
Requested by: Community Services
Date of introduction: September 17, 2024

ORDINANCE NO. 24-140

TO APPROPRIATE \$98,000 IN THE NEW CASTLE COUNTY AFFORDABLE HOUSING FUND, WITH FUNDS THAT ORIGINATED FROM THE GENERAL TAX STABILIZATION RESERVE, FOR A CONTRACT WITH GOOD NEIGHBORS TO BE ADMINISTERED BY THE DEPARTMENT OF COMMUNITY SERVICES

1 **WHEREAS**, Ordinance 21-110 established the Affordable Housing Fund to preserve and
2 develop affordable housing within New Castle County (NCC Code 14.01.020); and
3

4 **WHEREAS**, Ordinance 21-111 allocated \$15,000,000 from the General Fund Tax
5 Stabilization Fund to the Affordable Housing Fund; and
6

7 **WHEREAS**, New Castle County Department of Community Services held public
8 stakeholder meetings to receive feedback and input on the Affordable Housing Fund created to
9 preserve and create affordable housing in New Castle County; and
10

11 **WHEREAS**, from that feedback, New Castle County Department of Community Services
12 released a public Request for Proposal for eligible applicants to apply for funding through the
13 Affordable Housing Fund; and
14

15 **WHEREAS**, Good Neighbors was identified during this process to provide free home
16 repairs for low-income families earning less than 80% area median income (AMI) within New
17 Castle County; and
18

19 **WHEREAS**, the Housing Trust Fund is a separate fund from the Affordable Housing
20 Fund, and the Housing Trust Fund can only be expended for projects within unincorporated
21 areas of New Castle County and there are no Housing Trust Funds included in the funding of
22 this Ordinance; and
23

24 **WHEREAS**, the revenue measures heretofore adopted by County Council are necessary
25 to preserve and develop affordable housing within New Castle County; and
26

27 **WHEREAS**, each contract or purchase order funded through this Affordable Housing
28 Fund appropriation will be submitted on a Resolution for Council's consideration as required by
29 *New Castle County Code § 2.02.004*.
30

31 **NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:**
32

33 Section 1. To preserve and develop an affordable housing project, \$98,000 in the New
34 Castle County Affordable Housing Fund is hereby appropriated to be administered by the
35 Department of Community Services.
36

37 Section 2. This Ordinance shall become effective immediately upon its adoption by
38 County Council and approval by the County Executive, or as otherwise provided in 9 *Del. C. §*
39 1156.

Adopted by County Council of
New Castle County on:

Karen Hartley-Nagle
President of County Council
of New Castle County

Approved on:

Matthew Meyer
County Executive
New Castle County

SYNOPSIS: This Ordinance, if approved, appropriates \$98,000 in the New Castle County Affordable Housing Fund. The available funding in the Affordable Housing Fund was transferred from the General Fund via Ordinance 21-111. There are no Housing Trust Funds included in the funding of this Ordinance. The funds will be administered by the Department of Community Services for Good Neighbors to provide free home repairs for low-income families earning less than 80% area median income (AMI) within New Castle County.

FISCAL NOTE: This Ordinance, if approved, will appropriate \$98,000 in the New Castle County Affordable Housing Fund. There is no discernible impact to the Operating Budget since this is an appropriation in the Affordable Housing Fund. The intent is to appropriate funds in the Grant and Fixed Charges Budget Line Item. The balance of the Affordable Housing Fund is \$13,394,041.01 as of June 30, 2024.

ORDINANCE NO. 24-142

**AMEND THE GRANTS BUDGET:
APPROPRIATE FEDERAL FUNDS OF \$100,000 FROM THE
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TO THE
COC PERMANENT SUPPORTIVE HOUSING GRANT, WHICH IS ADMINISTERED
BY THE DEPARTMENT OF COMMUNITY SERVICES, DIVISION OF COMMUNITY
DEVELOPMENT AND HOUSING**

1 **WHEREAS**, funding has been awarded from the U.S. Department of Housing
2 and Urban Development (HUD) to the CoC Permanent Supportive Housing Grant; and
3

4 **WHEREAS**, funding will be used to operate eight (8) units dedicated for adult-
5 only and adult-child chronically homeless households; and
6

7 **WHEREAS**, tenants will have access to onsite services provided by several
8 community based organizations, including medical care, mental health and substance
9 abuse treatment, transportation, state benefit assistance, food, recreational activities,
10 employment and training programs and academic enrichment programs; and
11

12 **WHEREAS**, the County Executive has determined that grants anticipated to be
13 received from the U.S. Department of Housing and Urban Development (HUD) will be
14 sufficient to cover the increase in the Grants Budget as hereinafter amended; and
15

16 **WHEREAS**, Council has determined that the provisions of this Ordinance
17 substantially advance, and are reasonably and rationally related to, legitimate
18 government interests (i.e., promoting the health, safety, morals, convenience, order,
19 prosperity and/or welfare of the present and future inhabitants of this State).
20

21 **NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:**
22

23 Section 1. The Grants Budget as adopted by Ordinance No. 75-173 is hereby
24 amended by adding the material on the attached Exhibits "A", which shall be considered
25 underscored in its entirety.
26

27 Section 2. This Ordinance shall become effective immediately upon its adoption
28 by County Council and approval by the County Executive, or as otherwise provided by 9
29 *Del. C. § 1156*.
30

31 Section 3. It is the intent of the County Council that the provisions of this
32 Ordinance shall be effective retroactive to July 1, 2024.

Adopted by County Council of
New Castle County on:

Karen Hartley-Nagle
President of County Council
of New Castle County

Approved on:

Matthew Meyer
County Executive
New Castle County

SYNOPSIS: This Ordinance, if approved, will appropriate federal funds of \$100,000 from the U.S. Department of Housing and Urban Development (HUD) to the CoC Permanent Supportive Housing Grant which will be administered by the Department of Community Services, Division of Community Development and Housing. Funding will be used to operate eight (8) units dedicated for adult-only and adult-child chronically homeless households. The required match of \$25,000 is budgeted as Program Income and Case Manager Salaries within the Approved Grant Budget.

It is the intent of the County Council that the provisions of this Ordinance shall be effective retroactive to July 1, 2024.

FISCAL NOTE: This Ordinance, if approved, will amend the Grants Budget by appropriating federal funds of \$100,000 from the U.S. Department of Housing and Urban Development (HUD) to the CoC Permanent Supportive Housing Grant which will be administered by the Department of Community Services, Division of Community Development and Housing.

There is a required match on this grant of \$25,000 which will be met with Program Income and Case Manager Salaries within the Approved Grant Budget.

This increase will affect FY2025 only, since the targeted program completion date for this grant is June 30, 2025.

DEPARTMENT:	Community Services	EXHIBIT:	"A"
GRANT TITLE:	CoC Permanent Supportive Housing	Ordinance No.	24-142
PROGRAM TITLE:	CoC Permanent Supportive Housing		

Revenue	Current		Change		Revised
Federal	\$	100,000.00	\$	-	\$ 100,000.00
State	\$	-	\$	-	\$ -
County	\$	-	\$	-	\$ -
Program Income	\$	-	\$	-	\$ -
Other	\$	-	\$	-	\$ -
Total	\$	100,000.00	\$	-	\$ 100,000.00

Expense	Current		Change		Revised
Salaries and Wages	\$	4,945.00	\$	-	\$ 4,945.00
Benefits	\$	2,895.00	\$	-	\$ 2,895.00
Training/Civic Affairs	\$	-	\$	-	\$ -
Communication/Utilities	\$	13,277.00	\$	-	\$ 13,277.00
Materials/Supplies	\$	-	\$	-	\$ -
Contractual Services	\$	71,793.00	\$	-	\$ 71,793.00
Equipment	\$	2,688.00	\$	-	\$ 2,688.00
Grants/Fixed Charges	\$	4,402.00	\$	-	\$ 4,402.00
Land and Structures	\$	-	\$	-	\$ -
Contingency	\$	-	\$	-	\$ -
Operating Transfer Charges	\$	-	\$	-	\$ -
Operating Transfer Credits	\$	-	\$	-	\$ -
Total	\$	100,000.00	\$	-	\$ 100,000.00

SUPPLEMENTAL INFORMATION

Estimated Program Initiation:	7/1/2024
Estimated Program Completion:	6/30/2025
The Local Match:	\$ 25,000.00
Found in (ORG):	11400601
Ordinance Passed:	Date Revised:

PROGRAM DESCRIPTION:

New Castle County Department of Community Services will use this grant to operate 8 units dedicated for chronically homeless households. The units will operate in compliance with HUD's NSPIRE standards. Tenants will have access to onsite services provided by several organizations, including medical care, mental health and substance abuse treatment, transportation, state benefit assistance, food, recreational activities, employment and training programs and academic enrichment programs.

9/17/2024