



NEW CASTLE COUNTY COUNCIL LAND USE COMMITTEE MEETING

Co-Chair: David Tackett, Eleventh District

Co-Chair: Janet Kilpatrick, Third District

November 4, 2025

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

B. Approval of Minutes

C. Review/Discussion of Resolution(s)

D. Review/Discussion of Ordinance(s)

°25-130: TO AMEND *NEW CASTLE COUNTY CODE* CHAPTER 6 ("BUILDING CODE") REGARDING ARTICLE 1 ("GENERAL"), ARTICLE 2 ("DEFINITIONS"), ARTICLE 3 ("ADMINISTRATION"), ARTICLE 4 ("BUILDING CODE"), ARTICLE 5 ("RESIDENTIAL CODE"), ARTICLE 9 ("EXISTING BUILDING CODE"), ARTICLE 10 ("ENERGY CONSERVATION CODE"), ARTICLE 11 ("SWIMMING POOL AND SPA CODE"), AND SCHEDULE OF PERMIT AND REVIEW FEES

Prime Sponsor(s): Mr. Tackett, Ms. Kilpatrick

°25-018: REVISE ZONING MAP: MILL CREEK HUNDRED, WEST SIDE OF LIMESTONE ROAD, 375 FEET NORTH OF THE INTERSECTION WITH SKYLINE DRIVE; 4900 LIMESTONE ROAD, TAX PARCEL 08-030.40-008, REZONE 3.66± ACRES FROM S (SUBURBAN) TO S (SUBURBAN) AND H (HISTORIC OVERLAY ZONE) (The property owner is requesting the H (Historic overlay zone) for the subject parcel. 2024-0701)

Prime Sponsor(s): Ms. Kilpatrick

SUBSTITUTE NO. 1 TO °25-101: TO AMEND *NEW CASTLE COUNTY CODE* CHAPTER 40 ("UNIFIED DEVELOPMENT CODE"), ARTICLE 3 ("USE REGULATIONS") AND ARTICLE 33 ("DEFINITIONS") TO ESTABLISH STANDARDS FOR THE REVIEW, SITING, AND OPERATIONS OF DATA CENTERS

Prime Sponsor(s): Mr. Carter

Co-sponsor(s): Mr. Caneco, Ms. Durham, Mr. Cartier, Mr. Tackett

E. Presentations

- F. Other
- G. Public Comment
- H. Adjournment

AGENDA POSTED: OCTOBER 28, 2025

*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 *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 smart phone 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. Tackett; Ms. Kilpatrick
Requested By: Department of Land Use
Date of introduction: October 28, 2025

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ORDINANCE NO. 25-130

TO AMEND NEW CASTLE COUNTY CODE CHAPTER 6 ("BUILDING CODE") REGARDING ARTICLE 1 ("GENERAL"), ARTICLE 2 ("DEFINITIONS"), ARTICLE 3 ("ADMINISTRATION"), ARTICLE 4 ("BUILDING CODE"), ARTICLE 5 ("RESIDENTIAL CODE"), ARTICLE 9 ("EXISTING BUILDING CODE"), ARTICLE 10 ("ENERGY CONSERVATION CODE"), ARTICLE 11 ("SWIMMING POOL AND SPA CODE"), AND SCHEDULE OF PERMIT AND REVIEW FEES

WHEREAS, New Castle County is charged with ensuring the health, safety, and welfare of the citizens of New Castle County by administering and enforcing the regulations of the building industry; and

WHEREAS, by the adoption of this Ordinance, the New Castle County Executive and County Council intend: (1) to update Chapter 6 of the *New Castle County Code* consistent with the *International Building Code, 2024 edition*, *International Residential Code, 2024 edition*, the *International Existing Building Code, 2024 edition*, the *International Swimming Pool and Spa Code, 2024 edition*, and the *State Energy Conservation Code* (also known as the *International Energy Conservation Code*) as may be amended herein; and (2) to otherwise update, clarify, and strengthen the administrative provisions of Chapter 6 of the *New Castle County Code*; and

WHEREAS, based on a comprehensive review of Chapter 6 of the *New Castle County Code* by the professional staff in the New Castle County Department of Land Use and comments by stakeholders, applicants and local experts in building code issues, New Castle County has developed updated standards for buildings and structures and has identified additional clarifications, corrections, improvements and changes necessary to further administer and enforce the regulations of the building industry; and

WHEREAS, New Castle County Council finds that the provisions of this Ordinance are rationally and reasonably related to, substantially advance, and are narrowly tailored to achieve its goal of protecting and preserving legitimate government interests, including, but not limited to, the protection and preservation of the public health, safety, prosperity, general welfare, and quality of life.

NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:

Section 1. *New Castle County Code* Chapter 6 ("Building Code"), Article 1 ("General"), is hereby amended by adding the material that is underscored and deleting the material that is stricken, as set forth below:

ARTICLE 1. GENERAL.

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34 **Sec. 6.01.001. General.**

35
36 B. *Purpose...*

37
38 C. *Scope.* The provisions of this Chapter shall apply to the design, construction, quality
39 of materials, workmanship, ~~alternation~~alteration, movement, relocation, enlargement,
40 replacement, repair, equipment, use and occupancy, location, maintenance, removal and
41 demolition of all premises, buildings, swimming pools, spas, systems and structures. The
42 specific scope of the technical codes herein adopted and enforced, is as follows:

43
44 Section 2. New Castle County Code Chapter 6 ("Building Code"), Article 2
45 ("Definitions"), is hereby amended by adding the material that is underscored and deleting
46 the material that is stricken, as set forth below:

47
48 **ARTICLE 2. DEFINITIONS**

49
50 **Sec. 6.02.001. Definitions.**

51
52 The following words, terms, and phrases, when used in this Chapter shall have the
53 meaning ascribed...

54
55 *Building Code Official* means...

56
57 *Building contractor* means a person performing any construction activity which requires
58 the issuance of a building permit, including, but not limited to, the demolition or
59 construction of structures, including, but not limited to, the construction of pools, signs, or
60 new homes, or any ~~constructor~~contractor participating in the Department of Community
61 Services rehabilitation program.

62
63 *County* means ...

64
65 *Code Official* means...

66
67 *Construction and demolition waste* means lumber, roofing material, sheathing, rubble,
68 broken concrete, plaster and brick, conduit, pipe, wire, insulation and similar material
69 which results from a construction process which shall include packaging materials and
70 equipment used in the delivery or shipment of goods to or from the construction site.

71
72 *Contractor license* means...

73
74 *Person* means...

75
76 *Place of public accommodation* means any establishment which caters to or offers
77 goods or services or facilities to, or solicits patronage from, the general public. This

Commented [KS4]: A paralegal should review to ensure consistency in formatting. This is different than Section 1 and Section 2. You can click on the ¶ symbol in the ribbon to see formatting.

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definition includes state agencies, local government agencies, and state-funded agencies performing public functions. This definition shall apply to hotels and motels catering to the transient public, but it shall not apply to the sale or rental of houses, housing units, apartments, rooming houses, or other dwellings, ~~not~~ to tourist homes with less than ten (10) rental units catering to the transient public.

Sanitary sewer contractor means...

Show cause hearing means an administrative hearing held by the Code Official where a person is afforded an opportunity to contest a violation and any penalty or action that has been asserted or will be asserted ~~again~~against such person.

Statewide Energy Conservation Code means...

Stop work order means...

Third party inspector means an individual, or business entity that whose employees are not employed by New Castle County, that provides County required inspections but with the express permission of the Code Official. ~~whose employees are not employed by New Castle County.~~

Third party plan reviewer means...

Section 3. *New Castle County Code* Chapter 6 ("Building Code"), Article 3 ("Administration"), is hereby amended by adding the material that is underscored and deleting the material that is stricken, as set forth below:

ARTICLE 3. ADMINISTRATION

Sec. 6.03.001. Requirements for a contractor license.

B. *Additional requirements for a licensed contractor to obtain a permit contractor endorsement.* Every business entity must be separately registered, bonded, and insured.

1. *Testing and licensure*...

2. *Surety bond.* All applicants shall ~~deliver~~provide to New Castle County a surety bond naming the County as the beneficiary and the contractor's business entity as the principal. The bond shall be issued by an A-rated surety company authorized to do business in the State of Delaware by the Delaware Insurance Department in accordance with the bond schedule set forth in the Appendix. The bond shall provide that the principal, and its surety or sureties, shall indemnify and hold harmless from any or all loss, damage, or expenses growing out of or in any way connected to the

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121 execution of work done under and by virtue of the authority contained in said license,
122 including the negligence of the principal, its agents, and employees. The bond shall
123 also cover any and all costs or expenses relating to the enforcement of this Chapter
124 including the repair, replacement, or correction of any works undertaken by said
125 contractor and shall cover any unpaid administrative fees and fines relating to
126 violations of this Chapter. Proceeds from the surety bond will be limited to costs
127 associated with the remediation of code violations and will not include costs
128 associated with the remediation of any work non-compliant with the New Home
129 Minimum Warranty Standards contained in the Appendix that do not amount to code
130 violations. Bond proceeds may be used to purchase a new home warranty or the
131 equivalent thereof where the registered builder fails to provide one in violation of this
132 Chapter. The surety bond shall be kept current for the entire license period.

133
134 3. *Insurance coverage requirements...*

135
136 C. *Limited contractor license.*

137
138 1. *Issuance...*

139
140 a. To allow....

141
142 b. To allow a licensed contractor who is seeking the re-issuance of a permit
143 contractor endorsement that has been suspended or revoked, or the issuance of
144 a permit contractor endorsement that has been denied, to secure a limited
145 number of permits and certificates of ~~occupancy~~approval for a specific period of
146 time as stated in the limited contractor license. After the expiration of any
147 suspension period and at such time the work that has been in substantial
148 compliance with this Code, the applicant may re-apply for a permit contractor
149 endorsement.

150
151 **Sec. 06.03.012. Permits.**

152
153 C. *Work exempt from permit...*

154
155 1. *Building, Residential and Swimming Pool and Spa.*

156
157 f. Replacement...

158
159 g. Fences, other than swimming pool barriers.

160
161 h. Retaining walls...

162
163 o. Flotation tank systems intended for sensory deprivation therapy...

164
165 p. Brick repointing.

q. Electric vehicle charging stations.

r. Flagpoles.

s. Refacing of existing signs provided no change is made to the dimensions.

2. *For one- and two-family dwellings only regulated by the Residential Code.* The following exemptions are in addition to work identified in Sec. 06.03.012.C.1.

e. Temporary modular ramps, constructed of light-frame materials...

f. Replacement of deck boards and railings.

g. Installation of rooftop solar panels for the purpose of producing electricity.

3. *Gas:*...

4. *Plumbing:*

c. The clearing of....

d. Sump pumps, or the replacement thereof.

D. *Emergency repairs...*

Sec. 6.03.018 Inspections.

A. *General...*

E. *Approval required...*

F. *Final inspection.* Upon completion of the building or structure, and before issuance of the certificate of ~~occupancy~~approval, a final inspection shall be made by a County employee duly authorized by the Code Official. A third party inspector may perform a final inspection only when express permission has been granted to do so by the Code Official. Failure to comply with approved plans shall result in additional inspection and review fees as set forth in the Appendix.

G. *Who is eligible to perform inspections required by the County...*

~~1. Inspection agencies. The Code Official is authorized to accept reports of approved inspection agencies on construction requiring a building permit, provided the Code Official, after sufficient investigation, determines that such agencies are qualified and reliable. Inspections must be conducted under the direct supervision of a design professional.~~

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Commented [KS8]: This is very clunky. I recommend striking all of the original language and including all underlined as I have inserted.

212
213 1. Third party inspection agencies. The Code Official is authorized to accept reports
214 from approved inspection agencies on construction requiring a building permit, provided
215 all the following are met:

- 216
217 a. The report is prepared by a design professional.
218
219 b. The inspection was conducted under the direct supervision of the design
220 professional.
221
222 c. The Code Official, after sufficient investigation, determines that the agency is
223 qualified and reliable.
224

225 2. *Design Professionals...*

226
227 H. *Third party inspections.*

228
229 1. *Regulations for third party inspections...*

- 230
231 a. General. Third party inspectors shall be responsible for inspecting the
232 construction to make sure that the building or structure conforms to New Castle
233 County Building Code and all other laws, rules, and regulations that apply to
234 the construction, installation, and modification of buildings and structures and
235 associated mechanical systems and plumbing. Completed inspection reports
236 and checklists for all required inspections must be approved by the Code
237 Official before a certificate of ~~occupancy~~approval will be issued. In no case shall
238 a third party inspector perform a final inspection unless express permission has
239 been granted to do so by the Code Official.
240
241 b. *Conflict...*

242
243 Section 4. *New Castle County Code* Chapter 6 ("Building Code"), Article 4
244 ("Building Code"), is hereby amended by adding the material that is underscored and
245 deleting the material that is stricken, as set forth below:

246
247 **ARTICLE 4. BUILDING CODE**

248
249 **Sec. 6.04.001. Adoption of the International Building Code.**

250
251 That certain document, on file with the office of the Clerk of the County Council, being
252 marked and designated as the International Building Code, ~~2021~~2024 edition, as
253 published by the International Code Council, be and is hereby adopted as the Building
254 Code of New Castle. All the regulations, provisions, conditions, and terms of the
255 International Building Code, ~~2021~~2024 edition, and any supplements, referenced codes,
256 and standards, are hereby referred to, adopted and made part of this Chapter, as if fully

set out in this legislation, with the additions, insertions, deletions and changes prescribed in Sec. 6.04.002.

Sec. 6.04.002. Amendments to the International Building Code.

The following sections of the International Building Code, ~~2021~~2024 edition, are revised as follows. All code references including text and lines are based on the ~~2021~~2024 International Building Code, second printing: ~~September 2021~~August 2024. Note: Although the International Building Code does not identify sections with a "B" designation, such a designation is utilized to avoid any confusion as to which Code the amendment relates.

References to the International Fire Code, ~~2021~~2024 edition, as published by the International Code Council, are not specifically adopted. Provisions of the International Fire Code are addressed through the adoption of the National Fire Prevention Association (NFPA) Codes and Standards and the Delaware Fire Prevention Regulations as adopted by the Delaware State Fire Marshal's Office.

CHAPTER 1. ADMINISTRATION...

CHAPTER 3. USE AND OCCUPANCY CLASSIFICATION

Section B305.2, Group E, Day care facilities, is amended in the ~~third~~first line by deleting the phrase "five children" and substituting the phrase "twelve children."

Section B305.2.3, Five or fewer children in a dwelling unit, is amended in the title and the ~~third~~first line by deleting the word "Five" and substituting the word "Twelve".

Section B308.5, Institutional Group I-4, day care facilities, is amended in the ~~third~~second line by deleting the phrase "persons" and substituting the phrase "adults or more than 12 children."

Section B308.5.1, Classification as Group E, is amended in the ~~second~~first line by deleting the word "five" and substituting the word "twelve".

Section B308.5.4, Five or fewer persons receiving care in a dwelling unit, is amended in the title and ~~third~~first line by deleting the phrase "Five or fewer persons" and substituting "More than five adults or more than twelve children of any age".

Section B310.4, Residential Group R-3, is amended in the ~~eighth~~third line by deleting the word "persons" and substituting the phrase "adults or twelve or fewer children".

Section B310.4.1, Care facilities within a dwelling, is amended in the ~~second~~first line by deleting the word "persons" and substituting the phrase "adults or twelve or fewer children" and in the ~~fourth, fifth and sixth~~ lines by deleting the phrase "an automatic sprinkler system is installed in accordance with Section 903.3.1.3 or Section P2904 of

303 the International Residential Code” and substituting the phrase “the following
304 restrictions are met: (i) A license shall be obtained from the State of Delaware
305 Department of Services of Children, Youth, and Their Families. All regulations of such
306 Department shall be met; (ii) Rooms to be occupied by infants shall have a direct path
307 of egress, on the same floor level, to the exterior of the house; (iii) Smoke alarms shall
308 be installed in accordance with Section B907; (iv) Carbon monoxide detection shall be
309 installed in accordance with Section B915.”

310
311 CHAPTER 4. SPECIAL DETAILED REQUIREMENTS BASED ON USE AND
312 OCCUPANCY...

313
314 CHAPTER 9. FIRE PROTECTION SYSTEMS

315
316 *Section B903.2.1.2...*

317
318 *Section B907.2.1, Group A*, is amended in the ~~fifth, sixth, and seventh~~second and third
319 lines by deleting the phrase “or where the Group A occupant load is more than 100
320 persons above or below the lowest level of exit discharge”.

321
322 CHAPTER 10. MEANS OF EGRESS

323
324 *Section B1023.9, Stairway identification signs*, is amended in the ~~third~~second line by
325 deleting the word “three” and substituting the word “two.”

326
327 ~~*Section B1025.1, General*, is amended in the second and third lines by deleting the~~
328 ~~phrase “high-rise buildings” and substituting the phrase “buildings having three (3) or~~
329 ~~more stories above or below the level of exit discharge” and in the third line by deleting~~
330 ~~the phrase “or R-1” and substituting the phrase “, R-1 or R-2”.~~

331
332 CHAPTER 11. ACCESSIBILITY

333
334 ~~*B1105.1.1, Automatic doors*~~*Power-operated door at public entrances*, is amended in
335 the first line by deleting the phrase “facilities with the occupancies and building occupant
336 loads greater than those indicated in Table 1105.1.1” and substituting the phrase
337 “places of public accommodations as defined by this Chapter” and in the ~~fifth~~third line
338 by adding the phrase “as in accordance with 6 Del. C. ch. 45 (“Equal
339 accommodations”).” to the end of the first sentence.

340
341 *Table B1105.1.1, Public entrance with power-operated door*, is amended by deleting
342 the table in its entirety.

343
344 CHAPTER 13. ENERGY EFFICIENCY...

345
346 CHAPTER 16. STRUCTURAL DESIGN

347

~~Section B1608.2, Ground snow loads,~~ is amended to indicate the ground snow loads to be used in determining the design snow loads for roofs is 25 pounds per square foot.

Section B1612.2...

Section B1612.3, ~~Established~~Establishment of flood hazard areas, is clarified to depict that the effective date of the most recent FIRM maps for New Castle County is January 22, 2020 and encompasses Map Number [0003C0025J10003C0035L through and including Map Number 10003C0475J10003C0437K and all revisions defined by FEMA FIRM maps.

Section B1612.3.2 *Determination of impacts*, is amended in the ~~sixth~~third line by deleting the phrase "1 foot (305 mm)" and substituting the phrase "0.1 foot".

CHAPTER 18. SOILS AND FOUNDATIONS

Section 1803.5.2, *Questionable soil and rock*, is amended by adding the following sentence to the end of the section: "All applications in subsidence areas shall include a report, prepared by a professional geologist or a professional geotechnical engineer registered in the State of Delaware, evaluating the vulnerability of the subsurface (sinkholes)."

Section B1805.4.3...

CHAPTER 22. STEEL

~~Section B2205.1~~B2202.1, General, is amended by adding the following sentence at the beginning of the paragraph: "The structural engineer of record shall be responsible for the design and adequacy of all structural steel, including connections."

CHAPTER 23. WOOD...

CHAPTER 24. GLASS AND GLAZING

~~Section B2403.1, Identification,~~ is amended by adding the following sentence to the end of the subsection: "Glass that is not labeled shall be assumed to be annealed or plate glass."

CHAPTER 27. ELECTRICAL

Section B2702.1.4, *Load transfer*, is amended in the ~~fifth~~third line by deleting the number "60" and substituting the number "10".

CHAPTER 30. ELEVATORS AND CONVEYING SYSTEMS

~~Chapter 30, Elevators and conveying systems, is amended by adding the following section and subsections: Section B3009, Private Residence Elevators, is amended by deleting the text in its entirety and replacing it with the following:~~

Section B3009, Certificate of Compliance...

CHAPTER 31. SPECIAL CONSTRUCTION...

CHAPTER 32. ENCROACHMENTS INTO THE PUBLIC RIGHT-OF-WAY...

CHAPTER 33. SAFEGUARDS DURING CONSTRUCTION

Section B3302.5, Handling and storage of construction and demolition waste, trash, and litter. During all construction activities, the lot(s) shall be kept neat of trash and building materials. All construction sites shall be required to obtain and maintain on the site a container of suitable size and design to hold and confine trash, scraps, and other construction and demolition waste created or accumulated on the site, which might be blown from the site. All such construction refuse shall be maintained in a closed container, or a container of sufficient depth to prevent construction and demolition waste from blowing out of the container, at all times, until transferred to a landfill. Containers may be placed in setback areas, provided that the placement of the container does not obstruct the view of motorists and thereby create traffic hazards. ~~[If]~~ It shall be a violation to permit accumulated debris, litter, or trash attributable to the construction site and the construction activity to blow or scatter onto adjoining properties, including the public street or to accumulate on the site outside of the container, ~~[or]~~ in transit to a landfill or dump. The owner or contractor shall service the container as frequently as needed to prevent trash from over- flowing.

Section 5. *New Castle County Code* Chapter 6 ("Building Code"), Article 5 ("Residential Code"), is hereby amended by adding the material that is underscored and deleting the material that is stricken, as set forth below.

ARTICLE 5. RESIDENTIAL CODE

Sec. 6.05.001. Adoption of the International Residential Code

That certain document, on file with the office of the Clerk of the County Council, being marked and designated as the International Residential Code, ~~2021~~2024 edition, including Appendices ~~AEB~~A and ~~AJB~~O, as published by the International Code Council, be and is hereby adopted as the Residential Code of New Castle County. All the regulations, provisions, conditions, and terms of the International Residential Code, ~~2021~~2024 edition, and any supplements, referenced codes, and standards, are hereby referred to, adopted and made part of this Chapter, as if fully set out in this legislation, with the additions, insertions, deletions and changes prescribed in Sec. 6.05.002.

Sec. 6.05.002. Amendments to the International Residential Code.

The following sections of the International Residential Code, ~~2021~~2024 edition, are revised as follows. All code references including text and lines are based on the ~~2021~~2024 International Residential Code, second printing: ~~November 2021~~October 2024. Note: Although the International Residential Code does not identify sections with a “R” designation, such a designation is utilized to avoid any confusion as to which Code the amendment relates.

References to the International Fire Code, ~~2021~~2024 edition, as published by the International Code Council, are not specifically adopted. Provisions of the International Fire Code are addressed through the adoption of the National Fire Prevention Association (NFPA) Codes and Standards and the Delaware Fire Prevention Regulations as adopted by the Delaware State Fire Marshal’s Office.

CHAPTER 3. BUILDING PLANNING

Table R301.2(1), Climatic and Geographic Design Criteria, is filled in as follows:

GROUND SNOW LOAD ^a	WIND DESIGN				SEISMIC DESIGN CATEGORY ^f	SUBJECT TO DAMAGE FROM			Ice Barrier Underlayment Required ^h	Flood Hazards ⁱ	Air Freezing Index ^j	Mean Annual Temp
	Speed ^d (mph)	Topographic effects ^b	Special wind region ^c	Wind-borne debris zone ^e		Weathering ^a	Frost line depth ^g	Termite ^c				
25 lbs./sq.ft.	115 mph	No	No	No	B	Severe	32"	Yes	No	10/05/2000 2004/2011 22/2020	596	54°F
MANUAL J DESIGN CRITERIA												
Elevation	Altitude correction factor ^a	Coincident wet bulb		Indoor winter design dry-bulb temperature		Indoor winter design dry-bulb temperature		Outdoor winter design dry-bulb temperature		Heating temperature difference		
79 ft	1.0	74		72		72		16		56°F		
Latitude	Daily range	Indoor summer design relative humidity		Summer design gains		Indoor summer design dry- bulb temperature		Outdoor summer design dry- bulb temperature		Cooling temperature difference		
40o	M	50%		38		75		89		14		

Table R301.2(1), Flood hazards, is clarified to depict that the effective date of the most recent FIRM maps for New Castle County is January 22, 2020 and encompasses Map Number ~~10003C0025J10003C0035L~~ through and including Map Number ~~10003C0475J10003C0437K~~ and all revisions defined by FEMA FIRM maps.

Figure R301.2(6), Ground snow loads for the United States...

Section R302.1, Exterior walls, Exception Number 3, is amended in the first line by adding the word “garages,” after the word “detached” and in the ~~second~~first line by

deleting "exempted from permit" and inserting "that have a fire separation distance of 3 feet or more."

Table R302.3.6, Dwelling-shared accessory room separation, is amended in the second column of the second row by adding the phrase "two layers of" before the number "5/8."

Table R302.3.6, Dwelling-shared accessory room separation, is amended in the second column of the third row by deleting "1/2-inch" and substituting the phrase, "two layers of 5/8-inch Type X".

Section R305.1, Minimum height, is amended in the first and second lines by deleting the phrase "and portions of basements containing these spaces."

Section R305.1.1, Basements, is amended in the first line by deleting the phrases "Portions of" and "do not."

Section R322.1.4.2R306.1.4.2, Determination of impacts, is amended in the ninth line by deleting the phrase "1 foot (305 mm)" and substituting the phrase "0.1 foot".

Section R322.2.1R306.2.1, Elevation requirements, Number 1, is amended in the thirdsecond line by adding the phrase "or crawlspace" after the word "floors" and in the fourthsecond line by deleting the phrase "1 foot (305 mm)" and substituting "18 inches (457 mm)."

Section R322.2.1R306.2.1, Elevation requirements, Number 2, is amended in the sixthsecond line by deleting the phrase "1 foot (305 mm)" and substituting "18 inches (457 mm)."

Section R322.2.1R306.2.1, Elevation requirements, Number 3, is amended in the thirdfirst line by deleting the phrase "1 foot (305 mm)" and substituting "18 inches (457 mm)."

Section R313.1R309.1, Townhouse automatic fire sprinkler systems, is amended in the second line by deleting the word "shall" and substituting the word "may."

Section R313.1R309.1, Townhouse automatic fire sprinkler system, Exception, is amended by deleting the exception in its entirety.

Section R313.1.1R309.1.1, Design and installation, is amended in the third line by deleting the phrase "Section P2904 or".

Section R313.2R309.2, One- and two-family dwellings automatic fire sprinkler systems, is amended in the second line by deleting the word "shall" and substituting the word "may."

511 *Section ~~R313.2~~R309.2, One- and two-family dwellings automatic fire sprinkler systems,*
512 *is amended by deleting the exception in its entirety.*

513
514 *Section ~~R313.2.1~~R309.2.1, Design and installation,* is amended in the third line by
515 *deleting the phrase "Section P2904 or".*

516
517 *Section ~~R313.3~~R309.3, Permanent model home automatic fire sprinkler systems.* An
518 *operative automatic fire sprinkler system shall be installed in all new permanent model*
519 *homes for which a building permit is submitted on or after July 1, 2025.*

520
521 *Exception:* An automatic fire sprinkler system shall not be required where additions
522 *or alterations are made to an existing permanent model home that does not have*
523 *an automatic fire sprinkler system installed.*

524
525 *Section ~~R313.3.1~~R309.3.1, Design and installation.* An automatic fire sprinkler
526 *system for a permanent model home shall be designed and installed in accordance*
527 *with NFPA 13D.*

528
529 *Section ~~R313.3.2~~R309.3.2, Assessment.* The Department of Land Use shall issue
530 *a report to County Council and the County Executive within 18 months after the*
531 *effective date of this Section, reviewing variables such as the number of installation*
532 *requests for fire sprinkler systems, efforts to promote sprinkler systems, costs of*
533 *installation, ongoing monthly/quarterly/annual costs such as water bills and annual*
534 *inspection, as well as related data which provides insight into the viability of*
535 *automatic fire sprinkler systems and expansion thereof.*

536
537 *Section ~~R309.4~~R317.1, Floor surface,* is amended by deleting the second sentence and
538 *substituting the following: "That area of the floor used for parking automobiles or other*
539 *vehicles shall have a four (4) inch step between the garage and the living space and*
540 *shall be sloped to facilitate the movement of liquids to a drain or toward the main vehicle*
541 *entry doorway."*

542
543 *Section ~~R311.7.5.1~~R318.7.5.1, Risers, Exception,* is amended by adding the following
544 *as exception number three:*

- 545
546 3. Where the bottom or top riser adjoins a sloping public way, walkway or
547 driveway having an established grade and serving as a landing, the bottom or
548 top riser is permitted to be reduced along the slope to less than 4 inches (102
549 mm) in height with the variation in height of the bottom or top riser not to exceed
550 one unit vertical in 12 units horizontal (8-percent slope) of stairway width.

551
552 *Section ~~R310.7~~R319.7, Alterations or repairs of existing basements,* is amended in the
553 *second*~~first~~ line by adding the phrase "and ~~alternations~~*alterations*" after the word
554 "rooms" and in the ~~fourth~~*second* and ~~fifth~~*third* lines by deleting the phrase "Other than
555 sleeping rooms, w" and substituting "W" and by deleting the phrase "alterations or".
556

557 *Section R322.3.2, Elevation requirements, Number 1*, is amended in the seventh line
558 by deleting the phrase "1 foot (305 mm)" and substituting the phrase "18 inches (457
559 mm)."

560
561 *Section R322.3.2, Elevation requirements, Number 5*, is amended in the second line by
562 adding the phrase "not to exceed 20 cubic yards on a single lot," after the word "fill,".

563
564 *Section ~~R303.4~~R325.3, Mechanical ventilation*, is amended by deleting the subsection
565 in its entirety.

566
567 *Section ~~R303.11~~R325.9, Prohibited connections*, is added as a new subsection as
568 follows:

569
570 *Section ~~R303.11~~R325.9, Prohibited connections*. It shall be unlawful for any
571 person to connect sump pump, French drains, area drainage, storm drainage, roof
572 drainage, swimming pool drainage, condensate pump drainage, or drainage from
573 any device directly or indirectly into any public or private sewer, except when such
574 a connection has been specifically authorized in writing by the General Manager
575 of Public Works.

576
577 Exception: Heater condensate drains connected into the sanitary sewer system for
578 slab-on-grade foundation or total crawl space dwellings. The connection of this
579 drain shall be upstream of a trap to block the backflow of any sewer gases into the
580 dwelling.

581
582 *Section ~~R329.2~~R331.2, Installation*, is amended in the ~~fourth~~second line by deleting the
583 phrase "Chapters 34 through 43" and substituting the phrase "the Statewide Fuel Gas
584 Code".

585
586 *Section ~~R331~~R333, Construction Sanitation*, is added as a new section as follows:

587
588 *Section ~~R331~~R333, Construction sanitation*.

589
590 *Section ~~R331.1~~R333.1, Facilities Required*. Sanitary facilities shall be provided
591 during construction, remodeling or demolition activities in accordance with the
592 Statewide Plumbing Code.

593
594 *Section ~~R331.2~~R333.2, Storage of construction and demolition waste*.
595 Construction and demolition waste may be stored upon the land where actual
596 construction or demolition is in progress; provided, however, that such waste shall
597 not be stored for a period exceeding ninety (90) days and all other waste not stored
598 in a dumpster shall not be stored for periods exceeding thirty (30) days.

599
600 *Section ~~R331.3~~R333.3, Handling and storage of construction and demolition*
601 *waste, trash, and litter*. During all construction activities, the lot(s) shall be kept
602 neat of trash and building materials. All construction sites shall be required to

obtain and maintain on the site a container of suitable size and design to hold and confine trash, scraps, and other construction and demolition waste created or accumulated on the site, which might be blown from the site. All such construction refuse shall be maintained in a closed container, or a container of sufficient depth to prevent construction and demolition waste from blowing out of the container, at all times, until transferred to a landfill. Containers may be placed in setback areas, provided that the placement of the container does not obstruct the view of motorists and thereby create traffic hazards. It shall be a violation to permit accumulated debris, litter, or trash attributable to the construction site and the construction activity to blow or scatter onto adjoining properties, including the public street or to accumulate on the site outside of the container, or in transit to a landfill or dump. The owner or contractor shall service the container as frequently as needed to prevent trash from over-flowing.

Section ~~R331.4~~R333.4, Final Inspection. A final clean-up is required, including the removal of all building debris, stumps, portable toilets, etc. within five (5) days after the final inspection on that parcel.

Exception: Stumps located outside of the limit of disturbance that are not required to be removed by any plan approved by the Department are not subject to this section.

Section ~~R331.5~~R333.5, Enforcement. Any person who fails to comply with the requirements found in this Section shall be subject to the penalty and enforcement provisions provided in this Chapter.

CHAPTER 4. FOUNDATION

R403.1.1, Minimum size, is amended in the ~~fifth~~second and third line by deleting the phrase "6 inches (152 mm)" and substituting the phrase "8 inches (203 mm)".

Section R405.2.3, Drainage system, is amended in the ~~fifth and sixth lines~~third line by deleting the phrase "below the bottom of the basement floor" and substituting the phrase "in depth."

Section R407.3, Structural requirements, is amended in the ~~second~~first line by adding the phrase "at the top and" after the word "displacement".

APPENDIX A ~~EB~~BA. MANUFACTURED HOUSING USED AS DWELLINGS

Appendix A ~~EB~~BA. Manufactured housing used as dwellings, is adopted with the following modifications: Subsection ~~AEB~~BA102.5, section ~~AEB~~BA104 through and including section ~~AEB~~BA112 and section ~~AEB~~BA117 are hereby deleted.

APPENDIX A ~~J~~BO. EXISTING BUILDINGS AND STRUCTURES

Appendix A JBO. Existing building and structures, is adopted in its entirety.

Section 6. *New Castle County Code* Chapter 6 ("Building Code"), Article 9 ("Existing Building Code"), is hereby amended by adding the material that is underscored and deleting the material that is stricken, as set forth below:

ARTICLE 9. EXISTING BUILDING CODE

Sec. 6.09.001. Adoption of the International Existing Building Code.

That certain document, on file with the office of the Clerk of the County Council, being marked and designated as the International Existing Building Code, 2024~~2024~~ edition, including Appendix A and Appendix B, as published by the International Code Council, be and is hereby adopted as the Existing Building Code of New Castle County. All regulations, provisions, conditions, and terms of the International Existing Building Code, 2024~~2024~~ edition, and any supplements, referenced codes, and standards, are hereby referred to, adopted and made part of this Chapter, as if fully set out in this legislation, with the additions, insertions, deletions and changes prescribed in Sec. 6.09.002.

Sec. 6.09.002. Amendments to the International Existing Building Code.

The following sections of the International Existing Building Code, 2024~~2024~~ edition, are revised as follows. All code references including text and lines are based on the 2024~~2024~~ International Existing Building Code, first printing: ~~December 2020~~August 2023. Note: Although the *International Existing Building Code* does not identify sections with an "E" designation, such a designation is utilized to avoid any confusion as to what Code the amendment relates.

Section 7. *New Castle County Code* Chapter 6 ("Building Code"), Article 10 ("Energy Conservation Code"), is hereby amended by adding the material that is underscored and deleting the material that is stricken, as set forth below:

ARTICLE 10. ENERGY CONSERVATION CODE

Sec. 6.10.001. Enforcement of the Statewide Energy Conservation Code

Pursuant to 16 *Del. C.* ch. 76...

Note: New Castle County enforces the provisions of 16 *Del. C.* ch. 80 ("Residential Dwelling Electric Vehicle Charging Infrastructure"). New Castle County also enforces the provisions of 16 *Del. C.* ch. 76 ("County or Municipal Building, Plumbing, Electrical and Other Codes"), including section § 7605 ("Solar-ready zone").

~~Sec. 6.10.002. Amendments of the Statewide Energy Conservation Code.~~

~~The following sections of the International Energy Conservation Code, 2018 Edition, (IECC) are revised as follows. All code references including text and lines are based on~~

the 2018 International Energy Conservation Code, fifth printing: November 2021. Note: Although the IECC does not identify sections with the designations that follow, to avoid any confusion, commercial provisions are provided with a "C" designation and residential provisions are provided with an "R" designation.

IECC—COMMERCIAL PROVISIONS

CHAPTER 2. DEFINITIONS

Section C202, General definitions, is amended by adding the following:

~~*Electric Vehicle (EV).* An automotive-type vehicle for on-road use such as passenger automobiles, buses, trucks, vans, neighborhood electric vehicles, electric motorcycles, and the like, primarily powered by an electric motor that draws current from a rechargeable storage battery, a fuel cell, a photovoltaic array, or another source of electric current. Plug-in hybrid electric vehicles are electric vehicles having a second source of motive power. Off-road, self-propelled electric mobile equipment, such as industrial trucks, hoists, lifts, transports, golf carts, airline ground support equipment, tractors, boats and the like, are not considered electric vehicles.~~

~~*Electric Vehicle Support Equipment (EVSE).* The conductors, including the ungrounded, grounded, and equipment grounding conductors and the electric vehicle connectors, attachment plugs, and all other fittings, devices, power outlets, or apparatus installed specifically for the purpose of transferring energy between the premises wiring and the electric vehicle.~~

~~*Electric Vehicle Supply Equipment Space (EVSE Space).* A designated parking space with dedicated electric vehicle supply equipment, installed as required under the currently adopted electrical code in the State of Delaware, and capable of charging an electric vehicle located within five (5) feet of the parking space;~~

~~*EV-Capable Parking Space.* A designated parking space that can be converted to an EVSE Space and is subject to the following requirements, unless otherwise required under the currently adopted electrical code of the State of Delaware:~~

- ~~1.—The conduit shall be continuous between a junction box or receptacle located within five (5) feet of the parking space and an electrical panel serving the area of the parking space. The junction box or receptacle must be conspicuously marked and identified as "For electric vehicle charging".~~
- ~~2.—The conduit shall be sized and rated to accommodate a branch circuit of sufficient size to the future electrical charging facility.~~

3. The electrical panel shall reserve sufficient dedicated physical space for the breaker required to supply the future electrical charging facility and shall be identified as "For electric vehicle charging".

CHAPTER 4. COMMERCIAL ENERGY EFFICIENCY

Section C401, General, is amended by adding the following subsection:

~~C401.3, Electric Vehicle charging infrastructure.~~ Electric infrastructure for the current and future charging of electric vehicles shall be installed in accordance with this section and the most recently adopted electrical code in the State of Delaware. Parking spaces intended for electric vehicle charging shall be in accordance with the Unified Development Code. This chapter shall apply to Group R-2 occupancies for which a building permit is submitted for on or after July 1, 2022.

~~C401.3.1, Residential occupancies.~~ Parking facilities serving Group R-2 occupancies shall comply with Section C401.3.1.1.

~~C401.3.1.1, Parking spaces provided.~~ For all Group R-2 occupancies, ten percent (10%) of the total available designated parking spaces must be EV-capable parking spaces. The calculations for the required number of spaces must be rounded up to the nearest whole number. There shall be a minimum of two EV-capable parking spaces, one of which shall be designated as a handicap accessible parking space. All handicapped-accessible parking spaces must be in accordance with The Americans with Disabilities Act, as shall all EV charging stations when present.

~~C403.3.2, Construction documents.~~ Construction documents must indicate the location of all proposed electric vehicle parking spaces.

IECC—RESIDENTIAL PROVISIONS

CHAPTER 2. DEFINITIONS

Section R202, General definitions, is amended by adding the following:

~~Electric Vehicle (EV).~~ An automotive type vehicle for on-road use such as passenger automobiles, buses, trucks, vans, neighborhood electric vehicles, electric motorcycles, and the like, primarily powered by an electric motor that draws current from a rechargeable storage battery, a fuel cell, a photovoltaic array, or another source of electric current. Plug-in hybrid electric vehicles are electric vehicles having a second source of motive power. Off-road, self-propelled electric mobile equipment, such as industrial trucks, hoists, lifts, transports, golf carts, airline ground support equipment, tractors, boats and the like, are not considered electric vehicles.

~~*Electric Vehicle Support Equipment (EVSE).* The conductors, including the ungrounded, grounded, and equipment grounding conductors and the electric vehicle connectors, attachment plugs, and all other fittings, devices, power outlets, or apparatus installed specifically for the purpose of transferring energy between the premises wiring and the electric vehicle.~~

~~*Electric Vehicle Supply Equipment Space (EVSE Space).* A designated parking space with dedicated electric vehicle supply equipment, installed as required under the currently adopted electrical code in the State of Delaware, and capable of charging an electric vehicle located within five (5) feet of the parking space,~~

~~*EV-Capable Parking Space.* A designated parking space that can be converted to an EVSE Space and is subject to the following requirements, unless otherwise required under the currently adopted electrical code of the State of Delaware:~~

- ~~1. The conduit shall be continuous between a junction box or receptacle located within five (5) feet of the parking space and an electrical panel serving the area of the parking space. The junction box or receptacle must be conspicuously marked and identified as "For electric vehicle charging".~~
- ~~2. The conduit shall be sized and rated to accommodate a branch circuit of sufficient size to the future electrical charging facility.~~
- ~~3. The electrical panel shall reserve sufficient dedicated physical space for the breaker required to supply the future electrical charging facility and shall be identified as "For electric vehicle charging".~~

~~*EV-Ready Parking Space.* A designated parking space that meets the requirements for an EV-capable parking space and includes a designated electrical outlet that complies with currently adopted electrical code of the State of Delaware.~~

~~CHAPTER 4. — RESIDENTIAL ENERGY EFFICIENCY~~

~~Section R401, General, is amended by adding the following subsection:~~

~~*R401.4, Electric Vehicle charging infrastructure.* Electric infrastructure for the current and future charging of electric vehicles shall be installed in accordance with this section and the most recently adopted electrical code in the State of Delaware. Parking spaces intended for electric vehicle charging shall be in accordance with the Unified Development Code. This chapter shall apply to one- and two- family dwellings and townhouses for which a building permit is submitted for on or after July 1, 2022.~~

~~*R401.5, Building and Parking Requirements.*~~

~~R401.5.1., Garages and off-street parking.~~

~~R401.5.1.1. Where a one- and two-family dwelling or townhouse includes an attached or detached garage and the electrical panel is not located in the garage, the EV-capable parking space must be located in the attached or detached garage.~~

~~R401.5.1.2. Where a one- and two-family dwelling or townhouse does not include an attached or detached garage, an EV-capable parking space must be provided in the driveway, where applicable, or at a dedicated parking space designated for the dwelling or townhouse, and the EV-capable parking space infrastructure must be sealed and labeled for future use. All dedicated parking spaces shall be in accordance with the Unified Development Code.~~

~~R401.5.2., EV-capable parking space upgrade. Where one- and two-family dwelling or townhouse is being constructed for a specific buyer, the developer shall offer the buyer the option of upgrading the EV-capable parking space to an EV-ready parking space and ensuring that the EV-ready parking space provides access to discounted Plug-In Vehicle (PIV) electricity rates, where available.~~

~~APPENDIX CA. SOLAR-READY ZONE – COMMERCIAL~~

~~Appendix CA. Solar-Ready Zone – Commercial, is adopted with the following modifications:~~

~~Section CA101.1, General, is amended by deleting it in its entirety and substituting the following:~~

~~Section CA101.1, General. These provisions shall be applicable for new construction of commercial buildings in New Castle County for which a building permit has been submitted to the Department of Land Use on or after January 1, 2023 and which have a foundation footprint of 50,000 square feet or more.~~

~~Section CA103.1, General, is amended in the second line by deleting the phrase “are five stories or less in height above grade plane, and are oriented between 110 degrees and 270 degrees of true north or have low-slope roofs. Solar-ready zones shall comply with Sections CB103.2 through CB103.9.” and substituting the phrase and sentence “have low-sloped roofs. Solar-ready zones shall comply with Sections CA103.2 through CA103.8.”~~

~~Section CA103.1, General, Exception #1, is amended by adding the phrase “or where a vegetative “green” roof is proposed, installed and maintained for 60 percent or more of total rooftop area” after the word “system”.~~

877 ~~Section CA103.1, General, Exception #2, is amended by deleting it in its entirety.~~

878
879 ~~Section CA103.1, General, Exception #3, is amended by renumbering it to~~
880 ~~Exception #2 and adding the phrase "due to significant shade (shaded more than~~
881 ~~70 percent of daylight hours) after the word "zone".~~

882
883 ~~Section CA103.1, General, Exception #4, is amended by renumbering it to~~
884 ~~Exception #3.~~

885
886 ~~Section CA103.2, Construction document requirements for a solar-ready zone, is~~
887 ~~amended by adding the following sentence to the end of the subsection "The~~
888 ~~presence of a solar-ready zone does not relieve the requirement for a roof~~
889 ~~structural evaluation before a future installation of a solar photovoltaic or solar~~
890 ~~thermal system."~~

891
892 ~~Section CA103.3, Solar-ready zone area, is amended in the fifth and sixth lines by~~
893 ~~deleting the phrase "as required by The International Fire Code".~~

894
895 ~~Section CA103.4, Obstructions, is amended by adding the following sentence to~~
896 ~~the end of the subsection "Solar-ready zones maybe relocated to allow future~~
897 ~~installation of roof equipment as long as the 40 percent minimum allocation is~~
898 ~~maintained."~~

899
900 ~~Section CA103.6, Interconnection pathway, is amended in the second line by adding~~
901 ~~the phrase ", raceway" after the word "conduit" and in the third line by adding the~~
902 ~~phrase "reserved space for" before the words "electrical service".~~

903
904 ~~Section CA103.7, Electrical service reserved space, is amended by deleting the~~
905 ~~subsection in its entirety and substituting the following: "The main electrical service~~
906 ~~panel shall have a reserved space labeled "For Future Solar Electric", or if a~~
907 ~~licensed design professional certifies that additional or alternative space is needed~~
908 ~~for the placement of equipment necessary for the installation of a solar electric~~
909 ~~system, space shall be reserved either on the interior or exterior wall proximate to~~
910 ~~the main electrical service panel or on a prepared exterior pad site in close~~
911 ~~proximity to the electrical service panel. Any such space shall be labeled "For~~
912 ~~Future Solar Electric" in a conspicuous manner.~~

913
914 Section 8. *New Castle County Code* Chapter 6 ("Building Code"), Article 11
915 ("Swimming Pool and Spa Code"), is hereby amended by adding the material that is
916 underscored and deleting the material that is stricken, as set forth below:

917
918 **ARTICLE 11. SWIMMING POOL AND SPA CODE**

919
920 **Sec. 6.11.001. Adoption of the International Swimming Pool and Spa Code.**
921

922 That certain document, on file with the office of the Clerk of the County Council, being
923 marked and designated as the International Swimming Pool and Spa Code, ~~2021~~2024
924 edition, as published by the International Code Council, be and is hereby adopted as the
925 Swimming Pool and Spa Code of New Castle County. All regulations, provisions,
926 conditions, and terms of the International Swimming Pool and Spa Code, ~~2021~~2024
927 edition, and any supplements, referenced codes, and standards, are hereby referred to,
928 adopted and made part of this Chapter, as if fully set out in this legislation, with the
929 additions, insertions, deletions and changes prescribed in Sec. 6.11.002.

930
931 **Sec. 6.11.002. Amendments to the International Swimming Pool and Spa Code.**
932

933 The following sections of the International Swimming Pool and Spa Code, ~~2021~~2024
934 edition, are revised as follows. All code references including text and lines are based on
935 the ~~2021~~2024 International Swimming Pool and Spa Code, second printing: ~~June~~
936 ~~2021~~August 2024. Note: Although the International Swimming Pool and Spa Code does
937 not identify sections with an "SP" designation, such a designation is utilized to avoid any
938 confusion as to what Code the amendment relates.
939

940 **CHAPTER 3. GENERAL COMPLIANCE**
941

942 ~~Section SP302.1 through and including Section SP321.4, are amended by deleting all~~
943 ~~references to the phrase "Section 102.7.1" and substituting "this Chapter".~~
944

945 *Section SP305.4, Structure wall as barrier*, is amended in the ~~fourth~~second line by
946 deleting the phrase "one of."
947

948 *Section SP305.4, Structure wall as barrier...*
949

950 Section 9. *New Castle County Code* Chapter 6 ("Building Code"), Schedule of
951 Permit and Review Fees, is hereby amended by adding the material that is underscored
952 and deleting the material that is stricken, as set forth below:
953

954 **SCHEDULE OF PERMIT AND REVIEW FEES**
955

956 **Building Permit**

957 Valuation fee:

958 For the first \$1,000 valuation or any part thereof up to \$1,000,000.....	\$12.00
959 For each additional \$1,000 valuation in excess of \$1,000,000.....	\$5.25
960 Minimum fee.....	\$60.00
961 Zoning review fee: 10% of permit valuation fee	
962 Minimum fee.....	\$21.00
963 Maximum fee.....	\$145.00
964 Certificate of Occupancy fee:.....	\$60.00
965 <u>NCC Volunteer Fire Assistance Fund fee: 0.50% of permit valuation fee</u>	

966 **Permit extension**
967

Application fee...

Expired permit fine

Per offense\$25.00\$100.00

Section 10. Certain documents on file in the office of the Clerk of County Council, being marked and designated as the *International Building Code, 2024 edition, International Residential Code, 2024 edition, International Mechanical Code, 2021 edition, International Plumbing Code, 2021 edition, International Fuel Gas Code, 2021 edition, International Existing Building Code, 2024 edition, International Swimming Pool and Spa Code, 2024 edition, and International Energy Conservation Code, 2018 edition*, all published by the International Code Council, are hereby adopted as the Building Code of New Castle County for the control of buildings and structures as provided in this Chapter. All the sections, conditions and terms of the above referenced International Codes are hereby referred to, adopted and made a part of this Chapter as if fully set out in this section, with the additions, insertions, deletions, and changes prescribed in this ordinance.

Section 11. Inconsistent ordinances and resolutions repealed. All ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict herewith are hereby repealed upon the effective date of this Ordinance.

Section 12. Effective date of the provisions of the Ordinance. The provisions of this Ordinance shall become effective on January 1, 2026.

Section 13. Continuation of existing ordinances and resolutions. The sections appearing in this Ordinance, so far as they are in substance the same as those ordinances and resolutions adopted and included in the *New Castle County Code*, shall be considered as continuations thereof and not as new enactments.

Section 14. Continuation of existing institutions, rights, and liabilities. The revisions of prior ordinances, resolutions, rules and regulations, provided for in this Ordinance, shall not affect any act done, or any cause of action accruing or accrued or established, or any suit or proceeding had or commenced in any civil action, nor any plea, defense, bar or matter existing before the time when such revisions shall take effect; but the proceedings in every such case shall conform with this ordinance to the extent applicable.

All the provisions of ordinances, resolutions, rules and regulations revised by this Ordinance shall be deemed to have remained in force from the time when they began to take effect, so far as they may apply to any department, agency, office or trust, or of any transaction or event of any limitation or any right or obligation or the construction of any contract already affected by such ordinances, resolutions, rules and regulations, notwithstanding the revisions of such provisions.

1013 No offense committed and no penalty or forfeiture incurred, under any of the
1014 ordinances, resolutions, rules and regulations revised by this Ordinance and before the
1015 time when such revisions shall take effect shall be affected by such revisions.
1016

1017 No action or prosecution, pending the effective date of the revisions provided in
1018 this Ordinance, for any offense committed or for the recovery of any penalty or forfeiture
1019 incurred under any of the ordinances, resolutions, rules and regulations revised herein
1020 shall be abated or affected by such revisions, except that the proceedings in such action
1021 or prosecution shall conform with this Ordinance if applicable.
1022

1023 The provisions in this Ordinance shall not be construed to abolish or impair existing
1024 remedies available to New Castle County or its officers or agencies relating to the
1025 remediation of any dangerous, unsafe, or unsanitary condition.
1026

1027 Section 15. Severability. It is hereby declared to be the intention of the County
1028 Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance
1029 are severable, and if any phrase, clause, sentence, paragraph or section of this
1030 Ordinance shall be declared unconstitutional or invalid by the valid judgment or decree of
1031 a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any
1032 of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.
1033 If any provision of this Ordinance is found to be unconstitutional or void, the applicable
1034 former ordinance provisions shall become effective and shall be considered as
1035 continuations thereof and not as new enactments regardless if severability is possible.
1036

1037 Section 16. Other laws. The provisions of this Ordinance shall not be deemed to
1038 nullify any provisions of local, state, or federal law except as stated in Section 11 above.

Adopted by County Council of
New Castle County on:

Monique Williams-Johns
President of County Council
of New Castle County

Approved on:

Marcus Henry
County Executive
New Castle County

SYNOPSIS: The following is a summary of the revisions contained in this Ordinance broken down by *New Castle County Code* Article or Section number.

Sec. 6.01.001. These amendments correct typographical and grammatical errors found within Chapter Six.

Sec. 6.02.001. These amendments correct typographical and grammatical errors found within Chapter Six and clarify that a third party inspector may be an individual or business authorized to perform required inspections but whose staff are not employed by New Castle County.

Sec. 6.03.001. These amendments correct typographical and grammatical errors found within Chapter Six and change references from 'certificates of occupancy' to 'certificates of approval' for consistency across code sections.

Sec. 6.03.012. These amendments clarify the scope of exemptions for fences; adds exemptions for brick repointing, EV charging stations, flagpoles, and sign refacing; and adds replacement of deck boards and railings, rooftop solar panels, and sump pumps to residential work exempt from a permit.

Sec. 6.03.018. These amendments align third party inspector language with the updated definition and prohibit final inspections from being performed without explicit Land Use approval, which reinforces important public safety considerations.

Sec. 6.04.001. This amendment adopts the 2024 International Building Code (IBC) as the building code for New Castle County.

Sec. 6.04.002. This amendment updates Chapter Six to reflect the applicable version of the International Building Code (IBC) and revises section references to align with the 2024 I-Codes and the current NFPA code. The 2024 IBC introduced a significant formatting change, transitioning from a two-column to a one-column layout. As a result, several section numbers were relocated, and this amendment ensures that all citations within Chapter Six accurately correspond to the updated code structure.

Sec. 6.05.001. This amendment adopts the 2024 International Residential Code (IRC) as the residential code for New Castle County.

Sec. 6.05.002. This amendment updates Chapter Six to reflect the applicable version of the International Residential Code (IRC) and revises section references to align with the 2024 I-Codes. The 2024 IRC introduced a significant formatting change, transitioning from a two-column to a one-column layout. As a result, several section numbers were relocated, and this amendment ensures that all citations within Chapter Six accurately correspond to the updated code structure.

Sec. 6.09.001. This amendment adopts the 2024 International Existing Building Code (IEBC) as the existing building code for New Castle County.

Sec. 6.09.002. This amendment defines the specific IEBC code version used for Chapter Six amendments.

Sec. 6.10.001. This amendment clarifies that New Castle County will continue to regulate EV-Ready and Solar Ready laws.

Sec. 6.10.002. This amendment removes New Castle County's prior amendments to the IECC pertaining to EV-Ready and Solar Ready requirements. As these provisions have been superseded by state-level legislation, Section 6.10.001 now references state law.

Sec. 6.11.001. This amendment adopts the 2024 International Swimming Pool and Spa Code (ISPSC) as the swimming pool and spa code for New Castle County.

Sec. 6.11.002. This amendment updates Chapter Six to reflect the applicable version of the International Swimming Pool and Spa Code (ISPSC) and revises section references to align with the 2024 I-Codes. The 2024 ISPSC introduced a significant formatting change, transitioning from a two-column to a one-column layout. As a result, this amendment ensures that all citations within Chapter Six accurately correspond to the updated code structure. It also removes an unnecessary deletion as it relates to a code reference.

Schedule of Permit and Review Fees. This amendment updates Chapter Six to reflect current practices by incorporating the 0.5% NCC Volunteer Fire Service Fund fee established by Ordinance 14-057 (2014) and increasing the expired permit fine from \$25 to \$100, consistent with the FY20 budget authorization in Ordinance 19-039 (2019).

FISCAL NOTE: There is no discernible fiscal impact.

Prime Sponsor(s): Ms. Kilpatrick
Requested by: Land Use
Date of introduction: February 25, 2025

ORDINANCE NO. 25-018

REVISE ZONING MAP: MILL CREEK HUNDRED, WEST SIDE OF LIMESTONE ROAD, 375 FEET NORTH OF THE INTERSECTION WITH SKYLINE DRIVE; 4900 LIMESTONE ROAD, TAX PARCEL 08-030.40-008, REZONE 3.66± ACRES FROM S (SUBURBAN) TO S (SUBURBAN) AND H (HISTORIC OVERLAY ZONE)

(The property owner is requesting the H (Historic overlay zone) for the subject parcel.
2024-0701)

THE COUNTY OF NEW CASTLE HEREBY ORDAINS:

Section 1. The Zoning Map of Mill Creek Hundred, as amended, is hereby further amended by changing the zoning classification of the land shown on attached Exhibits "A" and "L" dated October 28, 2024, as set forth therein.

Section 2. This Ordinance shall become effective immediately upon passage by New Castle County Council and approval of the County Executive, or as otherwise provided in 9 Del. C. § 1156.

Adopted by County Council of
New Castle County on:

Monique Williams-Johns
President of County Council
of New Castle County

Approved on:

Marcus Henry
County Executive
New Castle County

SYNOPSIS: Same as Title.

FISCAL NOTE: This rezoning ordinance will have no immediate discernable fiscal impact on the County, but if the parcel(s) rezoned is (are) developed in accordance with the new rezoning, there may be one or more indirect fiscal effects on New Castle County government, including, but not limited to, an increase in the assessed value of the property with a resultant increase in taxes collectible thereon, and an increased demand for county services.

PROPERTY MAP

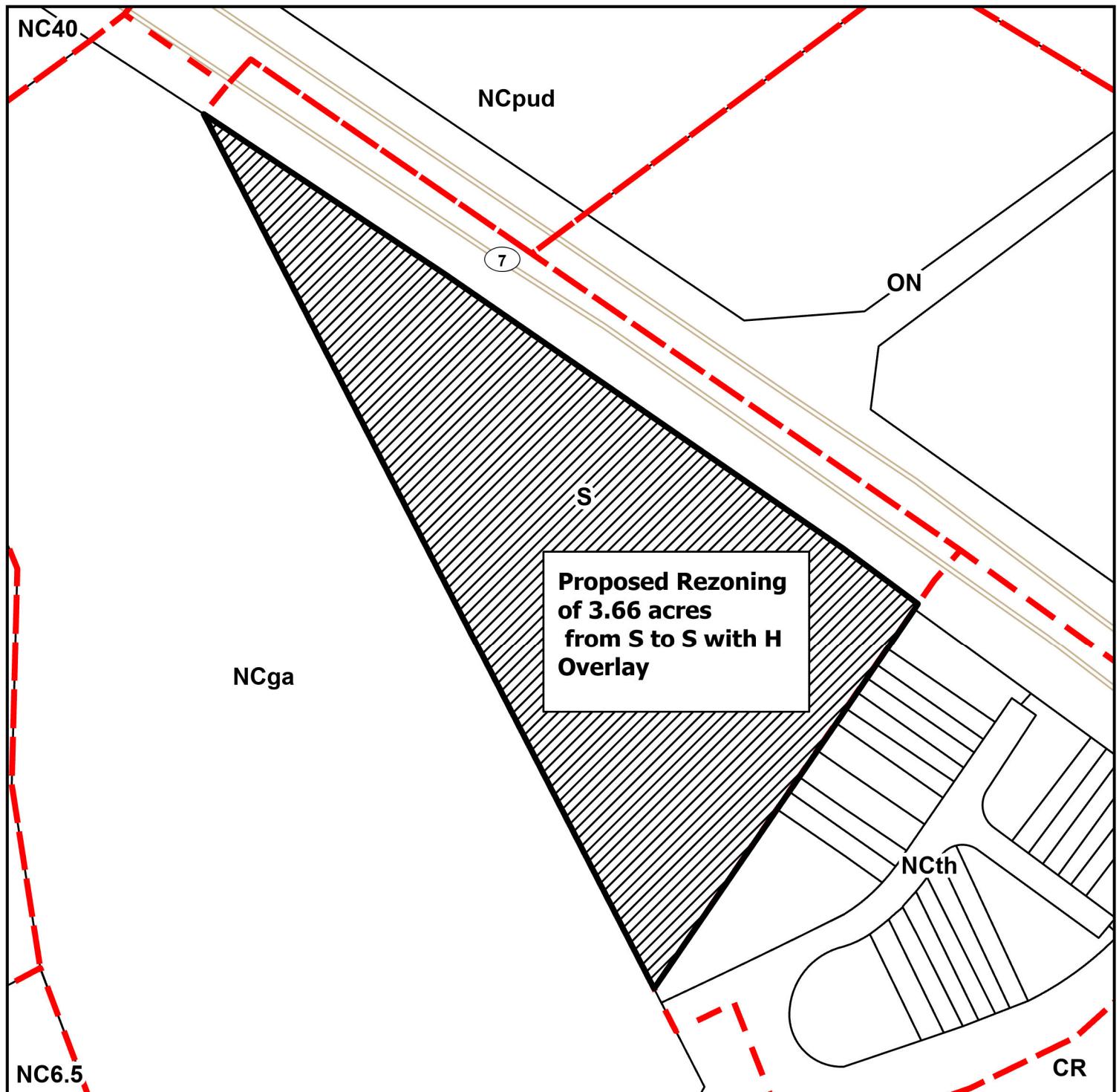
EXHIBIT "A"
ZONING ORDINANCE AS INTRODUCED

APPLICANT: AKESTER, JEFFREY D. TRUSTEE
FBO AKESTER JOHN & SALLIE

APPLICATION NO. 2024_0791

TAX PARCEL NO. 08-030.40-008

PROPOSED REZONING: EXISTING S ZONING TO S with H ZONING



HUNDRED: MILL CREEK HUNDRED
NEW CASTLE COUNTY, DELAWARE

Scale: 1:1,500

Prepared by: Property.Munsaka

Date: 10/28/2024



PERMANENT ORDINANCE NO. 25-018

Date Adopted by County Council _____

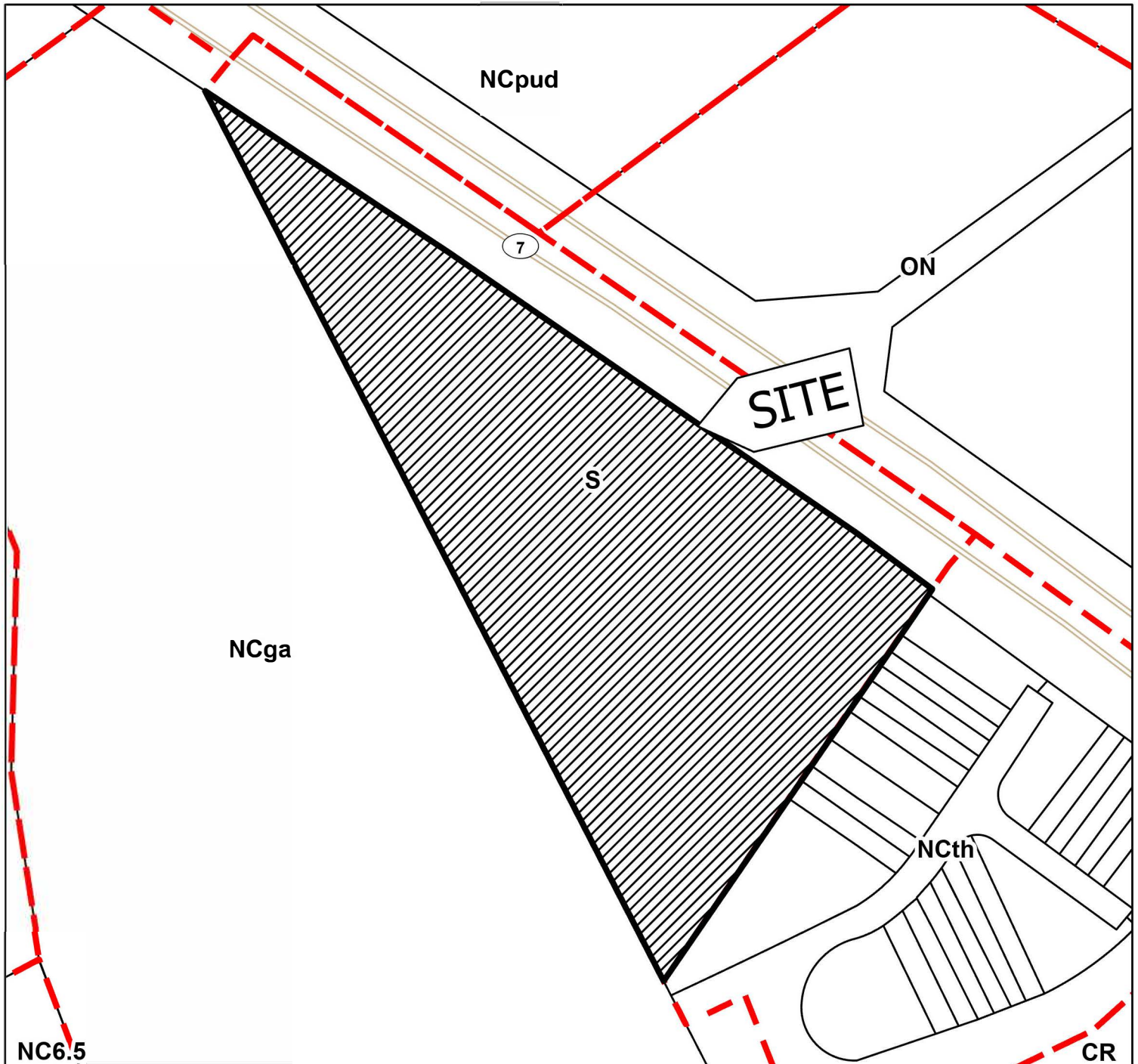
Date Approved by County Executive _____

PROPERTY MAP
APPLICANT: AKESTER, JEFFREY D. TRUSTEE
FBO AKESTER JOHN & SALLIE

EXHIBIT "L"
ZONING ORDINANCE AS INTRODUCED

APPLICATION NO. [2025-0701](#)
TAX PARCEL NO. 08-030.40-008

PROPOSED REZONING: EXISTING S ZONING TO S with H ZONING



HUNDRED: MILL CREEK HUNDRED
NEW CASTLE COUNTY, DELAWARE

Scale: 1:1,500
Prepared by: Property.Munsaka
Date: 10/28/2024



PERMANENT ORDINANCE NO. 25-018

Date Adopted by County Council _____
Date Approved by County Executive _____



New Castle County Department of Land Use

**JOINT DEPARTMENT OF LAND USE / PLANNING BOARD
RECOMMENDATION**

**Ordinance No. 25-018
Application No. 2024-0701-Z
Mermaid Tavern H-Overlay**

September 16, 2025

Sponsor: Councilwoman Kilpatrick (District 3)

Description: West side of Limestone Road, 375 feet north of the intersection with Skyline Drive; 4900 Limestone Road, tax parcel 08-030.40-008, rezone 3.66± acres from S (Suburban) to S (Suburban) and H (Historic Overlay Zone).

EXECUTIVE SUMMARY

Ordinance 25-018 proposes to rezone tax parcel 08-030.40-008 (3.66± acres) from S (Suburban) to S (Suburban) and H (Historic Overlay Zone).

The Department of Land Use has considered the Standards for Zoning Map Amendment in Section 40.31.410, A through E of the *Unified Development Code*, the Future Land Use Map, comments received from outside agencies, and comments received from the public. Based on this analysis, the Department is of the opinion that the standards are met by this proposal. Therefore, the Department of Land Use recommends **APPROVAL** of the rezoning application.

DESCRIPTION

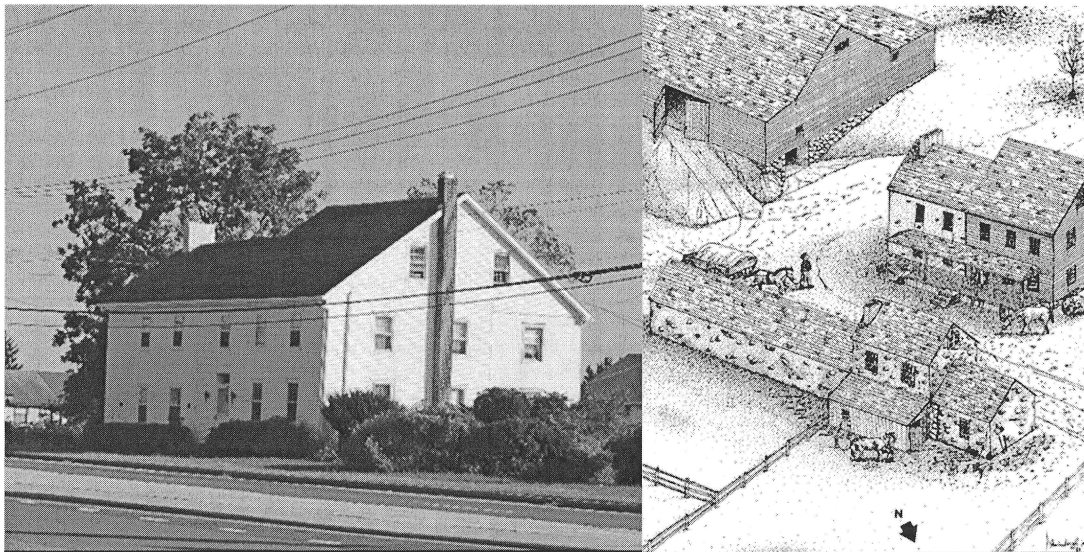
Ordinance 25-018 proposes to rezone 3.66± acres of tax parcel 08-030.40-008 from S (Suburban) to S (Suburban) and H (Historic Overlay Zone). The site is located 375 feet north of the intersection with Skyline Drive; 4900 Limestone Road. The rezoning is requested by the owner and is to remain a residence.

BACKGROUND

Discussions with the owners of Mermaid Tavern with the Department regarding the establishment of a Historic Overlay Zone started in 2024. Ord. 25-018, sponsored by Councilwoman Janet Kilpatrick, was introduced on February 25, 2025, and proceeded to the Historic Review Board on May 20, 2025.

History of the Mermaid Tavern

As per the National Register of Historic Places Nomination, a land transaction in 1718 is believed to have conveyed a farm along with a hotel license, implying that the resource was present on the site prior to 1725. In Francis Cooch's 1936 book *Little Known History of Newark and its Environs* he recounts the 1718 transaction, but follows it by saying "Unfortunately, this deed was loaned to an attorney who has since died, and now it cannot be located". A 1994 Study of the Mermaid intersection by DelDOT was also not readily able to locate this deed. Scharf's History of Delaware contradicts the commonly held narrative of the Tavern's 18th century establishment date and says that it "Was opened in 1830 by Bracken and was afterwards conducted by Willam Ball, John Chapman, George Walker, and was closed in 1869 by Elizabeth Wilson Walker."



The Tavern has been occupied by various branches of the Walker and Ball families since the 18th century. The building was initially constructed as a log dwelling, which was subsequently expanded. Over time, the log dwelling was replaced with stone construction. The interior remains remarkably intact with the bar, which eventually became the primary operating area for the Post Office, is still present, featuring the movable partition, drawers, and glass cabinets.

Despite its moniker as the Mermaid Tavern, this establishment has served diverse purposes throughout its history, functioning as a meeting venue for religious groups, a polling station, and even as the local post office until 1882. The Tavern's strategic location on Limestone Road facilitated the arrival of waggoners, who utilized it as a rest stop during their arduous journeys from Pennsylvania to Stanton for subsequent

transportation on the Christina River. Conveniently located across the road was a full-service blacksmith and wheelwright's shop, which catered to the horses and wagons of the waggoners, the tavern provided essential amenities such as food, beverages, and lodging for the weary travelers. Additionally, a shed with stalls for 24 horses kept their teams safe and dry. The Tavern was part of a larger self-contained community at the intersection of Mermaid-Stoney Batter Road and Limestone Road and contributed to early development within Mill Creek Hundred.

Historic Board Review¹

At the May 20, 2025, public hearing, the Historic Review Board heard from Sallie Akester, owner of the Mermaid Tavern, who spoke on behalf of the application. She stated that it was once part of a 128-acre parcel and the original liquor license was granted by the King of England and the Governor of Pennsylvania. She explained the origin of the name and stated that there was once likely a sign with a mermaid on it, and that it was frequented by farmers and waggoners on their way to Stanton. The mermaid was very popular, and had a stable for 24 horses, a wheelwright and a blacksmith shop. She touched on the site's link to the Revolutionary War and showed two cannon balls they had found on the property. The resource was also a post office, and the Akesters have letters to the postmaster and the ballots for the ratification of a new amendment to the Delaware constitution. Ms. Akester said that her grandmother told her that she remembered seeing people come to vote, and that they voted through a window at the front porch. Ms. Akester noted that the Battle of Mermaid took place on Nov 4th, 1862, according to the book *Military Intervention of Delaware*. No one was killed, no one was injured, and no shots were fired. The Tavern continued to operate until 1866 when it lost its liquor license, but it was still permitted to operate as an inn. Ms. Akester explained that many of the interior spaces have been preserved including the bar area of the tavern.

Ms. Anderson (Historic Review Board) thanked the applicants for bringing in items from their collection and for the presentation. She said that it is special that they have these items and that they personalize history. She thanked them for coming and showing everyone present to value our past. There were no further comments from the Board. Susan Moran (1109 Yorklyn Road) and Councilwoman Dee Durham spoke in favor of the application.

At their Business Meeting held on June 3, 2025, the Historic Review Board considered the proposed resource (Mermaid Tavern), public testimony, and the Department of Land Use Recommendation and determined that the resource met the minimum Criteria for Designation of Historic Overlay Zoning pursuant to Section 40.15.110 of the *New Castle County Code*.

¹ Historic Review Board Application 2025-0187: <https://www3.newcastlede.gov/Project/Details/Default.aspx?ProjectKey=821026>

PLANNING BOARD PUBLIC HEARING – *August 5, 2025*

*Please note, the below is a summary. A recording and transcripts of the public hearing are available at the Department of Land Use and hyperlinked below.²

Presentation

Sallie Akester, owner of the Mermaid Tavern, provided a historical overview of the property. During her presentation, she discussed the establishment of the tavern in the 1700s and the importance of its location to serve travelers and merchants from Lancaster County, Pennsylvania enroute to Stanton, Delaware to access barges for shipment of products to Philadelphia. The tavern also operated as a post office from 1848 to 1900 and had also been a voting place for a few years.

Neal Cantrell (Planning Board) asked if Ms. Akester still resides at the Mermaid Tavern and clarified the location of the site. There were no comments from the public.

ANALYSIS

Situated at 4900 Limestone Road, the Mermaid Tavern site was initially farmland that was part of a land transaction in 1718 and operated as an Inn and Tavern through the 1700 and 1800s. The present structure operates as a residence for the owners, John and Sallie Akester.

The Mermaid Tavern's eligibility for Historic Overlay Zoning was considered by the Historic Review Board on June 3, 2025. The Historic Review Board determined that the site met criteria for designation for a Historic Overlay Zone pursuant to Section 40.15.110 of the *New Castle County Code*.

Standards of Review

Pursuant to Section 40.31.410 of the New Castle County Code, in determining whether an amendment to the zoning map shall be recommended or approved, the following factors shall be considered:

A. Consistency with the Comprehensive Development Plan and the purposes of this Chapter.

The establishment of the Historic Overlay Zoning is consistent with Goal 12, Objective 12.2 and Strategy 12.2.2 of the New Castle County Comprehensive Development Plan of 2022. Objective 12.2 seeks to increase preservation of historic resources. Strategy 12.2.2 aims to preserve neighborhoods. The proposed H-overlay zoning would add a layer of preservation on the property if any future development is proposed.

B. Consistency with the character of the neighborhood.

² August 5, 2025, Planning Board Public Hearing: <https://www.newcastlede.gov/agendacenter>

The Mermaid Tavern has operated as an Inn and Tavern through the 1700 and 1800s. The primary structure has predated the surrounding commercial and residential developments along Limestone Road for over a hundred years.

C. *Consistency with zoning and use of nearby properties.*

The property is currently a residence which is a permissible use within the S (Suburban) zoning district. The property is to remain a residence after the establishment of the Historic Overlay Zone consistent with the residential developments found abutting the property.

D. *Suitability of the property for the uses for which it has been proposed or restricted.*

The Mermaid Tavern's eligibility for Historic Overlay Zoning was considered by the Historic Review Board on June 3, 2025. The Historic Review Board determined that the site met the criteria for designation for a Historic Overlay Zone pursuant to Section 40.15.110 of the *New Castle County Code*. The site will remain as a residence with any future proposed development or change of use requiring Historic Review Board approval pursuant to Section 40.15.100 of the *New Castle County Code*.

E. *Effect on nearby properties.*

The Mermaid Tavern has predated most of the commercial and residential development surrounding the site. The establishment of an Historic Overlay Zone will have minimal impact on the surrounding properties.

DEPARTMENT OF LAND USE RECOMMENDATION

The Department of Land Use has considered the Standards for Zoning Map Amendment in Section 40.31.410, A through E of the *Unified Development Code*, the Future Land Use Map, the comments received from outside agencies, the comments from the Historic Review Board, and the comments received by the public. Based on this analysis, the Department is of the opinion that the standards are met by this proposal. Therefore, the Department of Land Use recommends **APPROVAL** of Ordinance 25-018.

PLANNING BOARD RECOMMENDATION

At a business meeting held on September 16, 2025, 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 Neal Cantrell and seconded by Ruth Visvardis, the Board voted to recommend **APPROVAL** of Ordinance 25-018 as recommended by the Department of Land Use. The motion was adopted by a vote of 5-0-0-2 (In Favor: Cantrell, Cochran, Daigle, Drake, Snowden, Visvardis; In Opposition: None; Abstention: None; Absent: Daigle, Gray).

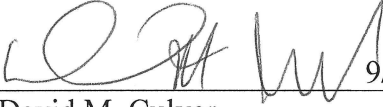
Prior to the vote, the following discussion occurred:

Alec Davis read the Department of Land Use recommendation into the record.

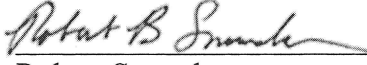
Mr. Snowden inquired about the location of the original 128-acre farm. Kevin Barni (Department of Land Use) detailed the full extent of the 128-farm which at one time spanned both sides of Limestone Road. Mr. Cochran asked if the building was currently occupied. Alec Davis (Department of Land Use) mentioned that the Akesters, the same couple that presented at the Public Hearing, still currently reside at the Mermaid Tavern.

STATUTORY GUIDELINES

In the phraseology of 9 Delaware Code Section 2603(a), the Department finds that this rezoning will promote the convenience, order and welfare of the present and future inhabitants of this State.



David M. Culver 9/23/25
General Manager date
Department of Land Use



Robert Snowden 9/23/25
Acting Chair date
New Castle County Planning Board

Prime Sponsor(s): Mr. Carter
Co-sponsor(s): Mr. Caneco, Mr. Tackett
Ms. Durham, Mr. Cartier

Date of Introduction: August 5, 2025

SUBSTITUTE NO. 1 TO ORDINANCE NO. 25-101

TO AMEND *NEW CASTLE COUNTY CODE* CHAPTER 40 (“UNIFIED DEVELOPMENT CODE”), ARTICLE 3 (“USE REGULATIONS”) AND ARTICLE 33 (“DEFINITIONS”) TO ESTABLISH STANDARDS FOR THE REVIEW, SITING, AND OPERATIONS OF DATA CENTERS

1 **WHEREAS**, New Castle County has received an unprecedented proposal for a
2 large-scale data center campus, totaling approximately 6 million square feet; and

3
4 **WHEREAS**, the County currently lacks comprehensive, specific zoning and
5 development regulations tailored to the unique infrastructure demands, environmental
6 impacts, and operational characteristics of hyperscale data centers; and

7
8 **WHEREAS**, data centers are distinct from other industrial and commercial uses
9 due to their high energy consumption, large-scale backup power systems, significant
10 water usage, and potential impacts on surrounding communities through noise, heat, and
11 traffic; and

12
13 **WHEREAS**, technological advancements have precipitated the growth of data
14 centers nationwide, expediting the need for provisions to guide responsible development
15 and mitigate impacts; and

16
17 **WHEREAS**, it is in the public interest to proactively regulate data center
18 development to ensure compatibility with surrounding land uses and to protect the health,
19 safety, and welfare of New Castle County residents; and

20
21 **WHEREAS**, data centers share many characteristics with heavy industry,
22 particularly in terms of energy consumption, building scale, and noise leading to zoning
23 and classification complexities best handled as a separate category of use; and

24
25 **WHEREAS**, the County seeks to encourage economic development while also
26 preserving community character, promoting sustainability, safeguarding public
27 infrastructure capacity, and minimizing land use conflicts; and

28
29 **WHEREAS**, Data Centers are unique land uses that involve large-scale electrical
30 infrastructure, water-intensive cooling systems, and extensive impervious coverage; and

31
32 **WHEREAS**, Data Centers typically utilize backup diesel generators, aboveground
33 and underground fuel storage tanks, cooling towers, and large volumes of electronic and
34 battery equipment that may pose environmental, public health, and safety risks if left
35 abandoned or unmaintained; and

36 **WHEREAS**, advances in information technology, server design, and power
37 delivery may cause individual Data Center facilities to become obsolete within a relatively
38 short operating lifespan, resulting in the risk of abandonment of specialized facilities that
39 are not easily adapted to other uses; and
40

41 **WHEREAS**, the County has a responsibility to protect public health, safety, and
42 welfare by ensuring that abandoned or obsolete facilities are properly removed and that
43 sites are restored to a safe and stable condition; and
44

45 **WHEREAS**, financial assurance requirements for decommissioning are a well-
46 established land use tool in other industries with significant environmental or
47 infrastructure impacts, including telecommunications towers, wind and solar energy
48 projects, and mining operations; and
49

50 **WHEREAS**, requiring a Decommissioning Plan and associated financial
51 assurance for Data Centers will ensure that the County and its taxpayers are not
52 burdened with the cost of restoring sites and remediating environmental impacts in the
53 event of abandonment; and
54

55 **WHEREAS**, County Council intends that the pending ordinance doctrine apply to
56 restrict the acceptance of land development applications submitted after the introduction
57 of this Ordinance that would otherwise be prohibited by the provisions of this Ordinance;
58 and
59

60 **WHEREAS**, County Council has determined that the provisions of this Ordinance
61 substantially advance, and are reasonably and rationally related to legitimate government
62 interests.
63

64 **NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:**
65

66 **Section 1.** *New Castle County Code* Chapter 40 (“Unified Development Code”),
67 Article 3 (“Use Regulations”), Division 40.03.110 (“Use Regulations”) is hereby amended
68 by adding the material that is underscored and deleting the material that is stricken, as
69 set forth below.
70

71 **Sec. 40.03.110. – Use table.**
72

73 Table 40.03.110 lists the type of uses permitted in each district. Refer to Division
74 40.33.200 for definitions of the various use categories and their components. Should a
75 use not be identified in Table 40.03.110, an interpretation pursuant to Section 40.31.520
76 can be requested. Table 40.03.522 lists the specific parking requirements for several
77 general uses listed in Table 40.03.110. Limited and special use standards are contained
78 in Table 40.03.210 and Division 40.03.300. See Article 4 for district, lot, bulk and other
79 standards.

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	P	Parking	Limited & Special Use Standards
Agricultural									Agricultural								Agricultural ...	
Industrial Uses									Industrial Uses								Industrial Uses	
Compost operations	N	N	N	N	N	N	N	L	N	N	N	N	L	L	S	N	Table 40.03.522	Section 40.03.336
<u>Data Centers</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>S</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>S</u>	<u>S</u>	<u>N</u>	<u>N</u>	<u>Table 40.03.522</u>	<u>Table 40.03.210</u> <u>Section 40.03.343</u>
Extraction	N	N	N	N	N	N	N	N	N	N	N	N	N	L	N	N	Table 40.03.522	Section 40.03.324 and Table 40.03.210 ...

82 **Section 2.** *New Castle County Code* Chapter 40 (“Unified Development Code”),
83 Article 3 (“Use Regulations”), Section 40.03.210 (“Buffering, location, bulk and scale
84 standards”), is hereby amended by adding the material that is underscored and deleting
85 the material that is stricken, as set forth below.

86
87 **Sec. 40.03.210. - Buffering, location, bulk and scale standards.**

88
89 Table 40.03.210 provides standards that increase the degree of buffering, govern the
90 location, and reduce the bulk or scale of limited or special uses. The meaning of the
91 different categories contained in the Table is established as follows:

92
93 A. *Location.* ...

94
95 K. *Other.* ...

Table 40.03.210A. Limited and Special Use Standards						Table 40.03.210B. Limited and Special Use Standards						Table 40.03.210C. Limited and Special Use Standards
	Buffer Standards					Locational or Dimensional Standards						Additional Standards
	Bufferyards			Separation		Minimum				Maximum		
Land Use	Location	Increase Opacity or Width	Fence or Berm	Use Protected	Distance from Use to protected parcel	Spacing	Site Area	Road Access	Open Space	Lot Area	Height	Other
Agricultural ...						Agricultural						Agricultural ...
Industrial Uses						Industrial Uses						Industrial Uses
Compost operations												Section 40.03.336
<u>Data Centers</u>	<u>Within 1,000 feet of a residentially zoned parcel or parcel with an established daycare center or school</u>	<u>0.4</u>	<u>Minimum 8 ft. berm</u>	<u>Residential and established daycare center and schools</u>	<u>1,000 ft.*</u>							<u>See Section 40.03.343</u> <u>*At least 1,000 ft. as measured to any building or structure</u>
Extraction	All	0.8 (150 ft.)	8 ft. berm	Residential	100 ft. *		25 ac.					Section 40.03.324 * 100' for Recreation, High Intensity Uses ...

Section 3. *New Castle County Code* Chapter 40 (“Unified Development Code”), Article 3 (“Use Regulations”), Division 40.03.300 (“Additional limited and special use standards”) is hereby amended by adding the material that is underscored and deleting the material that is stricken, as set forth below.

Sec. 40.03.333. - Light Industry uses in OR and CR zoning districts.

- A. Light Industry uses as defined in Subsection 40.33.270.~~E~~ D are considered Limited Uses in the OR zoning district, except that the following uses require a special use permit:

Sec. 40.03.340. - Multifamily conversion.

Multifamily conversions are intended to facilitate and encourage the redevelopment of existing office and commercial sites and increase the diversity in housing opportunities in the county where supporting infrastructure exists. The following requirements apply to all multifamily conversions:

- A. A multifamily conversion is not permitted on a parcel that is within one thousand (1,000) feet of a heavy industry zoned parcel or a parcel with a heavy industry use as defined in Subsection 40.33.270.~~G~~ D.

Sec. 40.03.343. – Data Centers.

In addition to the requirements of Section 40.31.430, the following requirements apply to any data center development or the cumulative expansions of existing data center in excess of 20,000 square feet:

- A. The site shall be designed to minimize noise impact on neighboring residential properties and shall not exceed 55 dB(A) or dB(C) at the sending property line. A noise study shall be submitted to evaluate this impact and to verify consistency with Chapter 22 of the *New Castle County Code* and the study shall include all generators and any other equipment that will be utilized on the site as part of the calculation.
- B. No portion of the proposed data center building or accessory uses shall be within 1,000 ft. from any residential zoning district.
- C. Except for lot lines along an existing office or industrial park or adjacent to an existing industrial use, the bufferyards, street trees, berming and landscaping shall be upgraded, where appropriate to mask the development. The buildings shall meet the requirements for large industrial structures in Section 40.26.260.
- D. Lighting shall be designed so that there is zero (0) footcandles at the property line of the neighboring residential area.
- E. In addition to meeting all the requirements of Article 11, anticipated trip generation for a data center shall be based on the latest published ITE manual calculations. Data Centers shall not be converted to any use that exceeds the

approved Transportation Improvement Study (TIS) or equivalent study, for the site unless another TIS or equivalent study is completed and approved in accordance with all other applicable provisions of this Chapter.

- F. Open-loop or once-through cooling is prohibited unless reclaimed water is used.
- G. All generators shall be Tier IV or utilize natural gas with Selective Catalytic Reduction (SCR) systems. The Department may permit applicants to substitute other technologies that the applicant can demonstrate as being more efficient and have less impact on the environment.
- H. Any energy storage system utilized for this use shall be a Battery Energy Storage System ("BESS"). The Department may permit applicants to substitute other technologies that the applicant can demonstrate as being more efficient and have less impact on the environment. Energy storage systems must employ fire-safe technologies as determined and approved by the State Fire Marshall's Office.
- I. All new or expanded facilities shall submit documentation outlining the operation of the building as a LEED Gold or equivalent certification and providing the Total Usage Efficiency ("TUE"), the comprehensive metric for evaluating the overall energy efficiency of a system considering both the energy used by the IT equipment and the supporting infrastructure, with a minimum TUE of 1.15 must be provided unless operational issues are documented and accepted to vary this minimum.
- J. All data centers must be designed for future integration with onsite or communal microgrid components that include various energy generation sources, energy storage systems, a distribution network, a control system, and metering/billing systems.
- K. Applicants must submit a statement of coordination with the local electric utility and demonstrate the availability of sufficient grid capacity, or provide onsite generation that meets or exceeds projected load.
- L. Applicants must submit a statement of coordination with DNREC Water Allocation Program and Water Supply Coordinating Council and demonstrate the availability of sufficient water supply to meet or exceed projected water use.
- M. Data Centers must comply with all State and Federal requirements including but not limited to; water supply coordination, cooling water discharges, emission standards, and air quality monitoring.
- N. Abandonment.
 - 1. The operator or property owner shall provide written notice to the Department whenever the Data Center is out of active operation for more than six (6) months. Any Data Center that ceases to operate for one (1) year or longer is considered abandoned.

- 195 2. The operator or property owner shall either recommence operation and
196 schedule a site inspection with the Department to verify that all use
197 requirements are still intact or shall remove all equipment and systems
198 within six (6) months of being considered abandoned.
199
200 3. Within two (2) years of being considered abandoned, the Data Center site
201 shall be either restored to its predevelopment condition and inspected by
202 the Department, or the property owner shall submit a land use application
203 consistent with this Chapter to establish a new use for the site. Failure to
204 comply with the requirements of this section shall authorize, but not require,
205 the County to remove the Data Center and, when abandoned, restore the
206 site to its predevelopment condition and charge the property owner as set
207 forth in Subsection O. below.
208

209 O. Financial assurance. Prior to issuance of a building permit, the operator or
210 property owner shall provide a bond, surety, letter of credit, or other financial
211 assurance in a form and amount acceptable to the Department to secure
212 payment of one hundred (100) percent of the anticipated cost of removal of all
213 associated site improvements and restoration of the site to its predevelopment
214 condition when the Data Center has been abandoned. Financial assurances for
215 Data Centers are subject to the following:
216

- 217 1. The applicant shall provide a decommissioning report that includes the
218 following components:
219
220 a. An inventory of components installed on the site.
221
222 b. Expected lifetime of the facility.
223
224 c. Decommissioning sequence.
225
226 d. Decommissioning cost estimate based on RSMeans or other software or
227 methodology approved by the Department.
228
229 2. The financial assurance shall remain in full force and effect while the Data
230 Center remains in place and operating, and shall be renewed every five (5)
231 years and revised as necessary to adjust for inflation and any change in the
232 cost for decommissioning.
233

234 P. Annual Report, Enforcement and Compliance. The operator of the Data Center
235 shall supply an annual report, as found in Appendix 9, to the Department
236 indicating compliance with all applicable local, state and federal regulations. The
237 Department shall reserve the right to request additional information and establish
238 and update procedures for inspections, monitoring, and enforcement of
239 compliance with this section. Non-compliant facilities will be subject to Division
240 40.31.900 or any other remedy available.

Section 4. New Castle County Code Chapter 40 (“Unified Development Code”), Article 33 (“Definitions”), Section 40.33.270 (“Industrial Uses”) is hereby amended by adding the material that is underscored and deleting the material that is stricken, as set forth below.

A. Compost operations (NAICS 325314). ...

B. Data Center. A facility composed of networked computers, servers, storage systems, and telecommunications equipment used for data processing, storage, and distribution (NAICS 518210).

~~C B.~~ Extraction. ...

~~D G.~~ Heavy industry. ...

~~E D .~~ Light industry. ...

~~F E .~~ Recycling or

~~G F .~~ Solar energy system, large scale. ...

~~H G .~~ Utility, major. ...

~~I H .~~ Utility, minor. ...

~~J I .~~ Utilities, maintenance facilities. ...

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

~~Abandonment. ...~~

~~Closed channel. A conveyance system not open to the atmosphere (usually, but not always, pipe).~~

Closed-Loop Cooling System. A Closed-Loop Cooling System is one where the cooling medium is contained within a piping circuit for reuse.

~~Coastal high hazard area or special flood hazard area subject to high velocity wave action. ...~~

~~Opacity. The measurement of the screening effectiveness of a bufferyard or fence expressed as the percent of vision that the screen blocks.~~

Open-Loop Cooling System or Once-Through Cooling System. An Open-Loop Cooling System is one with a cooling method in which water is withdrawn from a surface, groundwater, or public supply source, passed through heat-exchange equipment to absorb heat, and the effluent is then discharged to a surface water body, re-injected into

the ground, or discharged into a wastewater treatment system. Open-loop systems typically rely on continuous withdrawals and discharges, frequently resulting in greater thermal or environmental impacts including higher consumptive use of water resources.

Reclaimed Water. Water that has been treated to meet specific quality standards, making it safe for a beneficial reuse. This can include treated effluent from wastewater treatment facilities and remediation activities.

Open space. ...

Section 6. 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 7. 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*.

Section 8. Severability. The provisions of this Ordinance shall be severable. If any provision of this Ordinance is found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds that that the valid provisions of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that County Council would have enacted the remaining valid provisions, without the unconstitutional or void one, or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable of being executed in accordance with the County Council's intent. If any provision of this Ordinance or any zoning map or portion thereof is found to be unconstitutional or void, all applicable former ordinances, resolutions, zoning maps or portions thereof shall become applicable and shall be considered as continuations thereof and not as new enactments regardless whether severability is possible.

Section 9. Effective Date. Upon its adoption by County Council and approval by the County Executive, or as otherwise provided in 9 *Del. C.* § 1156, this Ordinance is effective retroactive to introduction thereof on August 5, 2025, which is the date notice was provided that this Ordinance would be pending. Council Rule 2.2.6 notwithstanding, it is the express legislative intent that the provisions of this Ordinance apply to all land use applications submitted to New Castle County after August 5, 2025. Council expressly waives the provisions of Council Rule 2.2.6 for this Ordinance. Furthermore, it is the intent of County Council that this Ordinance is also subject to the *pending ordinance doctrine* as articulated in *Covington v. Bd. of Adjustment of Rehoboth Beach*, 2016 WL 7242581, at *5 (Del. Super. Dec. 14, 2016), *aff'd*, 170 A.3d 779 (Del. 2017), and other precedent.

Adopted by County Council of
New Castle County on:

Monique Williams-Johns
President of County Council
of New Castle County

Approved on:

Marcus A. Henry
County Executive
of New Castle County

SYNOPSIS: The following is a summary of the revisions contained in this Ordinance broken down by *New Castle County Code* Division or Section number.

Sec. 40.03.110. This amendment updates the use table to establish which zoning districts permit the Data Center as a Special Use.

Sec. 40.03.210. This amendment updates the Limited and Special Use Standards Table to include Data Center uses.

Sec. 40.03.333. This amendment updates references to the definition of Light Industrial uses based on changes proposed to Section 40.33.270.

Sec. 40.03.340. This amendment updates references to the definition of Heavy Industry uses based on changes proposed to Section 40.33.270.

Sec. 40.03.343. This amendment includes Special Use standards for Data Center uses.

Section 40.33.270. This amendment defines Data Center uses.

Substitute No. 1. The following changes are included in Substitute No. 1:

Sec. 40.03.110. This amendment further updates the use table to establish which zoning districts permit the Data Center as a Special Use.

Sec. 40.03.343. This amendment clarifies that Data Centers must comply with State and Federal regulations and allows the Department to permit applicants to substitute other technologies that the applicant has demonstrated as being more efficient and have less impact on the environment. This amendment also includes decommissioning, abandonment, and financial assurance provisions for Data Centers.

Section 40.33.300. This amendment defines Closed-Loop Cooling Systems, Open-Loop Cooling Systems, and Reclaimed Water.

This amendment clarifies the effective date in accordance with Delaware's *Pending Ordinance Doctrine*.

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

Prime Sponsor(s): Mr. Carter
Co-sponsor(s): Mr. Caneco, Mr. Toole,
Ms. Durham, Mr. Cartier
Mr. Hollins, Mr. Tackett
Date of introduction: August 5, 2025

ORDINANCE NO. 25-101

TO AMEND NEW CASTLE COUNTY CODE CHAPTER 40 (“UNIFIED DEVELOPMENT CODE”), ARTICLE 3 (“USE REGULATIONS”) AND ARTICLE 33 (“DEFINITIONS”) TO ESTABLISH STANDARDS FOR THE REVIEW, SITING, AND OPERATIONS OF DATA CENTERS

1 **WHEREAS**, New Castle County has received an unprecedented proposal for a large-
2 scale data center campus, totaling approximately 6 million square feet; and
3

4 **WHEREAS**, the County currently lacks comprehensive, specific zoning and
5 development regulations tailored to the unique infrastructure demands, environmental
6 impacts, and operational characteristics of hyperscale data centers; and
7

8 **WHEREAS**, data centers are distinct from other industrial and commercial uses due
9 to their high energy consumption, large-scale backup power systems, significant water
10 usage, and potential impacts on surrounding communities through noise, heat, and traffic;
11 and
12

13 **WHEREAS**, technological advancements have precipitated the growth of data
14 centers nationwide, expediting the need for provisions to guide responsible development
15 and mitigate impacts; and
16

17 **WHEREAS**, it is in the public interest to proactively regulate data center development
18 to ensure compatibility with surrounding land uses and to protect the health, safety, and
19 welfare of New Castle County residents; and
20

21 **WHEREAS**, data centers share many characteristics with heavy industry, particularly
22 in terms of energy consumption, building scale, and noise leading to zoning and
23 classification complexities best handled as a separate category of use; and
24

25 **WHEREAS**, the County seeks to encourage economic development while also
26 preserving community character, promoting sustainability, safeguarding public infrastructure
27 capacity, and minimizing land use conflicts; and
28

29 **WHEREAS**, County Council has determined that the provisions of this Ordinance
30 substantially advance, and are reasonably and rationally related to legitimate government
31 interests.
32

33 **NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:**
34

35 **Section 1.** *New Castle County Code Chapter 40 (“Unified Development Code”),*
36 *Article 3 (“Use Regulations”), Division 40.03.110 (“Use Regulations”) is hereby amended by*
37 *adding the material that is underscored and deleting the material that is stricken, as set forth*
38 *below.*

Sec. 40.03.110. – Use table.

Table 40.03.110 lists the type of uses permitted in each district. Refer to Division 40.33.200 for definitions of the various use categories and their components. Should a use not be identified in Table 40.03.110, an interpretation pursuant to Section 40.31.520 can be requested. Table 40.03.522 lists the specific parking requirements for several general uses listed in Table 40.03.110. Limited and special use standards are contained in Table 40.03.210 and Division 40.03.300. See Article 4 for district, lot, bulk and other standards.

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	P	Parking	Limited & Special Use Standards
Agricultural									Agricultural								Agricultural ...	
Industrial Uses									Industrial Uses								Industrial Uses	
Compost operations	N	N	N	N	N	N	N	L	N	N	N	N	L	L	S	N	Table 40.03.522	Section 40.03.336
<u>Data Centers</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>S</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>S</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>Table 40.03.522</u>	<u>Table 40.03.210</u> <u>Section 40.03.343</u>
Extraction	N	N	N	N	N	N	N	N	N	N	N	N	N	L	N	N	Table 40.03.522	Section 40.03.324 and Table 40.03.210 ...

49 **Section 2. *New Castle County Code*** Chapter 40 (“Unified Development Code”),
50 Article 3 (“Use Regulations”), Section 40.03.210 (“Buffering, location, bulk and scale
51 standards”), is hereby amended by adding the material that is underscored and deleting
52 the material that is stricken, as set forth below.

53
54 **Sec. 40.03.210. - Buffering, location, bulk and scale standards.**

55
56 Table 40.03.210 provides standards that increase the degree of buffering, govern the
57 location, and reduce the bulk or scale of limited or special uses. The meaning of the
58 different categories contained in the Table is established as follows:

59
60 A. *Location.* ...

61
62 K. *Other.* ...

Table 40.03.210A. Limited and Special Use Standards						Table 40.03.210B. Limited and Special Use Standards						Table 40.03.210C. Limited and Special Use Standards
	Buffer Standards					Locational or Dimensional Standards						Additional Standards
	Bufferyards			Separation		Minimum				Maximum		
Land Use	Location	Increase Opacity or Width	Fence or Berm	Use Protected	Distance from Use to protected parcel	Spacing	Site Area	Road Access	Open Space	Lot Area	Height	Other
Agricultural ...						Agricultural						Agricultural ...
Industrial Uses						Industrial Uses						Industrial Uses
Compost operations												Section 40.03.336
<u>Data Centers</u>	<u>Within 1,000 feet of a residentially zoned parcel or parcel with an established daycare center or school</u>	<u>0.4</u>	<u>Minimum 8 ft. berm</u>	<u>Residential and schools</u>	<u>1,000 ft.</u>							<u>See Section 40.03.343 *1,000 as measured to any building or structure</u>
Extraction	All	0.8 (150 ft.)	8 ft. berm	Residential	100 ft. *		25 ac.					Section 40.03.324 * 100' for Recreation, High Intensity Uses ...

Section 3. *New Castle County Code* Chapter 40 (“Unified Development Code”), Article 3 (“Use Regulations”), Division 40.03.300 (“Additional limited and special use standards”) is hereby amended by adding the material that is underscored and deleting the material that is stricken, as set forth below.

Sec. 40.03.333. - Light Industry uses in OR and CR zoning districts.

- A. Light Industry uses as defined in Subsection 40.33.270.~~E~~ ~~D~~ are considered Limited Uses in the OR zoning district, except that the following uses require a special use permit:

Sec. 40.03.340. - Multifamily conversion.

Multifamily conversions are intended to facilitate and encourage the redevelopment of existing office and commercial sites and increase the diversity in housing opportunities in the county where supporting infrastructure exists. The following requirements apply to all multifamily conversions:

- A. A multifamily conversion is not permitted on a parcel that is within one thousand (1,000) feet of a heavy industry zoned parcel or a parcel with a heavy industry use as defined in Subsection 40.33.270.~~E~~ ~~D~~.

Sec. 40.03.343. – Data centers.

In addition to the requirements of Section 40.31.430, the following requirements apply to any data center development and/or the cumulative expansions of existing data center in excess of 20,000 square feet:

- A. The site shall be designed to minimize noise impact on neighboring residential properties and shall not exceed 55 dB(A) at the sending property line. A noise study shall be submitted to evaluate this impact and to verify consistency with Chapter 22 of the *New Castle County Code* and the study shall include all generators and any other equipment that will be utilized on the site as part of the calculation.
- B. No portion of the proposed data center building or accessory uses shall be within 1,000 ft. from any residential zoning district.
- C. Except for lot lines along an existing office or industrial park or adjacent to an existing industrial use, the bufferyards, street trees, berming and landscaping shall be upgraded, where appropriate to mask the development. The buildings shall meet the requirements for large industrial structures in Section 40.26.260.
- D. Lighting shall be designed so that there is zero (0) footcandles at the property line of the neighboring residential area.
- E. In addition to meeting all the requirements of Article 11, anticipated trip generation for a data center shall be based on the latest published ITE manual

calculations. Data Centers shall not be converted to any use that exceeds the approved Transportation Improvement Study (TIS) or equivalent study, for the site unless another TIS or equivalent study is completed and approved in accordance with all other provisions of the Chapter.

- F. Open-loop or once-through cooling is prohibited unless reclaimed water is used.
- G. All generators shall be Tier IV or utilize natural gas with Selective Catalytic Reduction (SCR) systems unless the applicant can demonstrate another technology that is more efficient with less impact on the environment.
- H. Any energy storage system utilized for this use shall be a Battery Energy Storage System ("BESS") unless the applicant can demonstrate another technology that is more efficient with less impact on the environment and must employ fire-safe technologies as determined and approved by the State Fire Marshall's Office.
- I. All new or expanded facilities shall submit documentation outlining the operation of the building as a LEED Gold or equivalent certification and providing the Total Usage Efficiency ("TUE"), the comprehensive metric for evaluating the overall energy efficiency of a system considering both the energy used by the IT equipment and the supporting infrastructure, with a minimum TUE of 1.15 should be provided unless operational issues are documented and accepted to vary this minimum.
- J. All data centers must be designed for future integration with onsite or communal microgrid components that include various energy generation sources, energy storage systems, a distribution network, a control system, and metering/billing systems.
- K. Applicants must submit a statement of coordination with the local electric utility and demonstrate the availability of sufficient grid capacity, or provide onsite generation that meets or exceeds projected load.
- L. Annual Report, Enforcement and Compliance. The operator of the data center shall supply an annual report, as found in Appendix 9, to the Department of Land Use indicating compliance with all applicable local, state and federal regulations. Land Use shall retain the right to request additional information and establish procedures for inspections, monitoring, and enforcement of compliance with this section. Non-compliant facilities will be subject to Division 40.31.900 and/or any other remedy available.

Section 4. New Castle County Code Chapter 40 ("Unified Development Code"), Article 33 ("Definitions"), Section 40.33.270 is hereby amended by adding the material that is underscored and deleting the material that is stricken, as set forth below.

- A. Compost operations (NAICS 325314). ...

B. *Data Center.* A facility composed of networked computers, servers, storage systems, and telecommunications equipment used for data processing, storage, and distribution (NAICS 518210).

C. *B. Extraction.* ...

D. *C. Heavy industry.* ...

E. *D. Light industry.* ...

F. *E. Recycling or .* ...

G. *F. Solar energy system, large scale.* ...

H. *G. Utility, major.* ...

I. *H. Utility, minor.* ...

J. *I. Utilities, maintenance facilities.* ...

Section 5. 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 6. 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*.

Section 7. Severability. The provisions of this Ordinance shall be severable. If any provision of this Ordinance is found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds that that the valid provisions of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that County Council would have enacted the remaining valid provisions, without the unconstitutional or void one, or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable of being executed in accordance with the County Council's intent. If any provision of this Ordinance or any zoning map or portion thereof is found to be unconstitutional or void, all applicable former ordinances, resolutions, zoning maps or portions thereof shall become applicable and shall be considered as continuations thereof as not as new enactments regardless if severability is possible.

Section 8. Effective Date. This Ordinance shall become effective immediately upon its adoption by County Council and approval by the County Executive, or as otherwise provided in 9 *Del. C. § 1156* and shall only apply to Land Use applications submitted after such date(s) unless the applicant, by written request, agrees to submit to the provisions of this Ordinance.

Adopted by County Council of
New Castle County on:

Monique Williams-Johns
President of County Council
of New Castle County

Approved on:

Marcus A. Henry
County Executive
of New Castle County

SYNOPSIS: The following is a summary of the revisions contained in this Ordinance broken down by *New Castle County Code* Division or Section number.

Sec. 40.03.110. This amendment updates the use table to establish which zoning districts permit the Data Center use as a Special Use.

Sec. 40.03.210. This amendment updates the Limited and Special Use Standards Table to include Data Center uses.

Sec. 40.03.333. This amendment updates references to the definition of Light Industrial uses based on changes proposed to Section 40.33.270.

Sec. 40.03.340. This amendment updates references to the definition of Heavy Industry uses based on changes proposed to Section 40.33.270.

Sec. 40.03.343. This amendment includes Special Use standards for Data Center uses.

Section 40.33.270. This amendment defines Data Center uses.

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



New Castle County Department of Land Use

DEPARTMENT OF LAND USE
RECOMMENDATION REPORT

Ordinance 25-101
Application 2025-0486-T
Data Centers

October 21, 2025

Sponsor: Councilman David Carter (District 6)

Description: Amending New Castle County Code Chapter 40 ("Unified Development Code"), Article 3 ("Use Regulations"), and Article 33 ("Definitions") to establish standards for the review, siting, and operations of data centers.

EXECUTIVE SUMMARY

The Unified Development Code has had standards for Information Services and data processing (NAICS 51 which include Data Centers) dating back to 1998. Originally Data Centers were considered an Office Use permitted by-right in all non-residential zoning districts. The definition was broadened to also consider Data Centers as a Light Industrial Use, maintaining them as a by-right use in industrial zoning districts (HI & I) after limitations were placed on Office Uses in industrial districts. At the time, based on the size, nature of their operation, and impact on nearby properties, the provisions made sense. Traditionally, Data Centers served as an accessory use to support a principal office use or as an individual industrial use typically within an industrial park. As the technology has changed over the past decade, these facilities began to increase in size and placed additional demands on the infrastructure. The electrical demand for data centers across the United States, alone, well surpasses the full electrical demand for data centers of a decade ago, let alone in 1998. Data Centers, as with many other uses, have evolved over time and as such, regulations for these centers need to be revisited.

Application 2025-0486-T (Ordinance 25-101), is a text amendment to amend New Castle County Code to further define data center uses and set Special Use standards to address the specific challenges identified in other municipalities that have considered and approved modern Data Center facilities. Proposed changes to the ordinance presented as a draft substitute to Ordinance 25-101 incorporate specific feedback from the Public Service Commission, DNREC, and other State Agencies at the PLUS hearing and in subsequent communications. The recommended changes also incorporate important protections identified as best practices in other jurisdictions.

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 **Conditional Approval** of Ordinance 25-101 with the condition that County Council considers the proposed changes in the draft substitute to Ordinance 25-101.

DESCRIPTION

Application 2025-0486-T (Ordinance 25-101), is a text amendment to amend New Castle County Code to further define data center uses and set Special Use standards.

BACKGROUND

Ordinance 97-172 Unified Development Code

On December 31, 1997, New Castle County adopted the Unified Development Code (UDC) (Ordinance 97-172) and categorizes Data Centers under Information Industries (NAICS 51) as a Light Industry use pursuant to Section 40.33.270.D of the UDC. Per Table 40.03.110 ("GENERAL USE TABLE"), Light Industry uses were permitted within the Office Regional (OR), Business Park (BP), Industrial (I), and Heavy Industry (HI) zoning districts.

Ordinance 98-080 Omnibus

On September 22, 1998, New Castle County adopted Ordinance 98-080 amended the definition of Office Uses to include Information services and data processing (NAICS 514), which in combination with the existing Light Industry use definition permitted Data Centers in every nonresidential zoning district.

Ordinance 99-075 Omnibus

On December 14, 1999, New Castle County adopted Ordinance 99-075 which created Limited Use standards (Section 40.03.333) for Light Industry uses limiting the types of Light Industry uses which are permitted within OR zoning districts.

Ordinance 08-096 Consolidation of Employment Related Uses within the OR, BP, and I Zoning Districts

On December 9, 2008, New Castle County adopted Ordinance 08-096 which redefined specific Light Industry uses as Special Uses within Section 40.03.333 of the UDC and establishing maximum height limitations on specific buildings within 100 feet of residential property lines (Section 40.04.110C).

Ordinance 21-065 Substitute No.1 to Ordinance No. 21-065

On September 9, 2021, New Castle County adopted Substitute No.1 to Ordinance 21-065 which limited Light Industry uses within CR zoning districts to warehousing and storage facilities (NAICS 493) as a Special Use and additional standards set pursuant to Section 40.03.333.B of the UDC.

Ordinance 23-104 Regarding Development, Redevelopment, Large Industrial Structures and Heavy Retail and Service Uses

On January 25, 2024, New Castle County adopted Substitute No. 1 to Ordinance 23-104 which set Limited Use standards for Light Industry uses within BP zoning including distance requirements and design elements when located adjacent to residential uses pursuant to Tables 40.03.110 and 40.03.210 of the UDC. Standards around large industrial structures (Section 40.26.260) changed to apply to a lower gross floor area (GFA) threshold of proposed large industrial structures. These design elements included but were not limited to: landscaping and berm requirements along non-industrial uses, lighting requirements along residential uses, reduction of noise impacts, building design, and other associated improvements.

Ordinance 25-101 Data Centers

Ord. 25-101 was introduced on August 5, 2025, and proposed data centers as a distinct classification of industrial use in Table 40.03.110 of the UDC. The ordinance sets data centers as a Special Use within Industrial (I) and Heavy Industry (HI) zoning districts as well as creates Limited Use standards such as buffering and screening requirements from residential, noise regulations, energy and water usage requirements, and other additional requirements.

PRELIMINARY LAND USE SERVICE (PLUS) REVIEW

The proposed text amendment was reviewed at the PLUS meeting held on September 3, 2025.

The PLUS Review Letter, dated September 5, 2025, includes comments from the Office of State Planning and Coordination, who had no objections. The Public Service Commission (PSC) expressed concerns over the impacts of large data centers and referenced a current petition to the PSC to apply a large load tariff on interconnections larger than 25MW. The PSC had no concerns with the proposed ordinance in terms of land use and environmental issues, however stated that any energy-related requirements should be regulated by the PSC. The Department of Natural Resources and Environmental Control (DNREC) cited concerns over water and energy use, air quality, and noise mitigation. DNREC stated that water usage should be coordinated with the New Castle County Subcommittee of the Water Supply Coordinating Council and that plans should detail any proposed discharging of waters. They mention that data centers could impact the energy adequacy, grid reliability and cost and recommend requirements for coordination with the local utility, emphasis on Battery Energy Storage Systems, and consistency with the State Energy Plan. In terms of air quality, DNREC suggested limitations for on-site generators, limitations on transportation emissions, preconstruction permits, and pre-application air quality modeling. DNREC agreed with the proposed noise limitations in Ord. 25-101. All other State agencies had no comment on the subject ordinance.

PLANNING BOARD PUBLIC HEARING – October 7, 2025

*Please note, the below is a summary. A recording and transcripts of the public hearing are available at the Department of Land Use.¹

Councilman David Carter presented the ordinance. He started by highlighting the key impacts of data centers on various aspects such as; land use, water use, noise pollution, air emissions, and energy use. He reviewed statistics on energy use and the goals of responsible data center siting, infrastructure and environmental standards. He presented to the Planning Board a proposed substitute ordinance which was drafted in response to PLUS comments received in September as well as additional research, and summarized the key provisions of the substitute ordinance including but not limited to: Special Use requirements, noise limitations, setback requirements from residential, standards for backup power, cooling, energy, microgrid requirements, and other associated standards. Councilman Carter proceeded to address the comments received by PLUS, outline a decommissioning process for all proposed data centers, and provide details on the application of the proposed ordinance on data center projects if adopted.

Questions from the Planning Board:

Robert Snowden inquired if data center projects would require Special Use permits or be considered by-right. Councilman Carter mentioned that each data center project would require a Special Use permit and have to follow the criteria and standards for a Special Use pursuant to the UDC. Mr. Snowden asked if the substitute ordinance proposed intergovernmental coordination to which Councilman Carter confirmed that the substitute would require approvals from the applicable regulating agencies. Robert Ott questioned the average lifespan of a data center. Councilman Carter detailed the energy issues of existing data centers throughout the country and noted the technology and equipment changes. Neal Cantrell asked about the low frequency noise and potential impacts on surrounding communities, and Councilman Carter stated that the standards for the proposed setbacks was based on existing requirements in other jurisdictions as well as established setbacks in the UDC. Ruth Visvardis inquired about the meaning of “residential zones” when discussing the 1,000-foot setback requirement to which Councilman Carter clarified it meant residential zoning districts found in the UDC. Air quality due to backup generator usage was a point of concern for Mr. Cantrell and Councilman Carter stated that air quality standards and monitoring are subject to DNREC’s regulations. Councilman Carter explained the PLUS process and coordination with the State of Delaware agencies on the details of the ordinance which resulted in some of the conditions presented in the substitute ordinance. Mr. Cantrell cited the supplemental report submitted by Councilman Carter which outlined the potential issues ongoing with data centers in Virginia which sources energy from PJM same as Delaware.²

A conversation occurs between Councilman Carter and Mr. Cantrell regarding energy generation

¹ October 7, 2025 Planning Board Public Hearing: <https://www.newcastlede.gov/agendacenter>

² Councilman David Carter’s Supplemental Report:
<https://www3.newcastlede.gov/PDFDocument/default.aspx?DocumentID=80:FC40FF5826FBF7107D10260598B6C0724428DD1196872F86C5E68CE881F951C292813E0C92628E37A7864BB0E463459C&x=temp.pdf>

concerns for existing data centers located in Virginia and New Jersey and the impacts on energy consumption and cost in Delaware. Mr. Ott asked about any issues with existing data centers in regard to internet data transfer capacity to which Councilman Carter had mentioned Delaware had invested in a very robust fiber optic internet infrastructure which exceeds the data transfer capacity needed for the needs of large-scale data center projects.

Public Comment:

Over 200 people attended the public hearing (online and in-person) 49 of which spoke on the ordinance. Of those who spoke, most of the speakers supported the ordinance stating that the proposed regulations would provide much needed guardrails for the community from any proposed data center projects. Many in attendance expressed concern over data centers and their impacts on the community, citing concerns over environmental and energy impacts. Those in opposition to the ordinance expressed doubts over the additional restrictions on noise, regulations on data centers, and the impact on Delaware's economy.

The Department of Land Use received email correspondence from 12 residents in support, 3 in opposition, and 2 general comments of Ordinance 25-101 during the written public comment period.³ Written public comment mostly paralleled the concerns of data center developments that were mentioned during the public hearing and expressed support of the additional standards proposed in the ordinance. Comments in opposition to the ordinance included concerns over; the effective date (Pending Ordinance Doctrine), additional regulations limiting the construction of data centers, water capacity, the proposed decommissioning and noise standards. The general comments included sentiment that including regulations pertaining to dB(C) is unnecessary, and that it is important for these projects to include agreements to use local union workers.

ANALYSIS

As identified in public comment, and discussed in the Background section of this report, Information Center and data processing (Data Centers) are defined and permitted within the Unified Development Code. Since 1998 Data Centers have been permittable as a by-right use (either Industrial or Office Use) in all nonresidential zoning districts, including those to transition from more intense uses to residential uses (Office Neighborhood and Commercial Neighborhood) limited only by the site capacity restrictions for each zoning district.⁴ The permissive nature in the UDC was intentional since data centers either served in an accessory capacity within a larger office or industrial building at sites like 3 Boulden Circle,⁵ or as individual industrial uses within an industrial park such as 501 Bear Christiana Rd & 4001 Governor Printz Blvd (Bank One Core Data Center 1 & 2)⁶.

³ Project #20250486: <https://www3.newcastlede.gov/project/details/default.aspx?ProjectKey=832887>

⁴ Application 2025-0473-V: <https://www3.newcastlede.gov/Project/details/default.aspx?ProjectKey=832143> , (Accessed 10/15/25)

⁵ 3 Boulden Circle: <https://www3.newcastlede.gov/parcel/details/default.aspx?ParcelKey=86869> , (Accessed 10/15/25)

⁶ Application 2003-0001-S: <https://www3.newcastlede.gov/Project/details/default.aspx?ProjectKey=122344> & Application 2004-0372-S: <https://www3.newcastlede.gov/Project/details/default.aspx?ProjectKey=155142> , (Accessed 10/15/25)

Over the past decade, much like the shift from general warehousing to the logistic/fulfilment facility led by the growth in ecommerce, Data Centers have grown exponentially to serve the growing needs for technology and artificial intelligence. Not only has the technology expanded past what was originally conceived as information services and data processing in the UDC, but with increased demands in processing so to have the impacts on our electrical grid, environment, and nearby communities, Ordinance 25-101 was drafted to continue to permit development of data centers, while providing needed protections for nearby communities and the environment as a whole. The ordinance, as introduced, provided:

1. Defines Data Centers as an Industrial Use limited to Industrial (I) and Heavy Industry (HI) zoning districts, as opposed to being both an Office and Industrial use permitted in the Office Neighborhood (ON), Commercial Neighborhood (CN), Office Regional (OR), Commercial Regional (CR) Business Park (BP), Industrial (I), Heavy Industry (HI), and Extractive Use (EX).

Under the existing provisions the primary limiting factor on siting, from a land use regulatory standpoint, are the permitted gross floor area (GFA) based on site capacity and availability of adequate utilities (electric and water). As discussed, earlier Data Centers have changed significantly in size and nature of their operation. When facilities are accessory or ancillary to permissible office uses (as opposed to the principal use), their size and impact on infrastructure and the surrounding community is low, however as a principal use, they are more industrial in nature.

2. Establishes Special Use standards specifically tailored to impacts of Data Centers.

Ordinance 25-101 includes specific standards to mitigate impacts Data Centers serving as the principal use including:

- Limitations noise level at the property line
- Distancing requirements from residential zoning district lines
- Increased buffering and landscaping
- Limitations on conversion to other uses based on traffic impact – Data Centers generate a low volume of traffic
- Prohibition of open-loop or once-through as a means of cooling – eliminates the warming of our natural waterways, thereby protecting vulnerable ecological habitats
- Requirements for backup power supplies to have minimal impact on the environment and adjacent communities, both generators and battery energy storage systems
- Requirement that the buildings to be built to meet LEED Gold standards or better

- Requirement that sites be designed to be long term viable with the potential to be modified to provide onsite or communal microgrid components that include various energy generation sources, energy storage systems, a distribution network, a control system, and metering/billing systems
- Requirements for applicants to submit a statement of coordination with utility companies and an annual report for the operation.

As with Special Uses that include use specific standards, the requirements are largely objective and measurable, not unlike that of Limited Uses which is reviewed by the Department. Data Centers, as they have evolved, based on size and impact on the surrounding community and environment, present unique conditions with respect to their relationship to the community.⁷ As such, being a Special Use, Data Centers will not only gain a public hearing at the Board of Adjustments, but will need to be evaluated based on the following additional standards:

- The use meets the requirements of Division 40.03.300 (Limited and Special Use Standards).
- The use is consistent with the Comprehensive Development Plan.
- The use is compatible with the character of the land in the immediate vicinity.
- The design minimizes the adverse effects, including visual impact on adjacent lands.
- The use minimizes adverse impacts on the environment or government services.
- The intensity of the use shall not exceed that permitted by Article 5. A lower intensity may be mandated based upon the record.⁸

These standards are combined with the Board of Adjustment's ability to establish site specific conditions and restrictions to:

- Ensure the special use is developed as presented in drawings, exhibits, and assertions made at the public hearing.
- Ensure the general purposes, goals, and objectives of the Comprehensive Development Plan and this Chapter are met.
- Prevent or minimize the adverse effects from the proposed use and development on other properties in the neighborhood, and on the public health, safety, and general welfare.⁹

The additional standards and conditions afforded by the Special Use Permit process provides a powerful motivation for developers of Data Centers to work with neighboring communities and to

⁷ Section 40.31.430.A – Standards for a Special Use Permit

⁸ Section 40.31.430.B – Standards for a Special Use Permit

⁹ Section 40.31.431 – Conditions and Restrictions

minimize their impact, bolstered by conditions and restrictions tailored to specific sites to be sensitive and mindful of surrounding communities and environmental resources.

At the October 7 Planning Board Public Hearing, Councilman Carter discussed several changes to Ordinance 25-101 that could be included in a substitute ordinance. While the record was open, Mr. Carter submitted into the record a draft of a substitute ordinance for consideration, which included the following:

- Expands the zoning districts that allow Data Centers as a Special Use to include the Extractive Use (EX) district – Extractive uses are industrial in nature, and should a site meet the requirements set forth in Ordinance 25-101, the use would be appropriate
- Includes considerations for dB(C) as opposed to just dB(A) – This factors not just frequencies evaluated by dB(A) (representative of the sensitivity of the human ear), but also the impact of low frequency noises as evaluated by dB(C).
- Allows the Department to permit applicants to substitute alternative backup power supplies (battery and generators) if those supplies are demonstrated to be more efficient and have less of an impact on the environment.
- Requires submission of a statement of coordination with DNREC Water Allocation Program and Water Supply Coordinating Council and demonstrate the availability of sufficient water supply to meet or exceed projected water use
- Clarifies the requirement to comply with State and Federal requirements
- Sets standards for abandoning, decommissioning and financial assurances – This assures that if a facility ceases to operate for a year that either a new permitted use is established in the facility, or the restored to its predevelopment condition, assuring that as the technology and hard infrastructure needs evolve and become more efficient these sites are not left vacant.
- Sets the effective date to the date of introduction, thereby preventing applications made after its introduction from avoiding the standards specifically designed for Data Centers as a use, including in zoning districts that would not allow Data Centers as a use should the ordinance be adopted.

The Department has reviewed the Ordinance 25-101, the proposed changes in the draft substitute to the ordinance, as well as public comment (in support, opposition, and general comments). Concerns were brought in correspondence from Joseph Fitzgerald on behalf of the Delaware Contractors Association, Delaware State Chamber of Commerce, Associated Business and Contractors and New Castle County Chamber of Commerce, voiced concerns that designating Data Centers as a Special Use and including “unnecessary and unduly robust regulation” sends the wrong message. He additionally voiced opposition with the effective date being the date of Ordinance’s introduction, which was echoed and expanded on by Shawn Tucker, Esq. Mr. Tucker

argues that Data Centers have been around since 1945, which he asserted expanded substantially in the 2000's (25 years ago), and that they are already regulated today, albeit as a "by-right" use in the OR, CR, BP and I (his letter omits that it is also a by-right use in the ON and CN districts).

Uses are designated as Special Uses, not to discourage the use, but **when they "present unique conditions with respect to their relationship to the community."** There are thirteen uses designated in Table 40.03.110 as Special Uses including:

- Adult Uses
- Agricultural Support and Other Rural Services
- Airports
- Composting Operations
- Exterior Lighting for Outdoor Recreational Uses
- Heavy Industry
- Heavy Retail and Service
- High Intensity Recreation
- Light Industry
- Major Utilities
- Parking Structures
- Protective Care
- Retail Marijuana Stores

These uses typically include objective standards specific to the potential impact of each use, but more importantly provide the public an opportunity to evaluate the impact that the use would have adjacent communities and the consistency with the Comprehensive Plan. The Department agrees that information services and data processing (Data Centers) existed in the county, however, we would argue that the size and impact are dramatically different than early facilities or even at the early years of the internet revolution (early 2000s). While electrical consumption is not a perfect measure of total impacts (it doesn't account for environmental impacts outside of the generation and transmission of electricity) the change is proportionate. Between 2014 and 2016 the annual cumulative electrical demand from data centers was roughly 60 TWh. By 2018 the consumption had increased by more than 26% to 76TWh (1.9% of the total energy consumed in the United States). Between 2018 and 2023 cumulative electrical demand from Data Centers rose by 131.6% to 176 TWh (4.4% of all electricity consumed in the United States). This was all before the release of programs such as ChatGPT 4, Microsoft Copilot, and Google Gemini. Forecasts expect as high as 580 TWh to be needed per year to support Data Centers (about 12% of all

electric demand in the United States)¹⁰

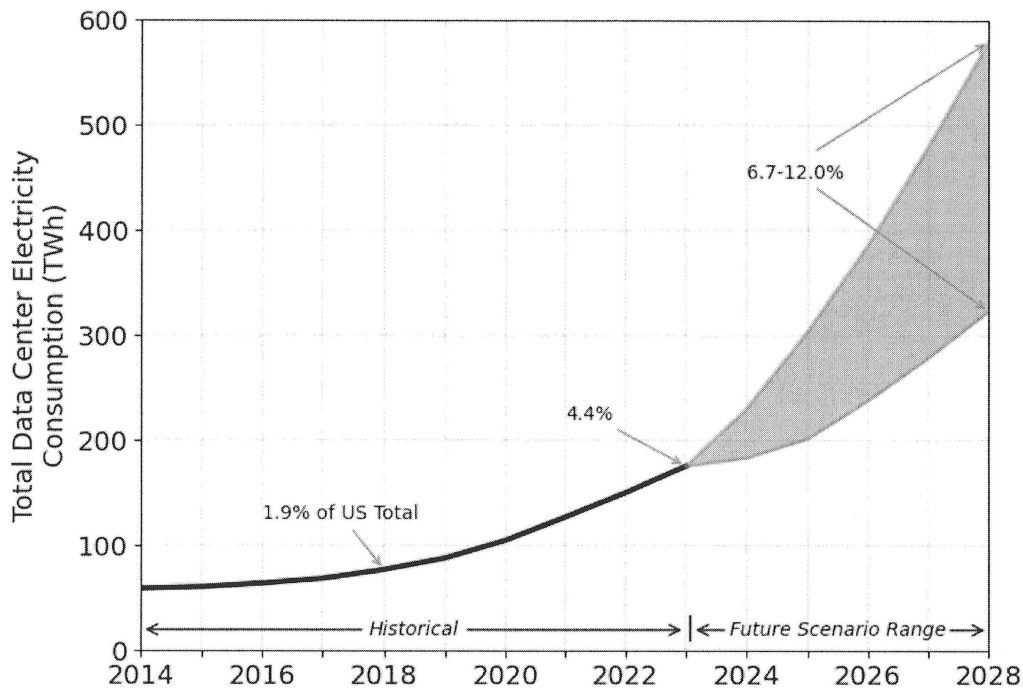


Figure ES-1. Total U.S. data center electricity use from 2014 through 2028.

These facilities typically consume roughly 50% of their electrical demand on equipment operation and 38%-40% on cooling systems.¹¹ Cooling systems not only consume electricity but also exchange heat to local waterbodies if not a closed loop system. It was recommended that any regulations be a product of coordination with DNREC, which the Department of Land Use concurs. Ordinance 25-101 was presented to PLUS on September 3, 2025. DNREC provided thoughtful comments and recommendations at the hearing. They also continued to work with Councilman Carter recommending additional standards which were incorporated into the Draft Substitute to Ordinance 25-101.

¹⁰ 2024 United States Data Center Energy Usage Report, Berkley Lab Energy Analysis & Environmental Impacts Division: <https://eta-publications.lbl.gov/sites/default/files/2024-12/lbnl-2024-united-states-data-center-energy-usage-report.pdf?stream=top>, Accessed (10/16/2025)

¹¹ Data Centers and Their Energy Consumption: Frequently Asked Questions, Congressional Research Service, August 26, 2025: <https://www.congress.gov/crs-product/R48646>, (Accessed 10/16/2025)

Standards for Text Amendment – Section 40.31.420 of the New Castle County Code

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

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

N/A

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

The changes proposed by Ordinance 25-101 will help the County achieve several important goals and objectives in the Comprehensive Plan including:

Objective 3.1 of the Comprehensive Plan:

Continue to ensure water services and drinkable water supply is sufficient to meet demand.

Setting standards and defining “Closed-Loop Cooling Systems” to ensure the recycled use of water (or usage of reclaimed water) to ensure the protection, quality, and conservation of water supply to New Castle County residents. Continue to coordinate with the local water utilities to ensure minimal impact on the needs of the community.

Objective 13.2 of the Comprehensive Plan:

Strengthen/improve resiliency in the face of climate change threats through changes to the built environment (infrastructure, transportation, etc.) so to minimize risk and impacts to all people and communities.

Ordinance 25-101 proposes various protections from the impacts of data center operation including but not limited to: noise, setbacks from residential zoning, lighting, water and energy usage, and emissions.

Objective 16.1 of the Comprehensive Plan:

Increase diversity of engagement in community planning activities of all county residents regardless of age, race, income, native language, abilities, etc.

Ordinance 25-101 proposes to define data centers as a Special Use within industrial zoning districts requiring all proposed data center uses to seek a Special Use permit from the Board of Adjustment. This process not only ensures projects to demonstrate the standards for Special Use permits (Section

40.31.430 of the UDC), but in addition ensures an opportunity for public comment at the Board of Adjustment.

Objective 17.1 of the Comprehensive Plan:

Planning/investment decisions integrate across governments and jurisdictions

Ordinance 25-101 sets requirements that the applicant provide applicable jurisdictional approvals and permits from Local/State/Federal agencies. Applicants are to submit a statement of coordination with the local electric utility to demonstrate sufficient grid capacity, provide a statement of coordination with DNREC Water Allocation Program and Water Supply Coordinating Council to demonstrate sufficient water supply, and proof of compliance with all State and Federal requirements relating to data center impacts.

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

Large Industrial Structure Standards (Section 40.26.260 of the UDC)

Some design requirements proposed in Ordinance 25-101 are currently applied to large industrial structures such as berming, lighting standards, and noise impact. This ordinance proposes noise impacts along shared residential property lines, zero footcandle lighting requirement along residential property lines, and a minimum eight-foot berm to screen the site.

Large-scale Solar Energy System Standards (Section 40.03.337 of the UDC)

The needs and demands for data center real estate is difficult to predict with rapidly changing technology. To ensure that a developed data center site will be restored to its predevelopment condition, changes proposed in a draft substitute to Ordinance 25-101 outlines a decommissioning requirement to ensure data center developments do not create an undue impact on the surrounding community after ceasing operation unless the property owner submits a land use application to establish a new use for the site. A financial assurance is put in place prior to the issuance of a building permit to cover one hundred percent of the anticipated cost of removal in instances of site abandonment. This process is currently utilized for large-scale solar energy systems as these systems may be temporary in nature (about 10-25 years).

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

N/A

E. Flexibility in meeting the objectives of this Chapter.

N/A

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 **Conditional Approval** of Ordinance 25-101 with the condition that County Council considers the proposed changes in the draft substitute to Ordinance 25-101.

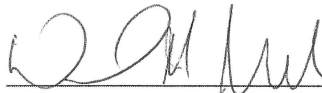
PLANNING BOARD RECOMMENDATION

At a business meeting held on October 21, 2025, 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 Mr. Cantrell and seconded by Ms. Visvardis, the Board voted to recommend **CONDITIONAL APPROVAL** of Ordinance 25-101 as subject to the condition recommended by the Department of Land Use. The motion was adopted by a vote of 6-1-0-1 (In Favor: Cantrell, Daigle, Drake, Ott, Snowden, Visvardis; In Opposition: Cochran; Abstention: None; Absent: Gray).

Prior to the vote, there were no comments or questions by Planning Board members.

STATUTORY GUIDELINES

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

 10/21/25

David M. Culver date
General Manager
Department of Land Use

 10/21/25

Robert Snowden date
Acting Chair
Planning Board