



# 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

## MINUTES

### A. Meeting Call to Order

The meeting was called to order at 3:00 PM.

Members present: Kevin Caneco, David Carter, John Cartier, Dee Durham, Valerie George, Penrose Hollins, Janet Kilpatrick, Timothy Sheldon, George Smiley, Jea Street, David Tackett, Brandon Toole, Monique Williams-Johns

Members absent: None.

### B. Approval of Minutes

**Motion** by Mr. Smiley, **second** by Ms. Kilpatrick, to approve the minutes from October 21, 2025. The minutes were approved by voice vote.

### 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

i. Introduction by Mr. Tackett.

ii. Presentation by Assistant Land Use Manager, David Holston.

iii. Comments from Council – Comments from Mr. Tackett and Mr. Smiley, with response from Assistant Land Use Manager, David Holston.

iv. Comments from the public – None.

v. Vote – No vote was taken.

°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

- i. Introduction by Ms. Kilpatrick.
- ii. Comments from Council – None.
- iii. Comments from the public – None.
- iv. Vote – No vote was taken.

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

- i. Introduction and presentation by Mr. Carter with comments from Land Use General Manager, David Culver.
- ii. Comments from Council – Comments from Mr. Cartier, Mr. Carter, Ms. Durham, Ms. George, Mr. Hollins, Ms. Kilpatrick, Mr. Sheldon, Mr. Smiley, Mr. Street, Mr. Toole, Ms. Williams-Johns, and Mr. Caneco, with responses from Land Use General Manager, David Culver, and Counsel to Council, Michael Migliore.
- iii. Comments from the public – Comments from Dale Swain with Citizens Alliance for Responsible Land Use, Betty Jo Keiper, Sue Vatriek, Jerome Heisler, Joe Fitzgerald with the NCC Chamber of Commerce, Richard Trask, Keith Stack with the Delaware Coalition for Open Government (DELCOG), Ann Burruss, Pegg Schultz with the League of Women Voters New Castle County (LWVNCC), Bill Robins, Bruce Wyngaard, Matthew Amandola with IBEW Local 313, Joe Connor, Jason Hoover, Michael Waldon, Chris Muntz, Business Manager with UA Local 74, Sam Noel, Delaware Council Representative for Carpenters Local 255/P2A, Joshua Hogg, Michael Langdon, Vice President with Starwood Digital Ventures, Richie Jordan, Business Manager for Ironworkers Local 451, Demetrius Deramus, Timothy Burroughs, Bishop George E. Gibson II with 2EEP & IMBC, Rob McLennan with IBEW Local 313, Leslie Brower, Sharon Steele, Charles Ott, Martin Willis, Stephaine Malleus, Frank Burns, Melissa Heller, Fred Heller, Ligi Aceves, Marissa McClenton, Environmental Justice Organizer with the Sierra Club Delaware Chapter, Dustin Thompson with the Sierra Club Delaware Chapter, David Turley, Claire Wyngaard, Curtis Linton, Business Manager with Local Laborers 199 and Vice President of Delaware AFL CIO, Ian Patten Lorrain J. Swain, James Maravelias, President of Building Trades of Delaware, Mike Hackendorn, Executive Director for the Delaware Building Trades, and Kimoko Harris. Comments online from Rich Jester, Randy Henrick, Tracy Slack, Tiffany Lydon, Tabitha Earls, Debbie Heaton, RJ Miles, Tom Young, Francisca Morno, Nancy Willing, Coralie Pryde, John Irwin, Ellen Finney, Susan Downs, Shannon Tiberi, Jasmine Wood, Lori Pester, Nadia Cumming, and Melissa Hall.
- iv. Vote – No vote was taken.

## **E. Presentations**

## **F. Other**

## **G. Public Comment**

## **H. Adjournment**

**Motion** by Mr. Smiley, **second** by Mr. Carter, to adjourn the **Land Use Committee Meeting**. The motion was approved, and the meeting was adjourned at 6:58 PM.

# NEW CASTLE COUNTY CODE DEPARTMENT OF LAND USE

## Proposed Code Change Review for *New Castle County Code Chapter 6* ("Building Code")

Ordinance 25-130

# Code Development Process

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- ✓ **Three-Year Code Development Cycle:** I-codes are developed on a three-year cycle with the goal of creating safe, affordable, and sustainable buildings and communities.
- ✓ **Collaborative Consensus Process:** Changes to these codes occur through a multistep governmental consensus process that brings together building safety officials and industry professionals to review, propose, and adopt updates.



# Benefits of Adopting Current Codes

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- ✓ **Protect and Enhance Your Investment:** Staying informed about the latest safety products and lessons learned helps extend the life of homes, businesses, and communities.
- ✓ **Increase Disaster Resiliency:** Organizations like FEMA recognize the economic benefits of reducing damage to homes and businesses from natural disasters, while ensuring essential services remain operational.
- ✓ **Cost Savings on Insurance:** According to the ISO National Building Code Assessment Report, communities with well-enforced, up-to-date codes typically fare better during hazards. In 2019, New Castle County earned a top-tier rating of 3, qualifying for insurance discounts between 1% and 13%, compared to the state average rating of 4.
- ✓ **Strengthens Code Knowledge:** The Licensing Division staff holds 120+ ICC professional certifications which promotes consistency, accuracy and safety through continuous learning.

# Adoption Overview for Ord. 25-130

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- ✓ Update the administrative sections of Chapter 6 and adopt the following codes published by the International Code Council effective Jan. 1, 2026.

- **2024 International Building Code**
- **2024 International Residential Code**
- **2024 International Existing Building Code**
- **2024 International Swimming Pool and Spa Code**

This ordinance continues to recognize the following State adopted Codes.

- 2021 International Mechanical Code as the Statewide HVACR Code
- 2021 International Plumbing Code as the Statewide Plumbing Code
- 2021 International Fuel Gas Code as the Statewide Fuel Gas Code
- 2018 International Energy Conservation Code as the Statewide Energy Conservation Code.

# Code Review Timeline

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**January  
2025**

Public notice  
shared via  
social media,  
the website,  
and listservs.

The Home  
Builders  
Association of  
Delaware was  
also notified.

**February -  
May  
2025**

Internal review  
of 2024 I-codes  
and discussed  
changes to  
administrative  
provisions in  
Chapter 6

**May  
2025**

Outreach  
extended to  
Associated  
Builders and  
Contractors  
(ABC) -  
Delaware  
Chapter

**June -  
September  
2025**

Developed  
working  
document  
based on  
feedback from  
stakeholders

**October  
2025**

Document  
created for  
consideration  
by County  
Council

**TRANSPARENT AND COLLABORATIVE  
REVIEW**

# Significant Changes

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## ❖ Article 1 – General

- No significant changes

## ❖ Article 2 - Definitions

- 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

## ❖ Article 3 - Administration

- Defined that swimming pool barriers are not exempt from permit
- Clarified brick repointing, EV charging stations, flagpoles, refacing of existing signs, replacement of residential deck boards and railings, installation of residential rooftop solar, and replacement of sump pumps are exempt from permit
- Made clear that third-party inspectors must seek approval from the Code Official prior to performing a final inspection, and further outlined the responsibilities of a third-party inspector as they relate to the submission of reports prepared by a design professional

# Significant Changes

## ❖ Article 4 - Building Code

- Adopt the 2024 edition of the International Building Code which includes:
  - Updated loading requirements as per the ASCE 7-22 standard
  - Requiring Carbon Monoxide detection in all occupancies where a CO-producing device is present
- Amend citations to align with the new single-column format

### SECTION 101—GENERAL

[A] 101.1 Title. These regulations shall be known as the Performance Code of [NAME OF JURISDICTION], hereinafter referred to as "this code."

[A] 101.2 Purpose. To protect and promote health, safety, welfare, and social and economic value, while promoting innovative, flexible and responsible solutions that optimize the expenditure and consumption of resources.

[A] 101.3 Scope. This code provides requirements for buildings and structures and includes provisions for structural strength, stability, sanitation, means of access and egress, and ventilation, safety devices and protection of property from fire and, in general, to secure the health, safety and other interests affecting the built environment. This code includes provisions for the use and maintenance of buildings, structures, facilities and premises; their alteration, repair, maintenance, removal and demolition; the installation and maintenance of amenities (including, but not limited to, such services as the electrical, gas, mechanical, plumbing, energy conservation and building transportation systems; and for the storage, handling and use of explosives, flammable and combustible materials, hazardous materials and dangerous radioactive and poisons.



### APPENDIX K ADMINISTRATIVE PROVISIONS

The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance.

#### Use note:

About this Appendix: Appendix K primarily provides the administrative mechanisms for the enforcement of NFPA 70, the National Electrical Code. While NFPA 70 includes an administrative annex, the provisions of Appendix K are designed to be compatible with the administrative provisions found in Chapter 1 of the International Building Code® and the other I-Codes.

With the exception of Section K111, this appendix contains provisions that are intended to be used to implement and enforce NFPA 70, the National Electrical Code. Annex H of NFPA 70 also contains administrative provisions, and may or may not be completely compatible with Chapter 1 of the IBC, whereas the provisions of this appendix are compatible and consistent with the IBC and other I-Codes. Sections K111 provisions that are unique to this appendix to those of NFPA 70.

Appendix K are specific to what might be adopted by the Electrical Department of Inspection and could be implemented when either are not adopted.

#### SECTION K101 GENERAL

A purpose of this code is to establish minimum standards to safeguard public health, safety and property by regulating and controlling the design, construction, installation, quality of materials, location, operation and maintenance of use of electrical systems and

fire condition. Devices or safeguards that are required by this code shall be maintained in compliance with the code edition under which installed. The owner or the owner's authorized agent shall be responsible for the maintenance of electrical systems and equipment. To determine compliance with this provision, the building official shall have the authority to require that the electrical systems and equipment be maintained.

Minor alterations, alterations and repairs. Alterations, additions, renovations and repairs to electrical systems and equipment shall conform to that required for new electrical systems and equipment without requiring that the existing electrical systems or equipment comply with all of the requirements of this code. Alterations, alterations and repairs shall not cause existing electrical systems or equipment to become unsafe, hazardous or overloaded.

Minor alterations, alterations, renovations and repairs to existing electrical systems and equipment shall meet the provisions for new construction, except where such work is performed in the same manner and arrangement as was in the existing system, is not hazardous and is approved.

K101.6 Subjects not regulated by this code. Where no applicable standards or requirements are set forth in this code, or are contained within other laws, codes, regulations,

# Significant Changes

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## ❖ Article 5 - Residential Code

- Adopt the 2024 edition of the International Residential Code which includes:
  - Notification and separation details added for stacked two-family dwelling units
  - Vapor Retarder value modified to 6 mil to match that of the IECC
  - Deck framing provisions updated for cantilever spans, post to beam bearing support, and ledger to band joist connection
- Amend citations to align with the new single-column format

## ❖ Article 6 – Statewide Mechanical Code

- No Change - Continue enforcement of the 2021 International Mechanical Code as the Statewide Mechanical Code

## ❖ Article 7 – Statewide Plumbing Code

- No Change - Continue enforcement of the 2021 International Plumbing Code as the Statewide Plumbing Code

# Significant Changes

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## ❖ Article 8 – Statewide Fuel Gas Code

- No Change - Continue enforcement of the 2021 International Fuel Gas Code as the Statewide Fuel Gas Code

## ❖ Article 9 – Existing Building Code

- Adopt the 2024 edition of the International Existing Building Code which includes no significant changes

## ❖ Article 10 – Statewide Energy Conservation Code

- No Change - Continue enforcement of the 2018 International Energy Conservation Code as the Statewide Energy Conservation Code
- Removed competing language related to EV parking and infrastructure and commercial Solar Ready Zones adopted by the State
  - Title 16 Chapter 76 established Solar-ready zone requirements (Ordinance 22-091 - Passed)
  - Title 16 Chapter 80 Section established Electric Vehicle infrastructure requirements for single- and multi-family dwellings (Ordinance 21-116 - Passed)

# Significant Changes

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## ❖ **Article 11 – Swimming Pool and Spa Code**

- Adopt the 2024 edition of the International Swimming Pool and Spa Code which includes no significant changes
- Maintain provisions requiring pool barriers to exceed that of the national standard

## ❖ **Article 12 – Violations, Enforcement, and Penalties**

- No changes

## ❖ **Schedule of Permit and Review Fees**

- No fee changes are proposed
- This ordinance simple captures current practices not previously published including:
  - Ordinance 14-057 (2014) - the 0.5% NCC Volunteer Fire Service Fund fee
  - Ordinance 19-039 (2019) - the expired permit fine of \$100 as recognized in the FY20 budget authorization

# Statewide Code Review and IECC Update

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- ❖ The Delaware Division of Public Health, Division of Professional Regulation, and the Department of Natural Resources and Environmental Control (DNREC) are actively reviewing statewide codes. The codes under consideration include:
  - 2024 International Plumbing Code – Tentative adoption: June 2026
  - 2024 International Mechanical Code – Review complete; pending IPC
  - 2024 International Fuel Gas Code – Review complete; pending IPC
  - 2024 International Energy Conservation Code (IECC) – Tentative adoption: March 2026
- ❖ On October 27, 2025, DNREC Secretary Greg Patterson issued a public notice announcing a delay in the adoption of the 2024 IECC, with particular emphasis on the provisions related to zero net energy capable provisions.

Key factors contributing to the delay include:

  - Insufficient industry training and technical expertise
  - Elevated construction costs impacting housing affordability
  - Additional time needed for DNREC's Energy Office to develop a comprehensive implementation roadmap



**Questions?**

**Thank you for your support and  
consideration!**

# PROPOSED NEW CASTLE COUNTY COUNCIL SUBSTITUTE 1 TO ORDINANCE 25-101

## RESPONSIBLE SITING AND DESIGN OF DATA CENTERS

NEW CASTLE COUNTY COUNCIL  
LAND USE COMMITTEE MEETING

NOVEMBER 4, 2025



**Marcus A. Henry**  
County Executive

**David M. Culver**  
General Manager



**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**

**Councilman David Carter (District 6)**

**Sponsor:** **Councilman David Carter (District 6)**

**Resolving New Castle County Code Chapter 40 ("Unified Development Code"),  
amending New Castle County Code Chapter 40 ("Unified Development Code"),  
and Article 33 ("Definitions") to establish standards  
for siting, design, and operation of data centers.**

**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 51 which include Data Centers] dating back to 1998. Originally Data Center Use permitted by-right in all non-residential zoning districts. The definition consider Data Centers as a Light Industrial Use, maintaining them as a by-right districts (HI & I) after limitations were placed on Office Uses in industrial districts (HI & I) after limitations were placed on nearby properties, the size, nature of their operation, and impact on support a principal use. Traditionally, Data Centers served as an accessory use to support a principal use typically within an industrial park. As the technology has evolved these facilities began to increase in size and placed additional demands on electrical demand for data centers across the United States, alone, well beyond the demand for data centers of a decade ago, let alone in 1998. Data Centers evolved over time and as such, regulations for these centers need to be revised.

\* Ordinance 25-101, is a text amendment to address Special Use standards to address modern Data Centers.

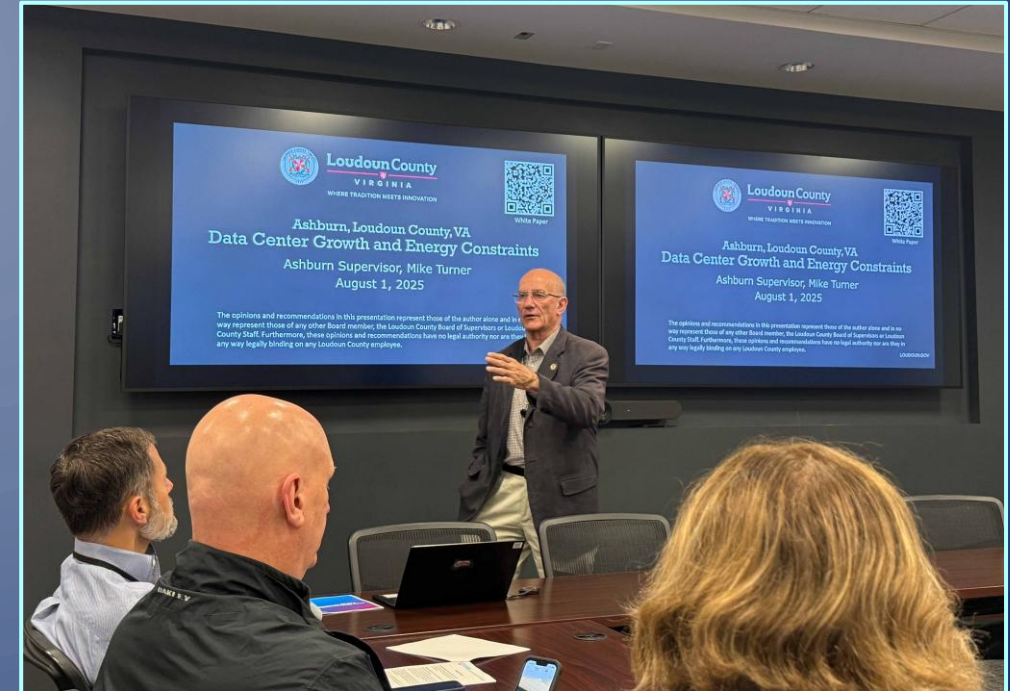
Application 2025-0486-T (Ordinance 25-101), is a text amendment to amend New Castle County Code to further define data center uses and set Special Use standards to address the specific challenges identified in other municipalities that have considered a draft substitute to Ordinance 25-101 incorporate specific changes to the ordinance presented as a draft substitute to Ordinance 25-101 at the PLUS hearing and 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.



# WHY THIS MATTERS

- Surging demand for digital infrastructure is driving large-scale data center proposals
- Hyperscale Data Centers are a “new” land use for New Castle County that was never anticipated in our current zoning code.
- Critical need to update zoning with standards to ensure they are properly sited, designed, and coordinated with other programs to protect our communities and infrastructure



*“Get your zoning updated and in place before data centers arrive. Every county has a choice, either shape data-center development, or be shaped by it”.*

Loudoun County Supervisor Mike Turner

# KEY IMPACTS OF DATA CENTERS

- Land Use Compatibility: 24/7 access, large footprints, supporting infrastructure needs, many characteristics of heavy industrial uses
- Noise Pollution: Backup generators and cooling equipment create persistent noise
- Air Emissions: Particularly from Back-up Generators
- Water Use: Some cooling systems require millions of gallons per day
- Energy Use: Continuous operation can require millions of megawatts



# DELAWARE'S ENERGY USE AND DATA CENTER IMPACT

- **Delaware Statewide Consumption**(U.S. Energy Information Adm.)

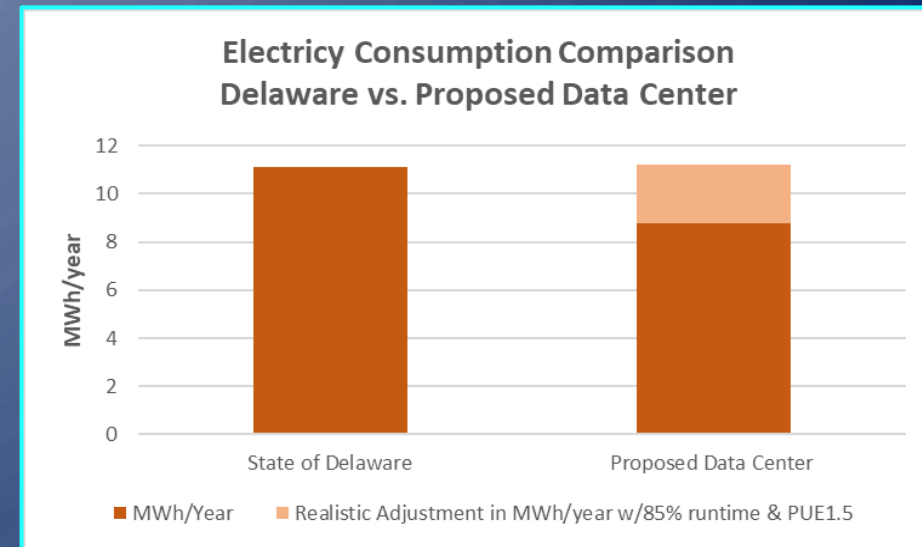
- 2020: 10.5 million MWh/year
- 2021: 10.8 million MWh/year
- 2022: 11.1 million MWh/year

- **Hyperscale Data Center Load:** Up to 1,000 MW (1 GW)

- Equivalent to ~8.76-11.2 million MWh/year if fully utilized
- Future proposals will have cumulative impacts

- **Implications:**

- 1GW data center may consume as much electricity as the entire State of Delaware.
- Risks to grid reliability and require major infrastructure upgrades
- Serious impacts to GHG emissions, air quality, ratepayer costs, etc.



Power Usage Effectiveness

$$\text{PUE} = \frac{\text{Total Facility Energy}}{\text{IT Equipment Energy}}$$

# GOALS FOR RESPONSIBLE DATA CENTER SITING

- Update zoning code to establish parameters that responsibly guides development reviews of a new, unanticipated, use (hyperscale data centers).
- Protect residential communities and natural resources
- Ensure compatibility with land use and infrastructure plans
- Promote energy efficiency and sustainability
- Require full disclosure of operational needs and impacts
- Ensure Intergovernmental Coordination (Air, Water, Energy, CZA, etc.)



# SUMMARY OF KEY ORDINANCE PROVISIONS (SUB. 1)

- **Special Use:** Address rapidly evolving technologies and their local impacts with site specific considerations.
- **Noise:** Max 55 dB(A) and dB(C) at property lines; noise mitigation promoted.
- **Setbacks:** 1,000 ft minimum from residential zones (visual buffer and passive noise reduction)
- **Backup Power:** Tier IV or natural gas w/SCR; ammonia catalysts required (or better)
- **Cooling:** No once-through systems unless reclaimed wastewater is used
- **Energy:** Minimum TUE of 1.15; LEED Gold or equivalent certification
- **Microgrids:** Any current or future plans for microgrid sites, if approved, must be designed for future microgrid integration
- Demonstrate Coordination & Compliance with State and Federal Laws and Regulations to Ensure Intergovernmental Coordination
- Decommissioning Plan & Financial Assurance Requirement (Similar to requirement for Large Solar Systems)
- Effective Date in Accordance with Pending Ordinance Doctrine (Similar to application in Ord. 21-018)

SCR = Selective Catalytic Reduction (removes nitrogen oxide)

TUE = Total Usage Effectiveness

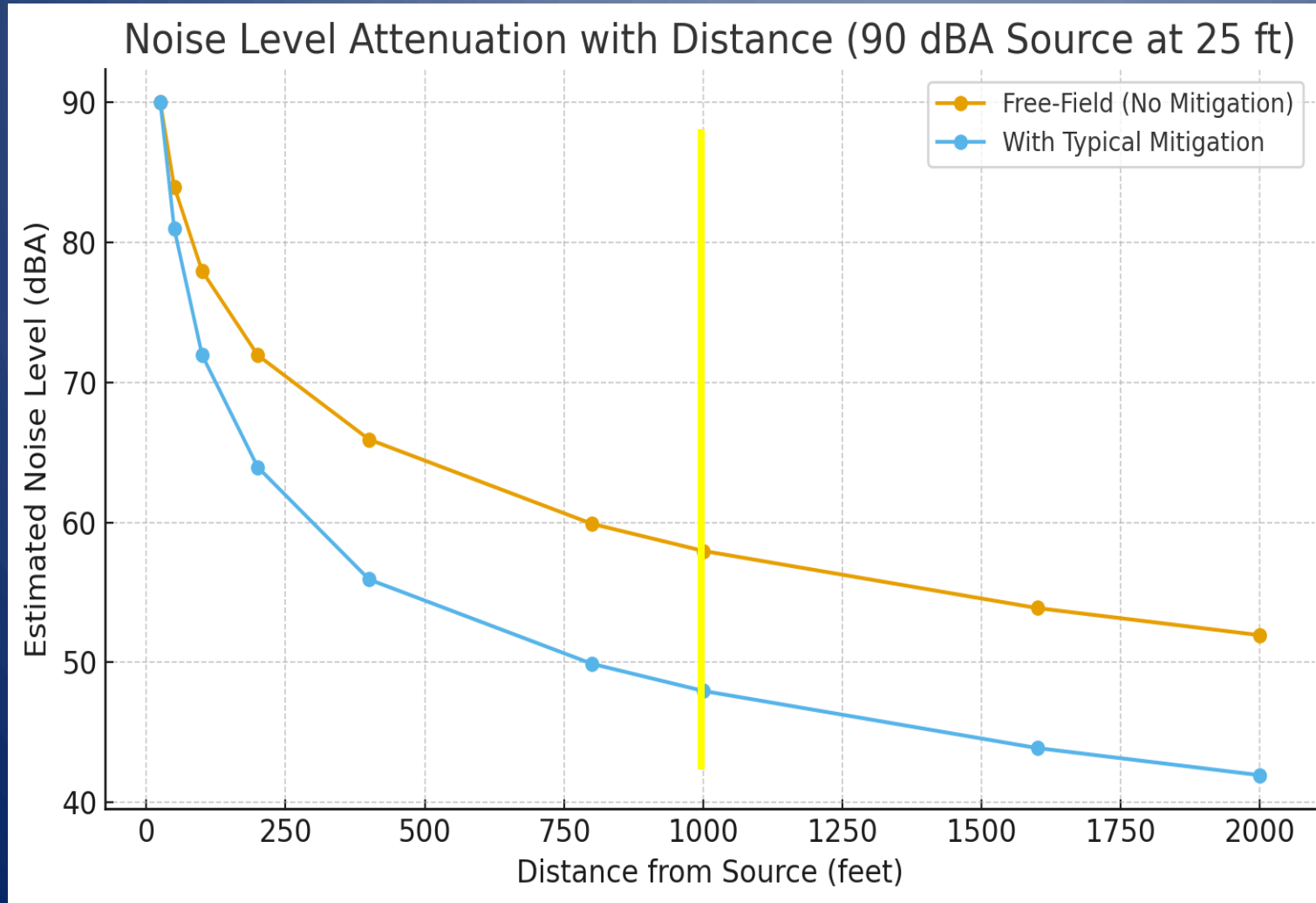


# CLOSED LOOP COOLING

- **Recirculating Design** (reduces total use by 70-95%)
- **Refrigerant/glycol loops** can enhance cooling
- **Liquid Cooling at Chips/Sealed Conduit** (reduces both water and power by 20-30%)
- **Rack Level Radiator & Fan Cooling**
- **Reclaimed/treated wastewater**



# SOUND ATTENUATION - INVERSE SQUARE LAW



| Distance (ft) | Free-Field Level (dBA) | Mitigation Reduction (dB)* | Estimated Level After Mitigation (dBA) |
|---------------|------------------------|----------------------------|----------------------------------------|
| 25            | 90                     | 0                          | 90                                     |
| 50            | 84                     | 3                          | 81                                     |
| 100           | 78                     | 6                          | 72                                     |
| 200           | 71.9                   | 8                          | 63.9                                   |
| 400           | 65.9                   | 10                         | 55.9                                   |
| 800           | 59.9                   | 10                         | 49.9                                   |
| 1000          | 58                     | 10                         | 48                                     |
| 1600          | 53.9                   | 10                         | 43.9                                   |
| 2000          | 51.9                   | 10                         | 41.9                                   |

**\*Free-field levels** decline naturally with distance.  
**Mitigated levels** incorporate the following:  
+3 dB reduction near source (localized)  
+6–10 dB from barriers/berms at 100–400 ft  
Up to **10 dB total** at 400 ft and beyond, representing a combination of engineered barriers, orientation, and enclosure treatments.

This is consistent with measured post-construction data from facilities in Loudoun County, VA, and Douglas County, GA

# WHY SPECIAL USE?

- Data Centers, have long existed in the Code, however differ greatly from those created in the 2000s
- Between 2014 and 2016 the annual cumulative electrical demand from Data Centers was roughly 60 TWh
- By 2018 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 U.S electric consumption.
- Forecasts expect as high as 580 TWh to be needed per year to support Data Centers (about 12% of all electric demand in the U.S. by 2028)

Source: U.S. Department of Energy, Lawrence Berkeley National Laboratory



# PENDING ORDINANCE DOCTRINE

- **The Pending Ordinance Doctrine** means that once the New Castle County Data Center Ordinance (Ord. 25-101) was introduced, any applications for large-scale data centers must be reviewed in light of the pending ordinance.
- **Pending Ordinance Doctrine** is a well-established principle of land use law.
- **Courts in Delaware have consistently upheld this principle**, including in *Ocean Bay Mart, Inc. v. City of Rehoboth Beach* (Del. 2022)
- NCC Council has used Pending Ordinance Document in past (Ord. 21-018)



# PENDING ORDINANCE DOCTRINE

Introduced by: Ms. Kilpatrick,  
Mr. Sheldon  
Date of Introduction: February 23, 2021

## SUBSTITUTE 1 TO ORDINANCE NO. 21-018

TO AMEND NEW CASTLE COUNTY CODE CHAPTER 40.22 (ALSO KNOWN AS THE UNIFIED DEVELOPMENT CODE) ARTICLE 22 ("DRAINAGE, UTILITIES, SEPTIC SYSTEMS, LOADING, AND LIGHTING"), REGARDING ON-SITE WASTEWATER TREATMENT (SEPTIC) SYSTEMS

WHEREAS, Ordinance No. 13-097 eliminated all standards for the installation of individual on-site wastewater treatment ("septic") systems and the minimum lot size requirements from Article 22 of the UDC; and

WHEREAS, by adopting Ordinance No. 13-097, County Council recognized that the Delaware Department of Natural Resources and Environmental Control ("DNREC") regulates on-site wastewater treatment and disposal and administers the septic system approval process in New Castle County; and

**SYNOPSIS:** This amendment strikes the expiration date of August 26, 2021 from Section 40.22.320.D. Substitute No. 1 ratifies the continued effect of Section 40.22.320.D, but emphasizes the temporary nature of Subsection D as it applies to land that comes to be served by sewer. It is the intent of County Council that the pending ordinance doctrine shall apply to any land use application submitted after the introduction of this ordinance.

**FISCAL IMPACT:** No discernable fiscal impact.

# QUESTIONS



Recommendations from Loudoun County Supervisors and Staff , the national leaders in Data Center Development:

*“Plan early, legislate clearly, and align land-use and energy policy before considering data center projects.”*