

Introduced by: Mr. Carter  
Date of introduction: December 10, 2019

**ORDINANCE NO. 19-120**

**TO AMEND NEW CASTLE COUNTY CODE CHAPTER 40 (“UNIFIED DEVELOPMENT CODE”), ARTICLE 31 (“PROCEDURES AND ADMINISTRATION”), SECTION 40.31.120 (“TEXT AMENDMENTS”) REGARDING CERTAIN PROPOSED TEXT AMENDMENTS**

**WHEREAS**, *New Castle County Code* Ch. 40, Section 40.31.120 provides for certain procedures related to proposed land use-related text amendments; and

**WHEREAS**, the process for such text amendments would be improved by certain refinements thereto.

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

Section 1. *New Castle County Code* Chapter 40 (“Unified Development Code”), Article 31 (“Procedures and Administration”), Section 40.31.120 (“Text Amendments”) is hereby amended by adding the material that is underscored and deleting the material that is stricken, as follows.

Sec. 40.31.120. - Text amendments.

Text amendment proposals shall be heard and reviewed by County Council after Department and Planning Board review and recommendation. Text amendments may be proposed by the Department, the County Executive, County Council and County boards.

- A. *Pre-introduction ~~application~~ review.* Upon request, ~~The~~ Departments of Land Use and Law shall assist the proponent of any land use-related legislation in the drafting of such legislation. In addition, when a member of County Council proposes the ~~new~~ legislation, the County Council member may direct Counsel to Council to draft the text amendment. At the discretion of the County Council member, with a copy sent of the legislation may be provided to the Department of Land Use for comment. Under no circumstances shall a County Council member ~~person~~ be prohibited from introducing any legislation because of any comments from the Departments of Land Use or Law. If a County Council member elects to submit the legislation to ~~After the Department of Land Use prior to introduction thereof—~~ has been contacted by a County Council member regarding any proposed legislation pursuant to this Section, the Departments of Land Use and Law shall have ten (10) fourteen (14) working days to provide comment to the County Council member, ~~offer their assistance~~ unless the County Council member grants the Departments additional time. This Section shall not apply to any emergency ordinance introduced pursuant to 9 Del. C. § 1157-~~(Emergency Ordinances)~~.
- B. *Department review and report.* At the Department's option, the proposed text amendment may be submitted to PLUS for review and comment. A preliminary report will be prepared by the Department summarizing the relevant issues and ~~agency~~ comments by PLUS.

- C. *Department/Planning Board public hearing.* Following introduction of an ordinance by County Council, a proposed text amendment will be scheduled for public hearing before the Planning Board. The purpose of the public hearing is to solicit public comments on the appropriateness of the proposed amendment.
- D. *Department report.* A written recommendation report by the Department and the Planning Board shall contain specific findings of fact resulting from the PLUS report if applicable, the public hearing and Department analysis. The recommendation may also include proposed substitute language. The Department report and proposed text amendment shall then be forwarded to County Council for consideration.
- E. *County Council hearing and action.* Upon receipt of a recommendation report from the Department, County Council shall hold a public hearing and render a decision.

Adopted by County Council of  
New Castle County on:

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President of County Council  
of New Castle County

Approved on:

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County Executive

**SYNOPSIS:** This proposed Ordinance clarifies the process to be applied when a land use-related text amendment to *New Castle County Code* Chapter 40 (“UDC”) is proposed. Among other things, the Ordinance is intended to promote cooperation among the branches of government. In particular, the proposed Ordinance clarifies that a County Council member, at their discretion, may submit proposed legislation to the Department of Land Use for comment by the Department (and the Department of Law) prior to introducing such legislation. In such situations, the Departments will have 10 working days to provide the Council member with their comments, if any. The proposed revision to the timeline (from 14 days to 10 days) is consistent with similar changes that were recently made to the Rules of Civil Procedure.

Moreover, aside from proposed revisions to clarify the process to make it more efficient pre-introduction, the proposed Ordinance does not alter the process post-introduction (*i.e.*, at Sections B – E, excepting non-substantive clarifications) whereby, prior to County Council’s consideration of the legislation, the Departments will still have several opportunities (at the PLUS public meeting, at the Planning Board public meeting, at the Council Committee meeting, and, finally at the Council general meeting) to provide comment and recommendations regarding the legislation, where the Departments feel appropriate.

**FISCAL NOTE:** There is no discernible fiscal impact.