

Introduced by: Mr. Tackett, Ms. Kilpatrick
Date of introduction: June 13, 2023

**ORDINANCE NO. 23-084 AS AMENDED BY AMENDED
FLOOR AMENDMENT NOS. 1 AND 2**

**TO AMEND *NEW CASTLE COUNTY CODE* CHAPTER 40 (“UNIFIED
DEVELOPMENT CODE” OR “UDC”), ARTICLE 25 (“DESIGN”) REGARDING
HAMLET AND VILLAGE DESIGN AND LOCATION**

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

WHEREAS, the Comprehensive Plan includes the 2022 Future Land Use Map and existing and planned sewer service area maps that are intended to direct future development; and

WHEREAS, the 2022 Future Land Use Map identifies properties that are appropriate for future development as hamlets or villages; and

WHEREAS, the County recognizes the importance of updating its development regulations to implement the New Castle County Comprehensive Plan 2050; and

WHEREAS, Ordinance 09-037 introduced Smart Code development options to the County south of the C&D Canal with the intent to eventually expand to select land in northern New Castle County which would benefit from this type of development; and

WHEREAS, the New Castle County Comprehensive Plan guides development and redevelopment to be sensitive to the context of neighboring residential development; and

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

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

Section 1. *New Castle County Code* Chapter 40 (“Unified Development Code” or “UDC”), Article 25 (“Design”), Division 40.25.100 (“Hamlet and Village Design”), Section 40.25.121 (“Instructions”) is hereby amended by deleting the material that is bracketed and stricken, and adding the material that is underscored, as set forth below.

DIVISION 40.25.100. - HAMLET AND VILLAGE DESIGN.

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Sec. 40.25.121. – Instructions.

A. The use of this Division . . .

B. Projects proposed in this Division must be zoned Suburban (S) and ~~[be located south of the C&D canal, west of US 13, east of the Norfolk and Southern Railroad spur and generally north of Marl Pit Road]~~ be served or planned to be served by public sewer in the Comprehensive Development Plan.

C. Section 40.25.120 plans ~~[shall]~~ must include . . .

~~[D. The developer shall make a financial contribution to the Housing Trust Fund for any dwelling unit that exceeds the price limits as set by HUD for a moderate income household in our region. The contribution shall be twelve dollars (\$12.00) per one thousand dollars (\$1,000.00) of permit construction valuation of the dwelling and is payable at the time of issuance of a Certificate of Occupancy for each dwelling unit.]~~

D. Section 40.25.120 plans must comply with the Traditional Neighborhood Housing Program provisions of Division 40.07.500, which are incorporated herein by reference.

E. Any other density bonus established . . .

F. Prior to Section 40.25.120 plan approval . . .

G. The project must propose access to transit services. Access to transit services shall mean:

- a. Any proposed development or portion thereof within a one-quarter ($\frac{1}{4}$) mile walking distance to the nearest bus stop; or
- b. Any proposed development or portion thereof within a two (2) mile radius of an existing transit park and ride facility or one that is proposed and constructed prior to the issuance of the first certificate of occupancy.

H. Proposed revisions to recorded land development plans must be approved by County Council.

Section 2. 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 3. 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 4. 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 5. 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: 1/9/2024

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

Approved on:

Matthew Meyer
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* Division or Section number:

Section 40.25.121: This amendment requires Hamlet and Village developments on Suburban zoned land planned to be sewerred. In addition, this ordinance adopts and provides that Hamlet and Village developments must comply with the Traditional Neighborhood Housing Program provisions of Division 40.07.500, which are incorporated by reference in Section 40.25.121.

FISCAL NOTE: There is no discernible fiscal impact with the adoption of this ordinance.