

Prime Sponsor(s): Ms. Kilpatrick  
Co-Sponsor(s): Ms. Hartley-Nagle  
Requested by: Public Works Department  
Date of introduction: November 14, 2023

**ORDINANCE NO. 23-157**

**TO AMEND *NEW CASTLE COUNTY CODE* CHAPTER 13 (“STORMWATER MAINTENANCE DISTRICTS”) REGARDING STORMWATER MAINTENANCE AND THORNBERRY COMMUNITY**

1           **WHEREAS**, stormwater is an important water resource which supports, among  
2 other things, groundwater recharge for drinking water supplies and base-flow of  
3 streams; and  
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5           **WHEREAS**, the requirements of the United States Environmental Protection  
6 Agency and the Delaware Department of Natural Resources and Environmental Control  
7 demand a comprehensive approach to stormwater management by New Castle  
8 County; and  
9

10           **WHEREAS**, the federal regulations and Delaware state regulations require the  
11 County to implement and fund a program of stormwater controls that address  
12 discharges from the County’s regulated stormwater flows to local water bodies; and  
13

14           **WHEREAS**, inadequate management of stormwater runoff throughout a  
15 watershed can increase flood depths and velocities, contribute to erosion and sediment,  
16 overtax the carrying capacity of existing streams and storm sewers, greatly increase the  
17 cost of public facilities to convey and manage stormwater, undermine floodplain  
18 management and flood reduction efforts in upstream and downstream communities,  
19 reduce groundwater recharge, and impact other related water resource needs and  
20 threaten public health and safety; and  
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22           **WHEREAS**, in order to establish, operate, enhance, and maintain an effective  
23 and efficient stormwater management, ensure the continued effective operation of the  
24 system through installation and best management practices, and to provide other  
25 services such as appropriate inspections, asset management, and regulatory oversight  
26 associated with stormwater and watershed management, sufficient and stable funding  
27 is required to fund these public services; and  
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29           **WHEREAS**, given the above, New Castle County Council determined it to be in  
30 the best interests of the County and its residents to create stormwater maintenance  
31 districts to accomplish the above and, thereby, promote more attractive, safer, and  
32 healthier neighborhoods; and

33           **WHEREAS**, County Council recently enacted *New Castle County Code* Chapter  
34 13, Sections 13.01.001 – 13.01.007 (by means of Ordinance No. 21-144), creating  
35 stormwater maintenance districts to provide an alternative to and assist property  
36 owners who are responsible for performing maintenance of stormwater management  
37 facilities within residential and mixed-use subdivisions, and to relieve property owners  
38 of the burden of the actual maintenance; and  
39

40           **WHEREAS**, Chapter 13 provides that a maintenance organization responsible  
41 for a stormwater management facility within a subdivision established prior to enactment  
42 thereof may petition to establish a stormwater maintenance district (“SWD”), using  
43 forms established by the Public Works Department (the “Department”); moreover, the  
44 Department is authorized to determine whether a SWD should be established based on  
45 a maintenance organization’s compliance with *New Castle County Code* Chapter 12,  
46 Article 6 (“Stormwater Management Facility and Watercourse Maintenance”); and  
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48           **WHEREAS**, the stormwater management facility in Thornberry falls under the  
49 County’s jurisdiction, and is, in the opinion of County government, necessary for  
50 efficient and economical stormwater management; and  
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52           **WHEREAS**, by way of background, the Thornberry maintenance organization  
53 timely petitioned the Department for creation of a SWD (between July - September,  
54 2023); the petition (attached hereto) reflects the affirmative vote for inclusion in the  
55 SWD program by the Thornberry community; and  
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57           **WHEREAS**, the petition includes, among other things, the requisite description of  
58 the area incorporated in the proposed SWD, a list of the community members and  
59 mailing addresses, applicable parcel numbers, signatures of the community members  
60 by parcel, and the individual votes, either yes or no, by community members; and  
61

62           **WHEREAS**, the Department supports the petition, which awaits the approval of  
63 County Council; and  
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65           **WHEREAS**, if County Council enacts this ordinance, the SWD program will be  
66 approved for the Thornberry community; subsequent to any approval by County  
67 Council, all relevant information evidencing the establishment of the SWD will be  
68 recorded with the Office of the Recorder of Deeds; and  
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70           **WHEREAS**, County Council has determined that the provisions of this  
71 Ordinance substantially advance and are reasonably and rationally related to  
72 legitimate government interests, including, but not limited to, promoting the public  
73 health, safety, welfare, and quality of life of the present and future inhabitants of New  
74 Castle County, generally, and the Thornberry community, in particular.

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

76  
77 Section 1. *New Castle County Code* Chapter 13 (“Stormwater Maintenance  
78 Districts”) is hereby amended by adding the material that is underscored and deleting  
79 the material that is stricken, as set forth below.

80 ...  
81 Sec. 13.01.008. Stormwater maintenance districts - approved.

82 A. Following are the Stormwater Maintenance Districts approved by County Council:

83 1. Whispering Woods...

84  
85 3. Thornberry.

86  
87 Section 2. This Ordinance shall become effective upon its adoption by County  
88 Council and approval by the County Executive, or as otherwise provided in 9 *Del. C. §*  
89 1156.

Adopted by County Council of  
New Castle County on: 11/28/2023

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

Approved on:

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Matthew Meyer  
County Executive  
of New Castle County

**SYNOPSIS:** This Ordinance, if approved, approves a Stormwater Maintenance District and will establish a Stormwater District Maintenance Fee for the Thornberry community for the maintenance of one pond servicing 19 lots.

**FISCAL NOTE:** This Ordinance, if approved, creates a Stormwater Maintenance District and will establish a Stormwater District Maintenance Fee for the Thornberry community. The fee will be included on the County tax bills beginning in the 2024 tax year to cover anticipated costs for a period of 18 months (January 2024 – June 2025). After which time, the annual tax bills beginning with the 2025 tax year will cover anticipated costs for a period of 12 months (July - June). There will be no fiscal impact since the fee shall cover the maintenance and operational costs of the stormwater infrastructure.