

**ORDINANCE NO. 24-031**

**AMENDING NEW CASTLE COUNTY CODE CHAPTER 40 ("UNIFIED  
DEVELOPMENT CODE"), ARTICLE 31 ("PROCEDURES AND ADMINISTRATION")  
RELATING TO COUNTY COUNCIL REFERRALS**

1       **WHEREAS**, an orderly and predictable process for the review of plans is critically  
2 important to land use decision making; and  
3

4       **WHEREAS**, the current requirement for scheduling of action on a response to a  
5 Council technical compliance referral is fluid and, consequently, depending on the  
6 circumstances, may not provide adequate notice to Council, the plan applicant, or the  
7 community to ensure adequate time for review and thoughtful engagement prior to a  
8 final hearing and vote before County Council; and  
9

10       **WHEREAS**, the general advance notice provided for many actions by County  
11 Council and the State of Delaware is 7 days; and  
12

13       **WHEREAS**, making the change proposed herein will afford a reasonable time to  
14 review the findings and recommendations by the Department of Land Use, and is not  
15 burdensome for Council or the Department, but, on the other hand, does help to ensure  
16 a predictable and orderly process, which the law favors.  
17

18       **NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:**  
19

20       Section 1. *New Castle County Code* Chapter 40 ("Unified Development Code"),  
21 Article 31 ("Procedures and Administration"), Section 40.31.114 ("Record Plan Review  
22 Stage") is hereby amended by adding the material that is underscored and by deleting  
23 the material that is stricken as set forth below.  
24

25       **Division 40.31.114. Record plan review stage.**  
26

27       ...

28       **D. Council consent.**

- 29       1. For major plans, the record plan shall be forwarded to County Council for its  
30 consent. Upon receipt of the plan, County Council shall schedule the matter  
for its next public hearing, and may take one (1) of the following actions:

- 31           a. Adopt a resolution approving the record major plan; or  
32           b. Table and refer the plan back to the Department, no more than twice,  
33 with specific questions relating to technical compliance with this  
34 Chapter, State or federal constitutional requirements or any other  
35 statute or ordinance for which compliance is required. Upon receipt of  
36 a Department recommendation reaffirming approval of the plan,  
37 County Council shall adopt the resolution of approval, unless a second  
38 referral is made because of additional questions or concerns. Upon  
39 receipt of the Department's recommendation reaffirming approval of  
40 the plan after review of any additional concerns raised by County  
41 Council, Council shall adopt the resolution of approval.

- 42 2. County Council may use any one (1) or more of the above options subject to  
43 the limitations contained in each subparagraph.  
44

45 *E. Action upon receipt of County Council referral.* Upon receipt of specific questions  
46 from County Council, the Department shall respond with its findings and a  
47 recommendation. The recommendation shall be one (1) of the following:

- 48 1. That the plan be approved, in which case County Council shall adopt the  
49 resolution of plan approval at its next scheduled meeting which provides  
50 Council with at least 7 days' notice of the Department's findings and  
51 recommendation, unless a second referral is made, in which case Council  
52 shall adopt the resolution of plan approval at its next scheduled meeting  
53 following the second approval which provides Council with at least 7 days'  
54 notice of the Department's findings and recommendation.
- 55 2. That the Department has rescinded its previous approval of the plan for  
56 noncompliance, in which case County Council shall withdraw the resolution of  
57 plan approval.  
58

59 Section 2. This Ordinance shall become effective immediately upon its adoption  
60 by County Council and approval by County Executive, or as otherwise provided in 9 Del.  
61 C. § 1156.

Adopted by County Council of  
New Castle County on:

---

Penrose Hollins  
President Pro Tempore of County Council  
of New Castle County

Approved on:

---

Matthew Meyer  
County Executive  
New Castle County

**SYNOPSIS:** This Ordinance ensures that County Council and the public have adequate notice and time for consideration of the findings and recommendation of the Department of Land Use, when recommending approval of a plan, by establishing that the Department's response to a referral by Council under Section 40.31.114 must be provided to County Council in such manner as to provide it with at least 7 days' notice of the Department's findings and recommendation before the resolution may be considered by Council.

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