

Prime Sponsor(s): Ms. Kilpatrick
Co-Sponsor(s): Mr. Bell
Requested by: Executive Office
Date of introduction: May 28, 2024

ORDINANCE NO. 24-084

TO AMEND *NEW CASTLE COUNTY CODE* CHAPTER 40 (“UNIFIED DEVELOPMENT CODE” OR “UDC”), ARTICLE 3 (“USE REGULATIONS”), AND ARTICLE 33 (“DEFINITIONS”), REGARDING FIREARM RETAIL BUSINESSES

1 **WHEREAS**, County Council adopted Substitute No. 2 to Ordinance No. 22-024 a
2 s amended by Floor Amendment No. 1 (“New Castle County Comprehensive Plan” or “
3 the Ordinance”), on July 26, 2022, and the County Executive approved the Ordinance
4 on August 4, 2022; and
5

6 **WHEREAS**, the New Castle County Comprehensive Plan guides development
7 and redevelopment to be sensitive to the context of neighboring residential
8 development; and
9

10 **WHEREAS**, the County recognizes the importance of updating its development
11 regulations to be consistent with, and implement, the New Castle County
12 Comprehensive Plan; and
13

14 **WHEREAS**, Delaware has the fifth highest rate of gun violence in the country
15 according to Everytown for Gun Safety. In an average year, 111 people die and 577 are
16 wounded by guns in Delaware; and
17

18 **WHEREAS**, research has shown that homicide rates increase in the years
19 following an increase in gun dealer density and that these effects are more severe in
20 black communities, as published in “*Gun Dealer Density and its Effect on Homicide*” by
21 David B. Johnson and Joshua J. Robinson; and
22

23 **WHEREAS**, guns are the leading cause of death for children in the United
24 States; and
25

26 **WHEREAS**, County Council has determined that the provisions of this Ordinance
27 substantially advance, and are reasonably and rationally related to, legitimate
28 government interests (i.e., promoting the health, safety, morals, convenience, order,
29 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 3 (“Use Regulations”), Division 40.03.100 (“Use regulations”), is hereby amended by adding the material that is underscored as set forth below:

Sec. 40.03.110. Use Table.

Table 40.03.110 lists the type of uses...

Table 40.03.110A. General Use Table									Table 40.03.110B. General Use Table							Table 40.03.110C. General Use Table	
Zoning District (Urban and Suburban-Transition Character) Y=permitted, N=prohibited, L=limited review, S=special use review, A=accessory									Zoning District (Suburban and Special Character)							Additional Standards (all districts)	
Land Use	TN*	ST	MM	ON	OR	CR	BP	I	CN	S***	SE	NC**	HI	EX	SR	Parking	Limited & Special Use Standards
Commercial									Commercial							Commercial	
...Drive-in facility	L	N	N	L	L	L	L	L	L	N	N	N	L	N	N	Table 40.03.522	Table 40.03.210, Section 40.03.316
<u>Firearm retail business</u>	<u>L</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>Table 40.03.522</u>	<u>Table 40.03.210 Section 40.03.342</u>
Heavy retail and service	N	N	N	N	N	Y	N	Y	N	N	N	N	S	N	N	Table 40.03.522	Section 40.31.430...

45 **Section 3.** *New Castle County Code* Chapter 40 (“Unified Development Code” or
46 “UDC”), Article 3 (“Use Regulations”), Division 40.03.300 (“Additional limited and special
47 use standards”), is hereby amended by adding the material that is underscored as set
48 forth below:

49
50 **Sec. 40.03.342. FIREARM RETAIL BUSINESSES**

51
52 The following requirements apply to any firearm retail business:

- 53
54 A. A firearm retail business is not permitted within a 500 foot radius of any
55 residentially zoned parcel.
56
57 B. A firearm retail business is not permitted within a 1,000 foot radius of any parcel
58 containing a school, daycare center, or a parcel that contains government-
59 owned parkland.
60
61 C. A firearm retail business is not permitted within a 1,500 foot radius of any other
62 parcel containing a Firearm Retail store.
63

64 **Section 4.** *New Castle County Code* Chapter 40 (“Unified Development Code” or
65 “UDC”), Article 33 (“Definitions”), Division 40.33.300 (“General definitions”), is hereby
66 amended by adding the material that is underscored as set forth below:

67
68 **Sec. 40.33.240. Commercial uses.**

- 69
70 A. *Adult uses.* This includes...
71
72 P. *Vehicular sales, rental and service.* ...

73
74 Q. *Firearm retail business.* Any establishment or portion of an establishment which
75 engages in selling or purchasing guns, firearms, or ammunition.
76

77 **Section 5. Consistent with Comprehensive Development Plan.** New Castle
78 County Council finds that the provisions of this Ordinance are consistent with the spirit
79 and intent of the New Castle County Comprehensive Development Plan.
80

81 **Section 6. Inconsistent Ordinances and Resolutions Repealed.** All
82 ordinances or parts of ordinances and all resolutions or parts of resolutions that may be
83 in conflict herewith are hereby repealed except to the extent they remain applicable to
84 land use matters reviewed under previous Code provisions as provided in Chapter 40 of
85 the *New Castle County Code*.
86

87 **Section 7. Severability.** The provisions of this Ordinance shall be severable. If
88 any provision of this Ordinance is found by any court of competent jurisdiction to be
89 unconstitutional or void, the remaining provisions of this Ordinance shall remain valid,
90 unless the court finds that that the valid provisions of this Ordinance are so essentially
91 and inseparably connected with, and so dependent upon, the unconstitutional or void
92 provision that it cannot be presumed that County Council would have enacted the

93 remaining valid provisions, without the unconstitutional or void one, or unless the court
94 finds that the remaining valid provisions, standing alone, are incomplete and incapable
95 of being executed in accordance with the County Council's intent. If any provision of this
96 Ordinance or any zoning map or portion thereof is found to be unconstitutional or void,
97 all applicable former ordinances, resolutions, zoning maps or portions thereof shall
98 become applicable and shall be considered as continuations thereof as not as new
99 enactments regardless if severability is possible.

100
101 **Section 8. Effective Date.** This Ordinance shall become effective immediately
102 upon its adoption by County Council and approval by the County Executive or as
103 otherwise provided in 9 *Del. C.* § 1156 and shall only apply to land use applications
104 submitted after such date(s) unless the applicant by written request agrees to submit to
105 the provisions of this Ordinance.

Adopted by County Council of
New Castle County on: 9/17/24

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.

Sec. 40.03.110. This amendment establishes which zoning districts permit firearm retail business uses.

Sec. 40.03.210. This amendment establishes limited use standards for firearm retail business uses in certain zoning districts.

Sec. 40.03.342. This amendment establishes limited use standards generally for firearm business store uses.

Sec. 40.33.240. This amendment defines firearm retail business.

FISCAL NOTE: There is no discernible fiscal impact upon the adoption of this Ordinance.