

SUBSTITUTE NO. 1 TO ORDINANCE NO. 24-059

TO AMEND *NEW CASTLE COUNTY CODE* CHAPTER 40 (“UNIFIED DEVELOPMENT CODE”), SECTION 40.03.410 (“ACCESSORY USES, RESIDENTIAL”) RELATING TO FENCE STANDARDS

1 **WHEREAS**, well maintained fences provide security and privacy to neighbors; and

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3 **WHEREAS**, fences, if not properly constructed and maintained, can become an
4 eyesore or, worse, cause injury to the public; and

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6 **WHEREAS**, it is important that New Castle County adopt clear fence regulations in
7 residential areas to ensure the safety and welfare of the residents of New Castle County;
8 and

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10 **WHEREAS**, it is in the best interests of New Castle County and its residents that
11 the County regulate various aspects of fences in residential areas to ensure the safety,
12 welfare, and visual integrity of New Castle County.

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

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16 Section 1. *New Castle County Code* Chapter 40 (“Unified Development Code”),
17 Section 40.03.410 (“Accessory Uses, Residential”) is hereby amended by adding the
18 material that is underlined and deleting the material with strikethroughs, as set forth below.

19
20 **Sec. 40.03.410. - Accessory uses, residential.**

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22 Residential uses may have accessory buildings and accessory uses provided they
23 conform to the following standards:

24 ...

25 ~~E. **Fences.** Fences may be permitted in all yards and all yard setbacks and shall be~~
26 ~~constructed of materials specifically designed for fences and may not include barbed~~
27 ~~or razor wire. Fence panels and fence materials may not exceed six (6) feet in height.~~
28 ~~To account for installation on sloping ground and any necessary space between the~~
29 ~~ground and the bottom of the fence panels or materials, the top of the fence panels,~~
30 ~~materials, and posts may not exceed seven (7) feet in height when measured from the~~
31 ~~ground, except as permitted in Subsection G.~~

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33 E. **Fences.** Fences are permissible in all yards and all yard setbacks, subject to the
34 following regulations.

- 35 1. **Maximum height.** Fences must be no more than 6’ in height, except as
36 otherwise set forth herein. In zoning designations NC5, NC6.5, NC10, and
37 NC15, the maximum permissible fence height in the street yard is 4’.

- 38 2. **Approved fencing material.** Fences must be constructed of approved
39 materials, including: wood, brick, decorative masonry, stone, wrought iron,
40 manufactured vinyl, aluminum, and PVC fence material.
- 41 3. **Prohibited fencing material.** No fence shall be constructed of sheet or
42 corrugated metal, plywood, concrete masonry unit block (with the exception
43 of use for a retaining wall), or other materials not manufactured or designed
44 for the primary purpose of fence construction. Furthermore, metal prongs or
45 spikes not designed and manufactured as part of a fence section are
46 prohibited. Barbed or razor wire is prohibited for fence construction.
- 47 4. **Installation.** When constructed on sloping ground, a fence may be installed on
48 an incline or in stepped sections. To account for installation on sloping ground
49 and any necessary space between the ground and the bottom of the fence
50 panels or materials, the top of the fence panels, materials, and posts may not
51 exceed 7' in height when measured from the ground, except as permitted in
52 Subsection G.
- 53 5. **Maintenance.** Fences must be maintained in good condition, structurally sound
54 and safe, and shall not by reason of age, decay, accident, or otherwise be
55 allowed to become and remain in a state of disrepair so as to be a nuisance or
56 cause blight, or present a potential injury or threat to the public;
- 57 a. Dilapidated fences shall be repaired or replaced in accordance with
58 provisions of this Division.
- 59 b. The property owner shall maintain each fence, including any fence existing
60 prior to adoption of this section, at all times, in a state of good repair, safe
61 and secure condition, with all braces, bolts, nails, supporting frames and
62 fastenings free from deterioration, termite infestation, rot, rust, or loosening,
63 and able to withstand at all times the wind pressure for which they were
64 designed.
- 65 6. **Visibility triangle.** All walls and fences located on a corner lot shall comply
66 with any applicable visibility sight triangles as provided for in this Chapter.
- 67 7. **Floodplains.** Fences proposed in a floodplain must comply with the
68 requirements in Article 10, including the requirement to obtain a floodplain
69 permit.
- 70 8. Nothing in this Section waives any restrictions otherwise applicable under the
71 New Castle County Code including Chapter 7 (Property Maintenance Code)
72 and Chapter 40 (Unified Development Code). Moreover, the regulations set
73 forth herein do not override validly adopted deed restrictions.

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

Adopted by County Council of
New Castle County on:

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

Approved on:

Matthew Meyer
County Executive
of New Castle County

SYNOPSIS: This Ordinance amends *New Castle County Code*, Section 40.03.410 (“Accessory Uses, Residential”) to provide clarity regarding standards applicable to fences in residential areas, including permitted and prohibited fence materials and maintenance.

Substitute No. 1 to the original Ordinance requires that fences located within a floodplain must comply with Article 10, including the requirement to obtain a floodplain permit.

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