

Prime Sponsor(s): Mr. Carter
Co-sponsor(s): Mr. Caneco, Mr. Toole,
Ms. Durham, Mr. Cartier
Mr. Hollins, Mr. Tackett
Date of introduction: August 5, 2025

ORDINANCE NO. 25-101

TO AMEND NEW CASTLE COUNTY CODE CHAPTER 40 (“UNIFIED DEVELOPMENT CODE”), ARTICLE 3 (“USE REGULATIONS”) AND ARTICLE 33 (“DEFINITIONS”) TO ESTABLISH STANDARDS FOR THE REVIEW, SITING, AND OPERATIONS OF DATA CENTERS

1 **WHEREAS**, New Castle County has received an unprecedented proposal for a large-
2 scale data center campus, totaling approximately 6 million square feet; and
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4 **WHEREAS**, the County currently lacks comprehensive, specific zoning and
5 development regulations tailored to the unique infrastructure demands, environmental
6 impacts, and operational characteristics of hyperscale data centers; and
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8 **WHEREAS**, data centers are distinct from other industrial and commercial uses due
9 to their high energy consumption, large-scale backup power systems, significant water
10 usage, and potential impacts on surrounding communities through noise, heat, and traffic;
11 and
12

13 **WHEREAS**, technological advancements have precipitated the growth of data
14 centers nationwide, expediting the need for provisions to guide responsible development
15 and mitigate impacts; and
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17 **WHEREAS**, it is in the public interest to proactively regulate data center development
18 to ensure compatibility with surrounding land uses and to protect the health, safety, and
19 welfare of New Castle County residents; and
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21 **WHEREAS**, data centers share many characteristics with heavy industry, particularly
22 in terms of energy consumption, building scale, and noise leading to zoning and
23 classification complexities best handled as a separate category of use; and
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25 **WHEREAS**, the County seeks to encourage economic development while also
26 preserving community character, promoting sustainability, safeguarding public infrastructure
27 capacity, and minimizing land use conflicts; and
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29 **WHEREAS**, County Council has determined that the provisions of this Ordinance
30 substantially advance, and are reasonably and rationally related to legitimate government
31 interests.
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NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:

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34
35 **Section 1.** *New Castle County Code* Chapter 40 (“Unified Development Code”),
36 Article 3 (“Use Regulations”), Division 40.03.110 (“Use Regulations”) is hereby amended by
37 adding the material that is underscored and deleting the material that is stricken, as set forth
38 below.

Sec. 40.03.110. – Use table.

Table 40.03.110 lists the type of uses permitted in each district. Refer to Division 40.33.200 for definitions of the various use categories and their components. Should a use not be identified in Table 40.03.110, an interpretation pursuant to Section 40.31.520 can be requested. Table 40.03.522 lists the specific parking requirements for several general uses listed in Table 40.03.110. Limited and special use standards are contained in Table 40.03.210 and Division 40.03.300. See Article 4 for district, lot, bulk and other standards.

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	P	Parking	Limited & Special Use Standards
Agricultural									Agricultural								Agricultural ...	
Industrial Uses									Industrial Uses								Industrial Uses	
Compost operations	N	N	N	N	N	N	N	L	N	N	N	N	L	L	S	N	Table 40.03.522	Section 40.03.336
<u>Data Centers</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>S</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>S</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>Table 40.03.522</u>	<u>Table 40.03.210</u> <u>Section 40.03.343</u>
Extraction	N	N	N	N	N	N	N	N	N	N	N	N	N	L	N	N	Table 40.03.522	Section 40.03.324 and Table 40.03.210 ...

49 **Section 2.** *New Castle County Code* Chapter 40 (“Unified Development Code”),
50 Article 3 (“Use Regulations”), Section 40.03.210 (“Buffering, location, bulk and scale
51 standards”), is hereby amended by adding the material that is underscored and deleting
52 the material that is stricken, as set forth below.

53
54 **Sec. 40.03.210. - Buffering, location, bulk and scale standards.**

55
56 Table 40.03.210 provides standards that increase the degree of buffering, govern the
57 location, and reduce the bulk or scale of limited or special uses. The meaning of the
58 different categories contained in the Table is established as follows:

59
60 A. *Location.* ...

61
62 K. *Other.* ...

Table 40.03.210A. Limited and Special Use Standards						Table 40.03.210B. Limited and Special Use Standards						Table 40.03.210C. Limited and Special Use Standards
	Buffer Standards					Locational or Dimensional Standards						Additional Standards
	Bufferyards			Separation		Minimum				Maximum		
Land Use	Location	Increase Opacity or Width	Fence or Berm	Use Protected	Distance from Use to protected parcel	Spacing	Site Area	Road Access	Open Space	Lot Area	Height	Other
Agricultural ...						Agricultural						Agricultural ...
Industrial Uses						Industrial Uses						Industrial Uses
Compost operations												Section 40.03.336
<u>Data Centers</u>	<u>Within 1,000 feet of a residentially zoned parcel or parcel with an established daycare center or school</u>	<u>0.4</u>	<u>Minimum 8 ft. berm</u>	<u>Residential and schools</u>	<u>1,000 ft.</u>							<u>See Section 40.03.343 *1,000 as measured to any building or structure</u>
Extraction	All	0.8 (150 ft.)	8 ft. berm	Residential	100 ft. *		25 ac.					Section 40.03.324 * 100' for Recreation, High Intensity Uses ...

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

Sec. 40.03.333. - Light Industry uses in OR and CR zoning districts.

- A. Light Industry uses as defined in Subsection 40.33.270.~~E~~ D are considered Limited Uses in the OR zoning district, except that the following uses require a special use permit:

Sec. 40.03.340. - Multifamily conversion.

Multifamily conversions are intended to facilitate and encourage the redevelopment of existing office and commercial sites and increase the diversity in housing opportunities in the county where supporting infrastructure exists. The following requirements apply to all multifamily conversions:

- A. A multifamily conversion is not permitted on a parcel that is within one thousand (1,000) feet of a heavy industry zoned parcel or a parcel with a heavy industry use as defined in Subsection 40.33.270.~~E~~ D.

Sec. 40.03.343. – Data centers.

In addition to the requirements of Section 40.31.430, the following requirements apply to any data center development and/or the cumulative expansions of existing data center in excess of 20,000 square feet:

- A. The site shall be designed to minimize noise impact on neighboring residential properties and shall not exceed 55 dB(A) at the sending property line. A noise study shall be submitted to evaluate this impact and to verify consistency with Chapter 22 of the *New Castle County Code* and the study shall include all generators and any other equipment that will be utilized on the site as part of the calculation.
- B. No portion of the proposed data center building or accessory uses shall be within 1,000 ft. from any residential zoning district.
- C. Except for lot lines along an existing office or industrial park or adjacent to an existing industrial use, the bufferyards, street trees, berming and landscaping shall be upgraded, where appropriate to mask the development. The buildings shall meet the requirements for large industrial structures in Section 40.26.260.
- D. Lighting shall be designed so that there is zero (0) footcandles at the property line of the neighboring residential area.
- E. In addition to meeting all the requirements of Article 11, anticipated trip generation for a data center shall be based on the latest published ITE manual

calculations. Data Centers shall not be converted to any use that exceeds the approved Transportation Improvement Study (TIS) or equivalent study, for the site unless another TIS or equivalent study is completed and approved in accordance with all other provisions of the Chapter.

- F. Open-loop or once-through cooling is prohibited unless reclaimed water is used.
- G. All generators shall be Tier IV or utilize natural gas with Selective Catalytic Reduction (SCR) systems unless the applicant can demonstrate another technology that is more efficient with less impact on the environment.
- H. Any energy storage system utilized for this use shall be a Battery Energy Storage System ("BESS") unless the applicant can demonstrate another technology that is more efficient with less impact on the environment and must employ fire-safe technologies as determined and approved by the State Fire Marshall's Office.
- I. All new or expanded facilities shall submit documentation outlining the operation of the building as a LEED Gold or equivalent certification and providing the Total Usage Efficiency ("TUE"), the comprehensive metric for evaluating the overall energy efficiency of a system considering both the energy used by the IT equipment and the supporting infrastructure, with a minimum TUE of 1.15 should be provided unless operational issues are documented and accepted to vary this minimum.
- J. All data centers must be designed for future integration with onsite or communal microgrid components that include various energy generation sources, energy storage systems, a distribution network, a control system, and metering/billing systems.
- K. Applicants must submit a statement of coordination with the local electric utility and demonstrate the availability of sufficient grid capacity, or provide onsite generation that meets or exceeds projected load.
- L. Annual Report, Enforcement and Compliance. The operator of the data center shall supply an annual report, as found in Appendix 9, to the Department of Land Use indicating compliance with all applicable local, state and federal regulations. Land Use shall retain the right to request additional information and establish procedures for inspections, monitoring, and enforcement of compliance with this section. Non-compliant facilities will be subject to Division 40.31.900 and/or any other remedy available.

Section 4. New Castle County Code Chapter 40 ("Unified Development Code"), Article 33 ("Definitions"), Section 40.33.270 is hereby amended by adding the material that is underscored and deleting the material that is stricken, as set forth below.

- A. Compost operations (NAICS 325314). ...

B. Data Center. A facility composed of networked computers, servers, storage systems, and telecommunications equipment used for data processing, storage, and distribution (NAICS 518210).

C B. Extraction. ...

D C. Heavy industry. ...

E D. Light industry. ...

F E. Recycling or. ...

G F. Solar energy system, large scale. ...

H G. Utility, major. ...

I H. Utility, minor. ...

J I. Utilities, maintenance facilities. ...

Section 5. 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 6. 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 7. 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 8. 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:

Monique Williams-Johns
President of County Council
of New Castle County

Approved on:

Marcus A. Henry
County Executive
of 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 updates the use table to establish which zoning districts permit the Data Center use as a Special Use.

Sec. 40.03.210. This amendment updates the Limited and Special Use Standards Table to include Data Center uses.

Sec. 40.03.333. This amendment updates references to the definition of Light Industrial uses based on changes proposed to Section 40.33.270.

Sec. 40.03.340. This amendment updates references to the definition of Heavy Industry uses based on changes proposed to Section 40.33.270.

Sec. 40.03.343. This amendment includes Special Use standards for Data Center uses.

Section 40.33.270. This amendment defines Data Center uses.

FISCAL NOTE: This Ordinance will have no discernible fiscal impact.