

Prime Sponsor(s): Ms. Kilpatrick
Date of Introduction: November 18, 2025

FLOOR AMENDMENT NO. 1 TO SUBSTITUTE NO. 2 TO ORDINANCE NO. 25-101

1 Substitute No. 2 to Ordinance No. 25-101 is amended at line numbers, 71, 87, and 111
2 through 263, by adding the material that is underlined and highlighted in yellow and by
3 deleting the material with strikethroughs and highlighted in red, as follows.
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5 **Table 40.03.110. - Use table.**

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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	C N	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	N	L	L	S	N	Table 40.03.522	Section 40.03.336			
<u>Data Centers</u>	N	N	N	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>		<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	Table 40.03.522	Table 40.03.210 Section 40.03.343				
Extraction	N	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 ...			

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Table 40.03.210A. Limited and Special Use Standards

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>	Within <u>1,000</u> 500 feet of a residentially zoned parcel or parcel with an established daycare center or school	0.4	Minimum 8 ft. berm	Residential and established daycare center and schools	500 ft.*										See Section 40.03.343	* See Section 40.03.343.B
Extraction	All	0.8 (150 ft.)	8 ft. berm	Residential	100 ft. *										Section 40.03.324	* 100' for Recreation, High Intensity Uses ...

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13 **Sec. 40.03.343. – Data Centers.**

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15 In addition to the requirements of Section 40.31.430~~26.430~~, the following
16 requirements shall apply to any proposed data center development or ~~the cumulative~~
17 ~~expansion of an existing data center in excess of two hundred 20,000 thousand square~~
18 ~~fee~~ additions larger than two hundred thousand (200,000) square feet of GFA:

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20 A. The site shall be designed to minimize noise impact on neighboring residential
21 properties and shall not generate noise levels that exceed 55 db(A) or db(C) at the
22 sending property line if the predevelopment noise level is below those levels. If the
23 predevelopment noise exceeds those levels, no net increase in the existing noise level
24 shall be permitted. A noise study shall be submitted to evaluate this impact and to verify
25 consistency with Chapter 22 of the New Castle County Code and the study shall include
26 all generators and any other equipment that will be utilized on the site as part of the
27 calculation.

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29 B. No portion of the proposed data center building or accessory uses shall be located
30 within 1,000 500 feet of a residential zoning district. However, the Department may
31 approve data center structures or accessory uses located less than 500 feet from a
32 residential zoning district, but no closer than required setbacks in the applicable zoning
33 district, upon review and determination that noise levels generated will not exceed the
34 allowable noise levels permitted in Chapter 22 of the New Castle County Code. In
35 granting any such approval distance of less than 500 feet, the Department may require
36 submission of a site-specific noise study demonstrating that the combined effectiveness
37 of the selected measures (noise attenuation and screening techniques, including, but not
38 limited to, a berm) will ensure compliance with the noise performance standards
39 contained in Chapter 22. However, as a limited exception, the Department may approve
40 data center structures or accessory uses located less than 1,000 feet, but no closer than
41 500 feet, from a residential zoning district, upon review and determination that noise
42 levels generated will not exceed the allowable noise levels permitted in this section. The
43 Department may require submission of a site-specific noise study demonstrating that the
44 combined effectiveness of the selected measures will ensure compliance with the noise
45 performance standards set forth herein. Acceptable noise attenuation and screening
46 techniques, including, but not limited to, the following measures, may be considered by
47 the Department in evaluating compliance:

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- 49 1. Generator Acoustic Enclosures: fully enclosed or "super silent" housings
50 constructed of brick, masonry, or other acceptable materials with
51 comparable sound transmission ratings.
- 52 2. Acoustic Louvers and Duct Liners: designed to minimize tonal and airflow
53 noise associated with ventilation or cooling systems.
- 54 3. Sound Absorptive Panels: installed within cooling yards, generator
55 buildings, or perimeter walls to reduce reflected noise.
- 56 4. Porous Absorptive Cladding: such as mineral wool cores with perforated
57 metal facings to dampen exterior surface reflections.
- 58 5. Vibration Isolation Systems: including spring and neoprene isolators to
59 prevent structure borne noise transmission from generators, chillers, or
60 HVAC units.
- 61 6. Acoustic Fencing and Walls: solid or composite barriers with a minimum

62 sound Transmission Class (STC) rating of 35, extending fully above the line
63 of sight between the noise source and the property line.

64 7. Building Orientation and Shielding: siting of data center buildings or
65 equipment yards so that structures themselves block direct noise paths
66 towards residential or institutional uses.

67 8. Enhanced Landscaping and Earth Berms: incorporation of vegetation,
68 berms, and mounded terrain to provide additional passive sound
69 attenuation and visual screening.

70
71 C. Except for lot lines along an existing office or industrial area or adjacent to an existing
72 industrial use, the bufferyards, street trees, berming and landscaping shall be upgraded,
73 where appropriate to mask the development. The buildings shall meet the requirements
74 for large industrial structures in Section 40.26.260.

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76 D. Lighting shall be designed so that there is zero (0) footcandles at the property line of
77 the neighboring residential area.

78 E. In addition to meeting all the requirements of Article 11...

79 F. Open-loop or once-through cooling is prohibited unless...

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81 G. All generators shall be Tier IV or utilize natural gas with Selective Catalytic Reduction
82 (SCR) systems. The Department may permit applicants to substitute other technologies
83 that the applicant can demonstrate as being more efficient and have less impact on the
84 environment.

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86 H. Any energy storage system utilized for this use shall be Battery Energy Storage
87 System ("BESS"). The Department may permit applicants to substitute other
88 technologies that the applicant can demonstrate as being more efficient and have less
89 impact on the environment. Energy storage systems must employ fire-safe technologies
90 as determined and approved by the State Fire Marshal's Office.

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92 I. All new expanded facilities shall submit documentation outlining the operation of the
93 buildings as a LEED Gold or equivalent certification and providing the Total Usage
94 Efficiency ("TUE"), the comprehensive metric for evaluating the overall energy efficiency
95 of a system considering both the energy used by the IT equipment and the supporting
96 infrastructure, with a minimum TUE of 1.15 must be provided unless operational issues
97 are documented and accepted to vary this minimum.

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99 J. All data centers must be designed for future integration...

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101 K. Applicant must submit a statement of coordination with local electric utility...

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103 L. Applicants must submit a statement of coordination with DNREC Water Allocation
104 Program...

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106 M. Data Centers must comply with all State and Federal requirements...

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108 N. Abandonment. ...

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112 **EI**. Financial Assurance. ...
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114 **PJ**. Annual Report. ...

SYNOPSIS: *Floor Amendment No. 2 revises Table 40.03.110 to require that Data Centers in the “I”, “HI” and “EX” zoning districts be subject to Limited review rather than Special Use review, and changes Data Centers in the “ON”, “OR”, “CR”, “BP” and “CN” zoning districts from a prohibited use to a use subject to Limited review as such districts permit Data Centers in the current UDC.*

The amendment also updates Section 40.03.343 to require that proposed Data Center developments or additions greater than two hundred thousand (200,000) square feet of gross floor area comply with Section 40.26.430 (Large Industrial Structures). Additionally, it eliminates various requirements that are already addressed elsewhere in the UDC or are more appropriately addressed by the Building Code.

The amendment also revises Table 40.03.210A by reducing the distance between residential uses and Data Center developments from 1,000 feet contained in the originally introduced ordinance to 500 feet, or, in the alternative, grants the Department the discretion to approve a setback less than 500 feet when it is satisfied current noise standards contained in Chapter 22 will be satisfied through other methods such as berthing.