

Prime Sponsor(s): Mr. Carter  
Co-sponsor(s): Mr. Caneco, Mr. Toole,  
Ms. Durham, Mr. Cartier  
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  
3

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  
7

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  
16

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  
20

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  
24

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  
28

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.  
32

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

39 **Sec. 40.03.110. – Use table.**

40

41 Table 40.03.110 lists the type of uses permitted in each district. Refer to Division  
42 40.33.200 for definitions of the various use categories and their components. Should a  
43 use not be identified in Table 40.03.110, an interpretation pursuant to Section 40.31.520  
44 can be requested. Table 40.03.522 lists the specific parking requirements for several  
45 general uses listed in Table 40.03.110. Limited and special use standards are contained  
46 in Table 40.03.210 and Division 40.03.300. See Article 4 for district, lot, bulk and other  
47 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 <sup>***</sup>	SE	NC <sup>**</sup>	HI	EX	SR	P	Parking	Limited & Special Use Standards
<b>Agricultural</b>									<b>Agricultural</b>							<b>Agricultural ...</b>		
<b>Industrial Uses</b>									<b>Industrial Uses</b>							<b>Industrial Uses</b>		
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>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
<b>Agricultural ...</b>						<b>Agricultural</b>						<b>Agricultural ...</b>
<b>Industrial Uses</b>						<b>Industrial Uses</b>						<b>Industrial Uses</b>
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 ...

64           **Section 3.** *New Castle County Code* Chapter 40 (“Unified Development Code”),  
65 Article 3 (“Use Regulations”), Division 40.03.300 (“Additional limited and special use  
66 standards”) is hereby amended by adding the material that is underscored and deleting  
67 the material that is stricken, as set forth below.  
68

69 **Sec. 40.03.333. - Light Industry uses in OR and CR zoning districts.**  
70

71 A. Light Industry uses as defined in Subsection 40.33.270.~~E~~ D are considered Limited  
72 Uses in the OR zoning district, except that the following uses require a special use  
73 permit:  
74

75 **Sec. 40.03.340. - Multifamily conversion.**  
76

77 Multifamily conversions are intended to facilitate and encourage the redevelopment  
78 of existing office and commercial sites and increase the diversity in housing opportunities  
79 in the county where supporting infrastructure exists. The following requirements apply to  
80 all multifamily conversions:  
81

82 A. A multifamily conversion is not permitted on a parcel that is within one thousand  
83 (1,000) feet of a heavy industry zoned parcel or a parcel with a heavy industry  
84 use as defined in Subsection 40.33.270.~~E~~ D.  
85

86 **Sec. 40.03.343. – Data centers.**  
87

88 In addition to the requirements of Section 40.31.430, the following requirements apply  
89 to any data center development and/or the cumulative expansions of existing data center  
90 in excess of 20,000 square feet:  
91

92 A. The site shall be designed to minimize noise impact on neighboring residential  
93 properties and shall not exceed 55 dB(A) at the sending property line. A noise  
94 study shall be submitted to evaluate this impact and to verify consistency with  
95 Chapter 22 of the *New Castle County Code* and the study shall include all  
96 generators and any other equipment that will be utilized on the site as part of the  
97 calculation.  
98

99 B. No portion of the proposed data center building or accessory uses shall be within  
100 1,000 ft. from any residential zoning district.  
101

102 C. Except for lot lines along an existing office or industrial park or adjacent to an  
103 existing industrial use, the bufferyards, street trees, berming and landscaping  
104 shall be upgraded, where appropriate to mask the development. The buildings  
105 shall meet the requirements for large industrial structures in Section 40.26.260.  
106

107 D. Lighting shall be designed so that there is zero (0) footcandles at the property  
108 line of the neighboring residential area.  
109

110 E. In addition to meeting all the requirements of Article 11, anticipated trip  
111 generation for a data center shall be based on the latest published ITE manual

112 calculations. Data Centers shall not be converted to any use that exceeds the  
113 approved Transportation Improvement Study (TIS) or equivalent study, for the  
114 site unless another TIS or equivalent study is completed and approved in  
115 accordance with all other provisions of the Chapter.  
116

117 F. Open-loop or once-through cooling is prohibited unless reclaimed water is used.  
118

119 G. All generators shall be Tier IV or utilize natural gas with Selective Catalytic  
120 Reduction (SCR) systems unless the applicant can demonstrate another  
121 technology that is more efficient with less impact on the environment.  
122

123 H. Any energy storage system utilized for this use shall be a Battery Energy Storage  
124 System (“BESS”) unless the applicant can demonstrate another technology that  
125 is more efficient with less impact on the environment and must employ fire-safe  
126 technologies as determined and approved by the State Fire Marshall’s Office.  
127

128 I. All new or expanded facilities shall submit documentation outlining the operation  
129 of the building as a LEED Gold or equivalent certification and providing the Total  
130 Usage Efficiency (“TUE”), the comprehensive metric for evaluating the overall  
131 energy efficiency of a system considering both the energy used by the IT  
132 equipment and the supporting infrastructure, with a minimum TUE of 1.15 should  
133 be provided unless operational issues are documented and accepted to vary this  
134 minimum.  
135

136 J. All data centers must be designed for future integration with onsite or communal  
137 microgrid components that include various energy generation sources, energy  
138 storage systems, a distribution network, a control system, and metering/billing  
139 systems.  
140

141 K. Applicants must submit a statement of coordination with the local electric utility  
142 and demonstrate the availability of sufficient grid capacity, or provide onsite  
143 generation that meets or exceeds projected load.  
144

145 L. Annual Report, Enforcement and Compliance. The operator of the data center  
146 shall supply an annual report, as found in Appendix 9, to the Department of Land  
147 Use indicating compliance with all applicable local, state and federal regulations.  
148 Land Use shall retain the right to request additional information and establish  
149 procedures for inspections, monitoring, and enforcement of compliance with this  
150 section. Non-compliant facilities will be subject to Division 40.31.900 and/or any  
151 other remedy available.  
152

153 **Section 4. New Castle County Code Chapter 40 (“Unified Development Code”),**  
154 **Article 33 (“Definitions”), Section 40.33.270 is hereby amended by adding the material**  
155 **that is underscored and deleting the material that is stricken, as set forth below.**  
156

157 **A. Compost operations (NAICS 325314). ...**

- 158 B. Data Center. A facility composed of networked computers, servers, storage systems,  
159 and telecommunications equipment used for data processing, storage, and  
160 distribution (NAICS 518210).
- 161 C B. Extraction. ...
- 162 D C. Heavy industry. ...
- 163
- 164 E D. Light industry. ...
- 165
- 166 F E. Recycling or . ...
- 167
- 168 G F. Solar energy system, large scale. ...
- 169
- 170 H G. Utility, major. ...
- 171
- 172 I H. Utility, minor. ...
- 173
- 174 J I. Utilities, maintenance facilities. ...

175 **Section 5. Consistent with Comprehensive Development Plan.** New Castle  
176 County Council finds that the provisions of this Ordinance are consistent with the spirit  
177 and intent of the New Castle County Comprehensive Development Plan.

178

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

184

185 **Section 7. Severability.** The provisions of this Ordinance shall be severable. If  
186 any provision of this Ordinance is found by any court of competent jurisdiction to be  
187 unconstitutional or void, the remaining provisions of this Ordinance shall remain valid,  
188 unless the court finds that that the valid provisions of this Ordinance are so essentially  
189 and inseparably connected with, and so dependent upon, the unconstitutional or void  
190 provision that it cannot be presumed that County Council would have enacted the  
191 remaining valid provisions, without the unconstitutional or void one, or unless the court  
192 finds that the remaining valid provisions, standing alone, are incomplete and incapable of  
193 being executed in accordance with the County Council's intent. If any provision of this  
194 Ordinance or any zoning map or portion thereof is found to be unconstitutional or void, all  
195 applicable former ordinances, resolutions, zoning maps or portions thereof shall become  
196 applicable and shall be considered as continuations thereof as not as new enactments  
197 regardless if severability is possible.

198

199 **Section 8. Effective Date.** This Ordinance shall become effective immediately  
200 upon its adoption by County Council and approval by the County Executive, or as  
201 otherwise provided in 9 *Del. C.* § 1156 and shall only apply to Land Use applications  
202 submitted after such date(s) unless the applicant, by written request, agrees to submit to  
203 the provisions of this Ordinance.

Adopted by County Council of  
New Castle County on:

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

Approved on:

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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.