

**Preliminary Land Use Service (PLUS)
Comprehensive Plan Amendments and Municipal Ordinances**

Delaware State Planning Coordination
122 William Penn Street • Dover, DE 19901 • Phone: 302-739-3090 • Fax: 302-739-6958

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Date of Most Recently Certified Comprehensive Plan: July 31, 2007

Application Type:

Comprehensive Plan Amendment: Not applicable

Ordinance: Ord. 10-059, Text Amendment Chapter 40 UDC

Other: _____

| | |
|---|------------------------|
| Comprehensive Plan Amendment or Municipal Ordinance prepared by: | |
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Please describe the submission:

This amendment will eliminate workforce housing regulations in the UDC.

See attached Ordinance 10-059.

ORDINANCE NO. 10-059

TO REVISE CHAPTER 40 OF THE *NEW CASTLE COUNTY CODE* (ALSO KNOWN AS THE UNIFIED DEVELOPMENT CODE – UDC) REGARDING ARTICLE 7 (TRANSFER OF DEVELOPMENT RIGHTS AND OTHER INCENTIVES AND BONUSES) AND ARTICLE 33 (DEFINITIONS) TO ELIMINATE WORKFORCE HOUSING REGULATIONS

WHEREAS, in February of 2008, New Castle County Council adopted Substitute No. 1 to Ordinance No. 07-150 as Amended by Floor Amendment No. 1 (“the Ordinance”) revising Chapter 40 (“UDC”) of the *New Castle County Code* to facilitate the creation of workforce housing; and

WHEREAS, after County Council initiated a stay of workforce housing plan submissions in December 2008 by Ord. 08-113; and

WHEREAS, a subsequent amendment designed to clarify and improve the workforce legislation was adopted in February 2009 by Ord. 08-121; and

WHEREAS, there continues to be concerns by civic groups on the affect of the legislation on surrounding communities; and

WHEREAS, New Castle County Council finds that the workforce housing provisions should be repealed in response to these concerns.

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

Section 1. *New Castle County Code* Chapter 40, Article 7 (Transfer of Development Rights and Bonuses), Division 40.07.000 (Purpose) is hereby amended with material that is underlined to be added and material to be deleted in brackets and with strikethroughs as follows:

Division 40.07.000. Purpose.

- A. To meet certain land use objectives, positive incentives are needed to encourage developers to assist in broadening the selection of alternative [~~workforce~~] housing types. Two (2) types of incentives are contained in this Article: the allocation of development rights that can be transferred, and bonuses for certain types of development.
- B. The use of transferrable development rights....

Section 2. *New Castle County Code* Chapter 40, Article 7 (Transfer of Development Rights and Other Incentives and Bonuses), Division 40.07.300 (Workforce housing incentives) and including all Division 40.07.300 Sections 40.07.301 through Section 40.07.353 is hereby amended with material that is underlined to be added and material to be deleted in brackets and with strikethroughs as follows:

Division 40.07.300. Workforce housing [~~incentives*~~] existing plans.

~~[* Pursuant to Ordinance No. 08-113, effective December 10, 2008, a stay was placed upon all of the Sections in Division 40.07.300 (Workforce housing incentives) in order for the New Castle County Council to review and possibly revisit the workforce housing incentives. The stay is effective until Ordinance No. 08-121 is approved by Council and signed into law, or January 31, 2009, whichever occurs first.]~~

All workforce housing land development plans submitted prior to the adoption of this ordinance shall be considered vested and shall be reviewed and processed under the workforce housing regulations and definitions that were in effect prior to the adoption of this ordinance.

Section 3. *New Castle County Code* Chapter 40, Article 7 (Transfer of Development Rights and Other incentives and Bonuses), Division 40.07.300 (Workforce housing incentives), Sections 40.07.301 through Section 40.07.353 is hereby amended to be deleted as shown in brackets with strikethroughs as follows:

~~[Sec. 40.07.301. Purpose and intent]~~

~~[The intent of this Division is to promote workforce housing throughout the county, by offering incentives to workforce development project developers who designate a portion of their projects as workforce, and who make a designated contribution to the Housing Trust Fund to assist with the provision of affordable housing.]~~

~~[The primary purposes of this Division include:]~~

~~[A. Implementing the housing strategies outlined in the 2007 New Castle County Comprehensive Development Plan Update and the 5 year consolidated housing plan for New Castle County;]~~

~~[B. Ensuring that diverse housing options exist throughout the county to accommodate a wide range of incomes, those with special needs and a significant proportion of those who wish to work and/or live in the county; and]~~

~~[C. Allowing working families to live in communities with better access to employment and educational opportunities and a range of housing types.]~~

~~[Sec. 40.07.310. Eligibility requirements:]~~

~~[Sec. 40.07.311. Voluntary applicability.]~~

~~[A. To secure a residential density bonus and other incentives outlined in Sections 40.07.320 through 40.07.326, a proposed workforce development project must comply with all of the provisions of this Division.]~~

~~[B. Any plan submitted pursuant to this Division shall be considered vested at the time of application.]~~

~~[C. Existing record plans may be resubmitted to the Department as revised minor land development plans for consideration under this Division, provided any increases are based only on the number of recorded lots. If the new plan proposes an increase of more~~

~~than fifty (50) percent of the existing recorded units or more than one hundred (100) new units (whichever is less), then the plan will be classified as a major land development plan. Any recorded plan that was the subject of a rezoning or any modification or change to the recorded street right of way will disqualify the new plan as a minor land development plan. Regardless, if the former preliminary plan was approved pursuant to previous Code Section 40.03.319, no additional preliminary plan approval by County Council is required. The Department will work with the applicant in an effort to achieve plan approval for minor plans within twelve (12) months of application. All existing record plans revised pursuant to this section will require an exploratory plan hearing, certification from the Department of Education for the proposed additional units that there is capacity or that a voluntary assessment is agreed to, and County Council consent prior to recordation pursuant to Section 40.31.114 (C) of this Chapter.]~~

~~[D. Applications must be served by New Castle County public sewer, consistent with the 2007 New Castle County Comprehensive Development Plan.]~~

~~[Sec. 40.07.312. Workforce dwelling unit set-aside requirement.]~~

~~[At least twenty (20) percent of the new dwelling units, or, in the event of further subdivision of an existing record plan, twenty (20) percent of the additional units created, in a workforce development project shall be set aside and priced for low income and/or moderate income households.]~~

~~[A workforce development project may have one hundred (100) percent of the dwelling units priced for low income and/or moderate income households with only twenty (20) percent of the units required to meet the controls under Sections 40.07.340 through 40.07.345. All units priced for low income or moderate income households shall be owner occupied from the point of first sale, pursuant to the required deed restrictions.]~~

~~[Sec. 40.07.313. Contribution to the housing trust fund.]~~

~~[Notwithstanding the requirement to construct on-site workforce dwelling units for low income and/or moderate income households, the workforce development project developer shall also make a financial contribution to the Housing Trust Fund to support the development and/or rehabilitation of housing that is affordable for low income and very low income households. The contribution, which is applicable to market rate dwelling units only, shall be twelve (\$12.00) dollars per one thousand (\$1,000) dollars of permit construction valuation of the dwelling and is payable at the time of issuance of a Certificate of Occupancy for each dwelling unit.]~~

~~[Sec. 40.07.314. Off-site workforce dwelling unit construction.]~~

~~[The workforce set-aside requirements of this Division may be met through off-site unit production or through the conversion and rehabilitation to current County Code requirements of existing market rate dwelling units to workforce dwelling units, that meet the standards of this Division. The off-site construction shall be noted on the record plan with the market rate dwelling units. The number of workforce dwelling units permitted to occur off-site is limited to no more than fifty (50) percent of the total required workforce dwelling units. If the off-site parcel is zoned S, it may obtain the density and development incentives as provided in Sections 40.07.321 and 322.]~~

~~[Sec. 40.07.320. Cost offsets.]~~

[Sec. 40.07.321. Residential density bonuses.]

~~[A. Workforce development projects are entitled to a residential density incentive as follows:]~~

~~[1. One hundred (100) percent bonus. Twenty (20) percent set aside, with at least half of those units priced affordable to low-income households.]~~

~~[2. Fifty (50) percent bonus. Twenty (20) percent set aside, where less than half of the units are priced affordable to low-income households.]~~

~~[B. The density bonuses in subsection A above are added to the yield produced by the site capacity calculations set forth in Article 5.]~~

~~[C. Additional density bonuses are achievable through the use of transfer of development rights as provided for in Chapter 40, Article 7, Division 40.07.200 of the *New Castle County Code*. The density and incentives of Division 40.07.300 will be adjusted when a transfer of development rights ordinance is enacted by County Council.]~~

[Sec. 40.07.322. Site development incentives.]

~~[Proposed workforce development projects are entitled to the following by-right development incentives to accommodate the additional units resulting from the residential density bonus:]~~

~~[A. Within Table 40.04.110 A, a thirty (30) percent reduction in the required open space; a thirty (30) percent increase in floor area ratio (FAR); and an elimination of the minimum site area;]~~

~~[B. A credit of acreage on a one to one basis for open space if acreage is dedicated to a community facility such as a school, library, park, public safety, public healthcare, or other community facilities, exclusive of sanitary sewer. However, in no case shall the open space be below twenty (20) percent.]~~

~~[C. Within Table 40.04.110 B, a twenty five (25) percent reduction in lot and building standards and a twenty five (25) percent increase to height limits;]~~

~~[D. Within Table 40.04.111, a twenty (20) percent reduction in landscaping, on lot plant units, street trees, and bufferyard opacity;]~~

~~[E. The transfer of protection for water resource protection areas is permitted in accordance with Section 40.10.380 C;]~~

~~[F. The use of semi-detached, attached residential dwelling units and/or multi-family dwelling units are not permitted except as part of an open space planned development option;]~~

~~[G. The site development incentives in this section are not to be applied to any off site workforce dwelling units unless the off-site parcel is zoned S. Off site workforce dwelling units shall comply with all of the use and dimensional building standards for the zoning district in which they are located unless the off-site parcel is zoned S.]~~

~~[Sec. 40.07.323. Reserved.]~~

~~[Sec. 40.07.324. Reserved.]~~

~~[Sec. 40.07.325. Application fee waivers.]~~

~~[A. All land development fees as listed in Appendix 2 of Chapter 40 of the *New Castle County Code* are waived if the project is a one hundred (100) percent workforce development project.]~~

~~[B. County building permit fees will be waived to the extent provided in Chapter 6 of the *New Castle County Code*.]~~

~~[Sec. 40.07.326. Traffic analysis.]~~

~~[Proposed development is subject to DelDOT transportation impact standards, and the County may limit or restrict development to less GFA or number of dwelling units if that is recommended by DelDOT. DelDOT may also require transportation improvements as a condition of its letter of no objection.]~~

~~[Sec. 40.07.330. Integration and appearance of workforce dwelling units.]~~

~~[Sec. 40.07.331. Staging plan and timing of workforce dwelling unit construction.]~~

~~[Prior to record plan approval, the workforce development project developer shall submit a staging plan to the county that identifies the general number, type, location and plan for construction of all dwelling units in the subdivision and other locations accommodating off-site workforce dwelling unit requirements. Required workforce dwelling units shall be made available for sale concurrently with the market rate dwelling units for the project. Within each workforce development project, the issuance of building permits for market rate dwelling units shall be stopped at the levels indicated below:]~~

~~[A. Twenty five (25) percent pending the issuance of an equal percentage of building permits for workforce dwelling units;]~~

~~[B. Fifty (50) percent pending the issuance of an equal percentage of building permits for workforce dwelling units and where certificates of occupancy have been issued for twenty five (25) percent of the workforce dwelling units:]~~

~~[C. Seventy five (75) percent pending the issuance of an equal percentage of building permits for workforce dwelling units and where certificates of occupancy have been issued for fifty (50) percent of the workforce dwelling units; and]~~

~~[D. Ninety (90) percent pending the issuance of one hundred (100) percent of building permits for workforce dwelling units and where certificates of occupancy have been issued for seventy five (75) percent of the workforce dwelling units:]~~

~~[The Department may allow a variation to the stop levels listed above at the request of the applicant and based upon unforeseen circumstances.]~~

~~[Sec. 40.07.332. Location of workforce dwelling units.]~~

~~[Workforce dwelling units should be dispersed and located throughout the development according to type and should not appear as noticeably segregated from the market rate dwelling units.]~~

~~[Sec. 40.07.333. Exterior appearance of workforce dwelling units.]~~

~~[The exterior appearance of the workforce dwelling units should be similar to market rate dwelling units of the same unit type, by providing similar architectural style and similar exterior building materials, finishes, and quality of construction. At preliminary plan submission for a major or record plan submission for a minor the applicant shall submit architectural renderings or design guidelines for the project that are in compliance with the standards of Article 25.]~~

~~[Sec. 40.07.340. Affordability controls.]~~

~~[All workforce development projects shall comply with the following provisions to ensure continued affordability of the workforce dwelling units required under this Division.]~~

~~[Sec. 40.07.341. Development agreement and other documents.]~~

~~[Prior to record plan approval, workforce development project developer shall execute a master workforce housing agreement with the County, which shall be recorded, along with restrictive covenants or other appropriate documents approved by the County Law Department in favor of New Castle County. The restrictive covenants shall only be written to apply to the workforce dwelling units.]~~

~~[Sec. 40.07.342. Deed restrictions.]~~

~~[A private, public, for-profit, or non-profit organization that has been building, rehabilitating and providing affordable housing units within New Castle County or some other similar jurisdiction for at least five (5) years shall be exempted from the following controls if they have their own affordability controls and obtain the approval of the Department of Community Services. Further restrictions to ensure continued affordability of workforce dwelling units during the affordability term shall be embodied in legally binding agreements and/or deed restrictions approved by the County Law Department.]~~

~~[Sec. 40.07.343. Affordability period.]~~

~~[A. A private, public, for-profit, or non-profit organization that has been building, rehabilitating and providing affordable housing units within New Castle County or some other similar jurisdiction for at least five (5) years shall be exempted from the following controls if they have their own affordability controls and obtain the approval of the Department of Community Services.]~~

~~[B. If a workforce dwelling unit sold originally to a qualified homebuyer is sold during the fifteen (15) year affordability period, it must be resold to an eligible qualified homebuyer at an affordable price to the new homebuyer. In the event that title to a workforce dwelling unit is transferred by the initial purchaser or a subsequent purchaser to any person, in an arms length transaction, prior to the fifteenth (15th) anniversary of the date of acquisition of the workforce dwelling unit by the initial purchaser, and if the seller~~

~~receives consideration for such transfer in excess of the purchase price paid for the workforce dwelling unit, plus usual and customary closing costs, plus properly documented capital improvements to the workforce dwelling unit made by or on behalf of the purchaser ("Resale Profit"); the seller and purchaser are jointly and severally liable for and agree to pay the Resale Profit, multiplied by one (1) minus a fraction, the numerator of which is the number of complete calendar months since the date that the initial purchaser purchased the workforce dwelling unit, and the denominator of which is one hundred eighty (180) to New Castle County ("NCC's Resale Profit"). In the event that the seller or purchaser fail to pay the NCC Resale Profit to New Castle County on the date of transfer of title to the workforce dwelling unit, New Castle County shall have a lien against the workforce dwelling unit for NCC's Resale Profit, plus interest thereon at the rate of ten (10) percent per annum. Any and all Resale Profit paid to New Castle County shall be deposited into the New Castle County Housing Trust Fund. In the event that a seller or purchaser defaults on any term of the deed restrictions, New Castle County may pursue default remedies in accordance with the terms of the deed restrictions.]~~

~~[Sec. 40.07.344. Household eligibility.]~~

~~[Eligibility for purchase of workforce dwelling units shall be based on household size and income. To determine whether a household is eligible to purchase a workforce dwelling unit, the household must complete a lender certification process or a developer process that has been approved by the Department of Community Services. At the time of purchase, the household must submit an owner-occupancy declaration to the Department of Community Services, declaring that it is income eligible and the unit is its only residence. The Department of Community Services will issue a "Certificate of Qualification" to qualified households.]~~

~~[Sec. 40.07.345. Maintenance corporation fees.]~~

~~[Non-uniform maintenance corporation fees may be assessed when factors including, but not limited to, impervious cover and community amenities are clearly differentiated within a community.]~~

~~[Sec. 40.07.350. Enforcement and compliance.]~~

~~[Sec. 40.07.351. Enforcement.]~~

~~[In addition to the county's remedies outlined in Article 31 and elsewhere in this Article, the county may also take legal action to void property transfers for workforce dwelling units not sold to income eligible households during the designated affordability period.]~~

~~[Sec. 40.07.352. Compliance.]~~

~~[No person shall sell a workforce dwelling unit created pursuant to this Article except to income eligible households and in compliance with the provisions of this Article.]~~

[Sec. 40.07.353. Annual reporting.]

~~[The Department shall provide County Council with an annual report on the use and effectiveness of this program which shall be discussed at a Council Committee Meeting open to the public. The first report shall be due twelve (12) months following the effective date of adoption of this Ordinance. The annual report will also recommend amendments to this Division and Chapter 40 of the *New Castle County Code* based upon a performance standard of twenty (20) percent of new housing units being produced as workforce. The report should include details about how well the ordinance is providing diverse housing options, how well the workforce dwelling units are being distributed throughout the County, and what factors are contributing to the success or failure of the ordinance. The recommendation report may include suggestions such as increasing the incentives, decreasing the incentives, reducing additional restrictions or imposing additional requirements. Subsequent reports shall be provided to Council every year thereafter.]~~

[Division 40.07.400. Historic preservation bonus.]

[Sec. 40.07.410. Eligibility.]

~~[Properties with historic resources shall be eligible for bonuses to ensure the preservation of the historic resources.]~~

~~[A. If the preservation of the required open space around class B or C historic properties (Section 40.15.111) makes it impossible to plan the permitted number of lots, then the development is eligible for reduced lot sizes pursuant to Section 40.07.420, or transferable development rights.]~~

~~[B. Where a historic review conducted pursuant to Section 40.31.280 determines that the resource will be difficult to maintain or preserve, the Historic Review Board may recommend to the Department of Land Use that increased density to the development or transfer development rights be permitted. The developer will need to provide reports concerning the state of the resource, compiled by a structural engineer, and cost estimates for maintenance or renovation.]~~

~~[C. In the Historic Overlay District, the Historic Review Board shall make its recommendations. In all other cases the Department shall consult with the Historic Review Board.]~~

[Sec. 40.07.420. Open space developments.]

~~[The purpose for requiring open space surrounding type B and C historic districts (Figure 40.15.111) is to ensure preservation of the historic setting within the open space required for the open space subdivision or open space planned development. A radius is used to determine the area to be protected and can be modified by subsection A below. Because there is a minimum lot size for open space subdivision developments, it may in some cases prove impossible to develop the permitted number of lots (Section 40.05.421) due to the increased amount of open space required. If that occurs, the Department is authorized to make corrections using subsections B, C, or D below. In planned developments, the developer has flexibility in selecting housing types, so adjustments will be unusual, however, should adjustments be needed, the Department is authorized to use the provisions of subsection C and D below to achieve the permitted density.]~~

- [A. ~~The Department may adjust the boundaries of the open space, provided the total size of the open space is not reduced in the type B districts. At the discretion of the Department, a different size buffer may be considered for type C districts (See Section 40.15.111 C). The Department, upon recommendation from the Historic Review Board, shall consider traditional lotting patterns, land cover and vegetation, topography, views and view sheds, and pedestrian access in determining the shape of the protection area.~~]
- [B. ~~The lot size and frontage for all or some of the lots may be reduced so that the developer may develop the permitted number of units.~~]
- [C. ~~Depending on the historic character of the site, the open space may be used for detention or recreation, thus lowering the amount of open space required by Section 40.05.421.~~]
- [D. ~~The site area requirement for planned developments shall be lowered so that a site which would not otherwise be eligible as a planned development may become eligible by using the planned option at the permitted open space subdivision density and without the increased open space.~~]

[Sec. 40.07.430. ~~Historic resources.~~]

[~~Historic resources that are preserved and restored for use shall not be counted as part of the maximum permitted development if the site is large enough to permit subdivision or increased development.~~]

- [A. ~~*Detached single family use.* The residence shall not be counted as one of the permitted residential lots as determined by Article 5, but shall be a bonus unit if it is preserved and restored.~~]
- [B. ~~*Large single family.* Where the historic resource was a single family house, but is deemed too large to be effectively maintained as a single family unit, the Department may permit it to be converted to either a duplex or two (2) flat type unit. In this case, neither unit shall be counted as one (1) of the permitted dwelling units as determined by Article 5.~~]
- [C. ~~*Multi family.* The residential units shall not be counted towards the permitted units as determined by Article 5, but shall be a bonus for preservation and renovation.~~]
- [D. ~~*Nonresidential.* The floor area of the historic resource may not be counted towards the permitted units as determined by Article 5, but shall be a bonus for preservation and renovation. The Department, after recommendation from the Historic Review Board, shall award the increase if:~~]
- [1. ~~It does not exceed by more than ten (10) percent the Article 5 limit. If necessary, greater height may be permitted on other resources to enable the developer to achieve the floor area.~~]
 - [2. ~~The proposed development on the site is designed and landscaped for maximum compatibility with the historic resource.~~]

~~[E. — *Open space.* The preservation and renovation of a historic resource that also requires the preservation of open space around the historic resource shall be implemented by the following:]~~

~~[1. — The entire open space may be sold to the user of the building as a building or residential lot. The lot shall be subject to a conservation easement. Stipulations in the easement that prevent any resource or development on the property which would detract from the historic setting shall be approved by the Department.]~~

~~[2. — The open space may be split into a lot and common open space to be maintained by the maintenance organization. The lot and open space shall be subject to a conservation easement. Stipulations in the easement that prevent any resource or development on the property which would detract from the historic setting shall be approved by the Department.]~~

~~[Sec. 40.07.440. — **Renovation incentive.**]~~

~~[A historic resource may require significant expensive renovations and costly maintenance that could be deemed fiscally impossible. The Department, upon a recommendation from the Historic Review Board, shall review and consider a bonus for the renovation and long term maintenance of such historic resources.]~~

~~[A. — The Department shall review the pro forma indicating the cost of renovation versus the expected value of the renovated property on the market.]~~

~~[B. — A bonus of dwelling units in an open space planned development, additional floor area for nonresidential properties, or transferable development rights may be offered to provide the incentives needed to renovate and preserve the historic resource.]~~

Section 4. *New Castle County Code* Chapter 40, Article 33 (Definitions), Division 40.33.300 General definitions) is hereby amended with material that is underlined to be added and material to be deleted in brackets and with strikethroughs as follows:

This Division contains the definition of words used in this Code.

Abandonment. That the use....

~~[*Affordability period.* This is a fifteen (15) year period during which the affordability restrictions for for sale workforce dwelling units provided by this article shall apply. The control period for each workforce dwelling unit begins at the time of settlement.]~~

....

~~[*Area median income ("AMI").* The annual median family income for New Castle County, as established in the annual schedule published by the Secretary of the U.S. Department of Housing and Urban Development, and adjusted for household size.]~~

....

~~[*Certificate of qualification.* A certificate issued by the Department of Community Services attesting to a qualified household's eligibility to purchase a workforce dwelling unit.]~~

....

~~[*Density bonus.* A percentage increase in dwelling units that may be constructed by a workforce development project developer in addition to the yield prescribed by the Article 5 site capacity calculations for the property.]~~

....

~~[*Eligible household* is as defined by the provisions of Section 40.07.344.]~~

....

~~[*Low income household.* A household earning fifty (50) percent or more, but not more than eighty (80) percent of the New Castle County area median income, as published and annually updated by the United States Department of Housing and Urban Development.]~~

....

~~[*Market rate dwelling units.* All dwelling units within a workforce dwelling project that are not workforce dwelling units as defined herein.]~~

....

~~[*Master workforce housing agreement.* An agreement between a workforce development project developer and New Castle County that lists the developer's workforce housing obligations for a workforce development project, and is subsequently recorded against all properties that comprise the project as a whole.]~~

....

~~[*Qualified household.* An eligible household that has received a certificate of qualification from the New Castle County Department of Community Services.]~~

....

~~[*Residential development.* New residential construction or new mixed use construction with a residential component.]~~

....

~~[*Set aside.* The percentage of units within a proposed workforce development project that a workforce development project developer is required to price as affordable to low income and/or moderate income households.]~~

....

~~[*Substantial rehabilitation.* The reconstruction, enlargement, installation, repair, alteration, improvement or renovation of a building, structure, or portion thereof.]~~

....

~~[*Very low income household.* A household whose annual income does not exceed fifty (50) percent of the New Castle County area median income, as published and annually updated by the United States Department of Housing and Urban Development.]~~

....

~~[*Workforce developer.* Any person, firm, corporation, partnership, limited liability company, association, joint venture, or any entity or combination of entities that develops dwelling units, including any agency, authority, political subdivision of the State of Delaware, public housing development agency or nonprofit housing corporation, land trust or similar entity designated by the Department of Community Services.]~~

~~[*Workforce development project.* A residential or mixed-use project that creates new workforce dwelling units pursuant to Article 7.]~~

~~[*Workforce dwelling unit.* A residential unit within a workforce development project.]~~

~~[*Workforce housing.* Decent, safe, and sanitary housing that is affordable to eligible households at a cost of no more than thirty (30) percent of gross household income of households at or below one hundred and twenty (120) percent of the median income for New Castle County as reported by the U.S. Department of Housing and Urban Development.]~~

~~[*Workforce unit.* Any unit of housing which is set aside and priced for low income and/or moderate income households.]~~

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 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 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 and not as new enactments regardless if severability is possible.

Section 8. This Ordinance shall become effective upon passage by New Castle County Council and signature of the County Executive, or as otherwise provided in 9 *Del. C.* § 1156, but shall not apply to existing land development plans currently in the review process.

Approved on:

Adopted by County Council of
New Castle County on:

County Executive

President of County Council
New Castle County

SYNOPSIS: This Ordinance will eliminate the ability to process new workforce housing plans. It will, however, continue to permit the processing of existing workforce housing plans using the former workforce housing rules, regulations and processes.

FISCAL IMPACT: No discernable fiscal impact.