COUNTY COUNCIL RULES

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RULE NO. 1 IN GENERAL.

1.1. **Application**. Council Rules shall apply in all regular, committee, special and emergency meetings unless a 'Motion to Suspend the Rules' is approved by a majority of Council (seven (7) out of thirteen (13)) (second, yes-no required).

1.2. **Amendment**. Council Rules shall be amended by resolution. However, to provide ample notice to Council members, the public and for legal review, proposed and passed amendments shall be submitted in writing to the Clerk and Deputy Clerk of Council seven (7) days before the meeting or as otherwise provided by the Freedom of Information Act (FOIA). The Clerk and/or Deputy Clerk shall distribute the proposed and passed amendments to Council and Legal Counsel as soon as they are available. Nothing in this rule preempts the State FOIA requirement to post the agenda at the time of the meeting or, if not available at the time of the meeting, at least six hours in advance of the meeting, with the reasons for delay in posting set forth on the agenda (29 *Del. C.* Section 10004(e)(1)-(5)). While FOIA recognizes that the agenda is subject to change, including additional items arising at the time of the meeting, New Castle County Council also

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recognizes the Delaware Attorney General Opinions that preclude a good faith claim that an item arose at the time of the meeting if known in advance of the meeting. Opinions 97-IB20 (October 20, 1997); 99-IB11 (June 25, 1999), 00-IBO7 (April 28, 2000); 01-IB13 (August 9, 2001); et al. Council also recognizes the Delaware Attorney General's opinions requiring some specificity in the agenda item descriptions.

1.3. **Maintenance.** Council Rules shall be maintained electronically and in hard copy by the Clerk of Council with any revision date on the bottom of each page[1].

1.4. **Council President, President Pro Tempore.** Where the Council President is required to act pursuant to these rules, in cases of conflict or absence as determined by the Clerk of the Council, the President Pro Tempore shall act. The President Pro Tempore shall be elected by Council for a term consistent with each two (2) year Council election cycle[2].

1.5. **Robert's Rules.** Robert's Rules of Order govern Council if a procedural issue is not specifically addressed by Council Rules.

1.6. **New Castle County Council Employee Handbook**. All Council employees shall be subject to the personnel policies and procedures contained in the New Castle County Council Employee Handbook which shall be provided to each employee at the time of hire.

RULE NO. 2 ORDINANCES AND RESOLUTIONS (COLLECTIVELY "LEGISLATION").

2.1. **In General.**

2.1.1. Legislation shall address one subject matter unless relating to the budget, the appropriation of funds, or text amendments[3].

2.1.2. Ordinances contain legislation having the force of law including, but not limited to, text amendments, re-zonings, amendments to the operating, grants, or capital

[1] 9 *Del. C.* § 1150(b); *NCC Code* § 2.02.101
[2] 9 *Del. C.* § 1145(b)
[3] 9 *Del. C.* § 1152(a)

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budgets, and amendments levying street light taxes upon a community. Because ordinances once adopted will have force of law[4], published legal notice of the title of ordinances that will be placed before Council for consideration, including ordinances to be lifted from the table, shall appear prior to the Council Meeting at which time all interested parties shall be afforded notice and opportunity to be heard[5]. **Appendix 1** (sample ordinance).

2.1.3. Resolutions contain legislation that expresses intent, but do not have the force of law including, but not limited to, congratulatory, condolences, land use plans deemed in compliance with the *New Castle County Code*, refund of taxes and sewer charges, and the authorization of contracts. **Appendix 2** (sample resolution).

2.2. **Content of Legislation.**

2.2.1. Title. The title shall clearly express the matter addressed, to include for land use-related legislation the subdivision or project title and the parcel number. A subtitle shall also include the name and number of any companion legislation, which shall be listed on the agenda. The sponsor shall initial the legislation, and any substitutes, indicating approval of content and format. The sponsor may act through his or her legislative aide only to place an item on the agenda with the Clerk of Council and may initial for the Council member/sponsor at his or her direction.

2.2.2. Whereas clauses. The whereas clauses shall state authority, intention, purpose, and a finding that "Council has determined that the provisions of this ordinance substantially advance, and are reasonably and rationally related to, legitimate government interests (i.e., promoting the health, safety, morals, convenience, order, prosperity and/or welfare of the present and future inhabitants of this State)".

2.2.3. Enacting clause. The enacting clause in ordinances shall be "The County of New Castle hereby ordains.[6]" The enacting clause in resolutions shall be "Now, therefore, be it resolved".

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[4] 9 *Del. C.* § 1151
[5] 9 *Del. C.* § 1152(b)
[6] 9 *Del. C.* § 1152(a)

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2.2.4. Body. Each separate code section changed shall have a separate section number stating that "the material to be added is underscored and the material to be deleted stricken, as set forth below"[7]. Paragraphs not subject to amendment shall be included if relevant or to provide context to paragraphs being amended or added.

2.2.5. Effective date. An effective date shall be included on every piece of legislation. The effective date for UDC text amendments shall exempt land development plans currently in the process[8].

2.2.6. Synopsis. The synopsis shall summarize the matter addressed and include the title and number of any companion legislation. After legislation is introduced, the synopsis shall reflect revisions made by substitutes or amendments.

2.2.7. Fiscal Note[9]. A fiscal note shall be included on every piece of legislation. The fiscal note for the Annual Budget Ordinance shall be submitted at next regular meeting following introduction, but no later than May 1st.[10]

2.3. **Legislation review and submittal deadlines.** These deadlines are established in order to limit newspaper advertising to twice monthly (i.e. the second and fourth Saturday of every month). This Rule does not preclude an applicant from paying for advertising costs if he or she desires the ordinance to be heard at an earlier meeting, so long as all other legal notification requirements are met. If the County is closed on the day upon which the deadline falls, the deadline shall be at the same time the next consecutive business day (if no consecutive business day, special instructions will be provided by the Clerk of Council).

2.3.1 New legislation involving a UDC text amendment that was not prepared by the Administration, shall be submitted to the Department of Land Use by the sponsor, or his or her Legislative Aide, four (4) weeks prior to the Council

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[7] 9 *Del. C.* § 1152(a)

[8] 9 *Del. C.* § 2659(c) (Any application for a development permit filed or submitted prior to adoption or amendment under this subchapter of a comprehensive plan or element thereof shall be processed under the comprehensive plan, ordinances, standards and procedures existing at the time of such application.).

[9] *NCC Code* § 14.01.007 (no corresponding state provision)

[10] *Id.*

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meeting during which it will be introduced, to permit the Department to conduct its fourteen (14) working day comment period [11].

2.3.2. New legislation shall be submitted by the sponsor, or his or her Legislative Aide, to the Department of Finance for a fiscal note, to the County Executive's Office and to the Department of Law, two (2) weeks prior to the Council meeting during which it will be introduced. The Department of Law shall identify and discuss any legal concerns with Counsel to Council and the sponsor prior to introduction.

2.3.2. New legislation being introduced shall be submitted to the Clerk of Council electronically and in hard copy on or before ten o'clock (10:00) a.m. eight (8) days before the Council meeting during which it will be introduced (e.g. the Monday preceding the week prior to the Council meeting).

2.3.3. The sponsor of previously introduced ordinances to be lifted from the table, shall notify the Clerk of Council in writing on or before ten o'clock (10:00) a.m. thirteen (13) days before the regularly scheduled the Council meeting during which it will undergo consideration (e.g. the Wednesday two weeks prior to the Council meeting).

2.3.3.1. Exception: Certain land use legislation requires a fourteen (14) day advance notice resulting in it having to be noticed approximately one month before consideration by Council. Because such legislation is sent directly to the Clerk of the Council after the Board makes its recommendation, the Clerk will be responsible for notice of the same. If legislation is received by any employee after the Board makes its recommendation, such legislation shall immediately be brought to the Clerk's attention.

2.3.4. Substitutes being introduced shall be submitted to the Clerk of Council electronically and in hard copy on or before ten o'clock (10:00) a.m. the Thursday prior to the Council meeting during which they will be introduced or considered.

[11] *NCC* § 40.31.120

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2.3.5. Sample notification and publication calendar

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2 10:00 Notice to Clerk of new legislation to be introduced at 1st monthly mtg	3	4	5 10:00 Notice of any substitutes to legislation at 1st monthly mtg	6	7
8	9 New legislation to be introduced at 2nd monthly mtg to be submitted for administration, law review, and fiscal note	10 **7:00 1st monthly Council mtg**	11 10:00 Notice to Clerk of previously introduced legislation to be considered at 2nd monthly mtg	12	13	14 Publication of ordinances introduced this week and ordinances to undergo consideration at 2nd monthly mtg
15	16 10:00 Notice to Clerk of new legislation to be introduced at 2nd monthly mtg	17	18	19 10:00 Notice of any substitutes to legislation at 2nd monthly mtg	20	21
22	23 New legislation to be introduced at 1st monthly mtg to be submitted for administration law review, and fiscal note	24 **7:00 2nd monthly Council mtg**	25 10:00 Notice to Clerk of previously introduced legislation to be considered at 2nd monthly mtg	26	27	28 Publication of ordinances introduced this week and ordinances to undergo consideration at 2nd monthly mtg

2.4. **Changes to legislation**

2.4.1 *Substitutes.* A substitute ordinance may be introduced by the sponsor of the original ordinance. If a substitute ordinance contains other than grammatical, typographical, or formatting corrections or changes, the substitute must be provided to the Clerk of Council electronically and in hard copy by 10:00 a.m. the Thursday before the Council meeting at which the substitute will be introduced or acted upon. The substitute shall render null and void prior

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versions of the ordinance. The title of a substitute ordinance must be identical to the title of the ordinance for which it is a substitute and may not add matter not embraced in the title. The sponsor shall briefly summarize the changes in the substitute prior to vote.

2.4.2. *Floor Amendments*. Floor amendments (second and yay/nay or roll call vote required) to amend existing legislation may be sponsored/moved by any Council member at any time before final action is taken on legislation. The moving Council member shall briefly summarize the floor amendment prior to vote. **Appendix 4** (sample floor amendment).

2.4.2.1. Each proposed floor amendment shall be considered and voted upon before the vote on the underlying ordinance. If the floor amendment is adopted, the sponsor of the original legislation shall either move to have the legislation as amended read by title only with amendment 1, 2 and/or 3, etc. and placed before Council for consideration (second and yay/nay or roll call vote required), or withdraw the original legislation.

2.4.2.2. Substitutes or floor amendments that add a matter of substance that is not embraced in the title[12] shall be reintroduced.

2.4.2.3. Floor amendments (if known) shall be submitted to the Clerk of Council electronically and in hard copy on or before four o'clock (4:00) p.m. on the day the ordinance is being considered by Council. The Clerk shall distribute the amendment to Council members, Counsel, the Policy Director and the Auditor as soon as possible. The date on the amendment is the date the amendment is intended to be offered for consideration, not the date of introduction of the original ordinance. Floor amendments that arise after such time shall be incorporated into the passed legislation and provided to the Clerk the day following the Council meeting.

2.4.2.4. If adopted, the heading shall be "Ordinance No. ___as amended by Floor Amendment(s) No. ___".

[12] 9 *Del. C.* § 1152 (b)

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2.4.2.5. Non-substantive typographical, grammatical, and formatting changes may be made prior to the recording of the legislation by the Clerk of Council.

2.5. **Emergency ordinances**[13]. Emergency ordinances may be placed on the agenda of any regular, special, or emergency meeting of Council and shall meet the following criteria: **Appendix 5** (sample emergency ordinance). Three-fourths (3/4ths) or ten (10) out of thirteen (13) votes are required for the passage of an emergency ordinance.

2.5.1. Be related to an emergency affecting the public health, safety and welfare but cannot levy taxes, grant, renew or extend a franchise, or authorize borrowing of money except to issue emergency notes as provided by law.

2.5.2. Be clearly labeled as an emergency ordinance.

2.5.3. Be co-sponsored by a majority of Council. Such co-sponsorship of emergency ordinances shall only be indicative of support that the emergency ordinance be considered, not support of content.

2.5.4. Be provided to the Clerk of Council who maintains Council Reporting System and advertised in next published newspaper notice.

2.5.5. Be automatically repealed after 61 days.

2.6**.** **Honorary or congratulatory resolutions on parchment paper distributed to the public.** Honorary or congratulatory resolutions intended to be distributed to the public shall be printed on parchment paper by the Clerk of Council who shall insure the necessary signatures are obtained prior to distribution.

[13] 9 *Del. C.* § 1157

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RULE NO. 3 SPONSORSHIP AND MANAGEMENT OF LEGISLATION.

3.1. **Sponsorship.**

3.1.1. The sponsor manages the legislation and is the only Council member who can introduce, table, lift from the table, substitute, and/or withdraw the legislation. Notwithstanding the foregoing, in the absence of the sponsor, any co-sponsor can introduce, table, lift from the table, or place legislation before Council for consideration.

3.1.2. Land use legislation relating to a specific parcel shall be sponsored by the district Council member or, in situations where he or she is unable or chooses not to sponsor the same, the Council President.

3.1.3. Council President shall sponsor any amendments to the pay plans.

3.1.4. Legislation being requested and submitted by a County Department, Office, Board, Agency or Commission and not at the request of a specific Council person(s) shall list the most senior co-chair of the hearing committee as the primary sponsor, unless otherwise requested by the co-chairs of the designated committee.

3.2. **Introduction**. An ordinance may be introduced by the sponsor at any regular or special meeting of the Council[14].

3.3. **Board or Commission Recommendations Required after Introduction.**

3.3.1. Re-zonings[15]. Within three (3) days after introduction the Clerk of the Council shall refer re-zoning ordinances to the Department of Land Use for recommendation after a public hearing before the Planning Board[16]. Within forty-five (45) days after receipt the recommendation shall be delivered to Council and the ordinance shall be placed on the agenda for its next regular meeting. If no

[14] 9 *Del. C.* § 1152(b)
[15] 9 *Del. C.* § 1153
[16] 9 *Del. C.* § 2607

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recommendation is received within such time, Council may consider the ordinance in the absence of a recommendation.

3.3.2. Text amendments to Chapter 40 of the *New Castle County Code* (Unified Development Code or UDC)[17]. Within three (3) days after introduction the Clerk of the Council shall refer UDC text amendment ordinances to the Department of Land Use for recommendation after a public hearing before the Planning Board[18]. Within forty-five (45) days after receipt the recommendation shall be delivered to Council and the ordinance shall be placed on the agenda for its next regular meeting. If no recommendation is received within such time, Council may consider the ordinance in the absence of a recommendation.

3.3.3. Text amendments to Article 4 of Chapter 26 of the *New Castle County Code* (Pensions)[19]. Within three (3) days after introduction the Clerk of the Council shall refer pension ordinances to the Employees Retirement System Board of Trustees for recommendation. Within ninety (90) days after receipt, the recommendation shall be delivered to Council and the ordinance shall be placed on the agenda for its next regular meeting. If no recommendation is received within such time, Council may consider the ordinance in the absence of a recommendation.

3.3.4. Text amendments to Articles 1 (In General), 2 (Reserved) and 3 (Merit System) of Chapter 26 of the *New Castle County Code* (Human Resources) that have not already been submitted to the Human Resource Advisory Board[20]. Within three (3) days after introduction the Clerk of the Council shall refer such ordinances to the Human Resource Advisory Board. Within thirty (30) days after receipt the recommendation shall be delivered to Council and the ordinance shall be placed on the agenda for its next regular meeting. If no recommendation is received within such time, Council may consider the ordinance in the absence of a recommendation.

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[17] *NCC Code* § 40.31.120
[18] 9 *Del. C.* § 2607
[19] *NCC Code* § 2.05.505(C)
[20] *NCC Code* § 26.01.008

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Revised November 16, 2012 (Rule 1.2, Rule 2.2.1 & 2.2.6 adopted 3/8/11; Rule 3.8.1 adopted 10/11/11; Rule 13.1.2.1 adopted 1/10/12; Rule 2.4.2.1 adopted 2/14/12 to remove former section in entirety and subsequently revise section numbers; Rule 3.1.4 adopted 11/13/12; Rule 4.1 adopted 5/8/12).
Revised January 16, 2013 (Correction to Rule 13.1.2.1.)
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Revised March 1, 2013 (Rule 2.4.2, corrections and subsequent revisions to subsection numbers 2.4.2.1, 2.4.2.2, 2.4.2.3 and 2.4.2.4, etc. adopted 2/26/13).
Revised March 19, 2013 (Rule 5.3.3 amended and adopted 3/12/13.)
Last Revised: September 5, 2013 (R13-197).

3.3.5. Text Amendments to the Ethics Code[21]. Within three (3) days after introduction the Clerk of the Council shall refer ethics code ordinances to the Ethics Commission. Within forty-five (45) days after receipt the recommendation shall be delivered to Council and the ordinance shall be placed on the agenda for its next regular meeting. If no recommendation is received within such time, Council may consider the ordinance in the absence of a recommendation.

3.4. **Tabling and Lifting from the Table.**

3.4.1. A motion may be made by the sponsor to table legislation (second, yes-no required).

3.4.2. A motion to introduce a substitute and motion to table may be consolidated (second, yes-no required).

3.4.3. No motion is required to lift legislation from the table. The sponsor need only inform the Clerk of Council before ten o'clock (10:00) a.m. the Wednesday two weeks prior to the Council meeting during which it will be lifted from the table and placed before Council for consideration.

3.4.4. No motion is required to leave legislation on the table.

3.4.5. Every January on an annual basis, the Clerk of Council shall notify the sponsor of any legislation that he or she has introduced and took no action upon or left on the table for more than twelve (12) consecutive months. After notification, if the sponsor does not remove the legislation from the table or renew the motion to table within one month, the legislation shall be automatically withdrawn before the next regularly scheduled meeting.

3.5. **Withdrawal of Legislation.**

3.5.1. If not yet introduced, the sponsor shall state during announcements he or she does not intend to introduce the legislation. Once the announcement is made, the legislation shall be stricken from agenda.

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[21] *NCC* § 2.03.110

Revised September 17, 2010
Revised March 4, 2011 (Rule 3.8, 3.8.1 adopted 2/22/11; Rule 15, 15.1 adopted 12/7/10)
Revised March 29, 2011 (Rule 7.2, adopted 3/22/11)
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3.5.2. Once introduced, the sponsor shall state during announcements he or she intends to withdraw the legislation. Once the announcement is made, the legislation is stricken from agenda.

3.5.3. At any stage, legislation is automatically withdrawn when a Council member leaves office unless another Council member agrees to sponsor.

3.6. **Voting.**

3.6.1. Absent a conflict of interest, if voting other than "yes", votes shall be made in the form of "no" or "present" (which shall not be considered a "yes" vote in the tally). When voting upon non-corrective rezoning, a supporting rationale must be stated with the vote.

3.6.2. Any Council member with a conflict of interest[22] shall recuse themselves prior to the vote and state generally the reason therefore. Those who recuse themselves must state "recuse" (which shall not be considered a "yes" vote in the tally).

3.6.3. Subject to the following exceptions, a simple majority of seven (7) of thirteen (13) Council members shall constitute a quorum of Council and is necessary for any official Council action[23].

3.6.3.1. Less than a majority of Council members may recess or adjourn a meeting.

3.6.3.2. The quorum for the vote taken on appeals heard by Council in a quasi-judicial capacity shall be the majority of Council members present for the entirety of appeal.

3.6.3.3. Super majority voting requirements: Council may by ordinance impose upon itself a supermajority voting requirement in addition to any supermajority requirement imposed by State law[24].

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[22] See *NCC* § 2.03.103 regarding prohibitions relating to conflicts of interest.
[23] 9 *Del. C.* § 1150(c)

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3.6.3.3.1. A two-thirds (2/3rds) or nine (9) out of thirteen (13) vote is required on a rezoning[25] or on a deed restriction change[26] with a negative Department of Land Use recommendation and amendment(s) to the pension code with a negative Pension Board recommendation[27].

3.6.3.3.1.1. A two-thirds (2/3rds) or nine (9) out of thirteen (13) for the appointment or termination of Council staff. See New Castle County Council Employee Handbook.

3.6.3.3.2. A three-fourths (3/4ths) or ten (10) out of thirteen (13) vote is required on emergency ordinances[28], reconsideration of an ordinance vetoed by the County Executive within thirty (30) days of such veto[29], approval of a budget authorizing issuance of bonds[30].

3.7. **Effective Date of Legislation; Vetoed Legislation.**

3.7.1. Except as otherwise provided in the ordinance, it becomes effective thirty (30) days[31] after it is signed by the County Executive, or not signed within ten (10) days after presented to the County Executive[32] after adoption by Council (indicated by the signature of the Council President attested to by the Clerk of Council). After adoption of an ordinance, the Clerk of Council shall publish newspaper notice of its title and adoption[33].

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[24] 9 *Del. C* . § 1150(d)
[25] 9 *Del. C.* § 2614(a); *NCC* § 40.31.130
[26] 9 *Del. C.* § 2614(b); *NCC* § 40.31.130
[27] *NCC* 2.05.505
[28] 9 *Del. C.* § 1157
[29] 9 *Del. C.* § 1156(d)
[30] 9 *Del. C.* § 1163(a)(3)
[31] 9 *Del. C.* § 1152(c)
[32] 9 *Del C.* § 1156(d)
[33] 9 *Del. C.* §1152(b)

Revised September 17, 2010
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3.7.2. Recommendation of amendments to the pay plan by the County Executive shall become effective within sixty (60) days of receipt of the same if Council fails to act upon such recommendations[34].

3.7.3. If an adopted ordinance is returned to Clerk of Council by the County Executive with written objections vetoing such legislation, the Clerk of Council shall place the vetoed Ordinance on the next regularly scheduled Council meeting agenda for reconsideration by Council. Such reconsideration shall occur within thirty (30) days from the date of the veto[35]. The Clerk of Council shall read the veto and objections into the record at such Council hearing during the announcements.

3.7.4. A three-fourths (3/4ths) or ten (10) out of thirteen (13) vote is required upon reconsideration of an ordinance vetoed by the County Executive. Except as otherwise provided in the resolution, adopted resolutions become effective immediately and require only the signature of the Council President attested to by the Clerk of Council.

3.8 **Signing of Legislation**

3.8.1. Any legislation approved by Council must be signed by the President or President Pro Tem within five days. When the President and President Pro Tempore are unavailable to sign legislation, the President may delegate the responsibility for signing, in the case of resolutions only, to the sponsor of the resolution.

RULE NO. 4. REGULAR COUNCIL MEETINGS.

4.1**. In General**. Regular Council meetings shall be held in Council Chambers at seven o'clock (7:00) p.m. every second (2nd) and fourth (4th) Tuesday of the month, except in the months of August and December in which only one meeting shall be held[36], unless otherwise changed by a majority vote of Council.

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[34] 9 *Del. C.* § 1162(b); *NCC* § 26.01.009
[35] 9 *Del C.* § 1156(d)
[36] 9 *Del C.* § 1150(a)

Revised September 17, 2010
Revised March 4, 2011 (Rule 3.8, 3.8.1 adopted 2/22/11; Rule 15, 15.1 adopted 12/7/10)
Revised March 29, 2011 (Rule 7.2, adopted 3/22/11)
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Revised January 16, 2013 (Correction to Rule 13.1.2.1.)
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Last Revised: September 5, 2013 (R13-197).

4.2. **Agenda**. The President shall prepare the agenda and may delegate such responsibility to the Clerk of Council.

4.3. **Order of Business.**

4.3.1. Item A. Introductory Matters (i.e. Call to order; Moment of Silence; Pledge of Allegiance; Roll call by Clerk of Council).

4.3.2. Item B. Minutes (i.e. motion to correct, amend, and approve) (second, yes-no required).

4.3.3. Item C. Announcements regarding legislation (i.e. intention to remove resolution from consent calendar, intention not to introduce legislation, intention to table or lift legislation from the table, or intention to withdraw legislation).

4.3.4. Item D. Introduction of ordinances by Clerk of Council. President shall state that all Ordinances shall be considered at the next regular Council meeting with the exception of those items that require Board or Commission recommendations.

4.3.5. Item E. Reports from special committees.

4.3.6. Item F. Consent calendar. Resolutions that will not be discussed on the floor of Council, or objected to, may be considered and voted upon as a single item under the 'consent calendar'. If an item from the consent calendar is objected to by a Council member, or a member of the public, or if a Council member intends to offer an amendment to a resolution, it shall be removed from the consent calendar and voted upon separately. Procedure for adoption: motion to remove and/or amend items by Council member or public, motion to adopt consent calendar, reading of consent calendar by Clerk of Council, roll call.

4.3.7. Item G. Presentations. Honorary or congratulatory resolutions adopted in consent calendar may be presented separately after adoption of calendar.

4.3.8. Item H. Consideration of resolutions removed from Consent calendar and other resolutions. Sponsor moves that item be read by title only and placed before Council for consideration.

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Revised March 4, 2011 (Rule 3.8, 3.8.1 adopted 2/22/11; Rule 15, 15.1 adopted 12/7/10)
Revised March 29, 2011 (Rule 7.2, adopted 3/22/11)
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4.3.9. Item I. Consideration of ordinances. Sponsor moves that item be read by title only and placed before Council for consideration. Motion for non-controversial ordinances to be consolidated may be made first.

4.3.10. Item J. Non-controversial and time-sensitive honorary or congratulatory resolutions submitted after the deadline.

4.3.11. Item K. Consideration of emergency ordinances.

4.3.12. Item L. Public Comment/ Other. Non-emergency ordinances submitted after the expiration of the deadline shall be introduced under "Other" (second, yes-no). Resolutions submitted after the expiration of the deadline that do not meet the criteria of Rule 4.3.10 (Item J) shall be heard under "Other" so long as a motion to consider the resolution (second, yes-no required) is passed by Council.

4.3.13. Item M. Motion to Adjourn.

4.4. **Debate on Legislation, Procedural Order of Business.**

4.4.1. Request to lift legislation from table (if previously tabled).

4.4.2. Motions for item to be read by title only and motion to place legislation before Council for consideration may be consolidated (second, yes-no).

4.4.3. Sponsor may give comments or may call upon the applicant, interested parties, or a member of the administration to do the same.

4.4.4. Other Council members may comment.

4.4.5. Public comment.

4.4.5. Final Council comment.

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4.4.6. Roll call is taken by alphabetical roll call[37]. When voting upon non-corrective rezoning, a supporting rationale must be stated with the vote.

4.4.7. The presiding officer announces whether the legislation was passed or defeated. After such announcement there can be no change of vote.

4.5. **Consideration of Certain Types of Legislation and/or Variances.**

4.5.1. Consideration of Re-zoning/Hometown Overlay Ordinances. A two-thirds (2/3rds) or 9 out of 13 vote is required for passage where there is a negative Land Use recommendation.

4.5.1.1. Re-zonings and Hometown Overlays are heard tri-annually at the first regularly scheduled Council meeting in February, June, and October[38]. Tabled re-zonings need not wait until next tri-annual date to be considered. Changes made to the technical criteria describing the land development plan associated with the rezoning (typically in parentheses following the title) shall be done by substitute if the required Planning Board public hearing has not yet been held.

4.5.1.2. Council may proceed with consideration of a Re-zoning or Hometown Overlay ordinance in the absence of a Department of Land Use recommendation if no report is received with forty-five (45) days of submittal of the ordinance to the Department of Land Use[39].

4.5.1.3. During roll call, each Council member shall state the reason for their vote or that they agree with the reasons outlined in recommendation made by the Department of Land Use/ Planning Board who considered the following factors in formulating such a recommendation:

4.5.1.3.1. Consistency with the Comprehensive Development Plan and the UDC. In areas of new development, consistency with the

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[37] 9 *Del. C.* § 1150(c)
[38] *NCC* § 40.31.111
[39] 9 *Del. C.* § 2607(c)

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Comprehensive Development Plan shall be considered to meet the consistency standards, unless compelling evidence indicates the proposed amendment would threaten public health, safety, and general welfare;

4.5.1.3.2 Consistency with the character of the neighborhood;

4.5.1.3.3. Consistency with zoning and use of nearby properties;

4.5.1.3.4. Suitability of the property for the uses for which it has been proposed or restricted; and

4.5.1.3.5. Any undesirable or detrimental effect on nearby properties.

4.5.1.4. Corrective re-zonings need not comply with the procedural requirements applicable to re-zonings (i.e. notice, joint Planning Board – Department of Land Use recommendation, or polling) as the change in zoning designation is due to an incorrect map conversion in 1998 or a mapping error[40].

4.5.1.5. With respect to any proposed residential zoning change the Clerk of Council shall notify the local school district for the area at least seven (7) days prior to the initial hearing upon such residential zoning change[41].

4.5.2. Consideration of Major Record Plan Resolutions. Council shall approve Major Record Plan Resolutions that the Department of Land Use has confirmed meet the subdivision criteria of the UDC. Such resolutions may be tabled no more than twice for purpose of referring the matter back to the Department of Land Use with specific questions regarding code compliance and shall be considered at the next regularly scheduled Council meeting[42]. If the Department of Land Use rescinds its

[40] *NCC* § 40.02.110
[41] 9 *Del. C.* § 2613
[42] *NCC* § 40.31.114

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approval of a Major Record Plan, Council shall withdraw the Major Record Plan Resolution.

4.5.3. Consideration of Deed Restriction Change Resolutions. Council may change or remove a deed restriction where it is in the best interests of the parties to the restrictions and is consistent with the planning goals of the County[43]. A two-thirds (2/3rds) or 9 out of 13 vote is required for passage where there is a negative Land Use recommendation.

4.5.4. Consideration of Use Variances. Council shall only approve, disapprove or remand to the Board of Adjustment for further findings use variances applying the following standards: that the land cannot yield a reasonable return if used only for permitted uses, the need for the use variance is due to unique circumstances, and the proposed use will not alter the character of the locality[44].

4.5.5. Consideration of Level of Service (LOS) waivers[45]. If Council subjects the Traffic Mitigation Agreement accompanying the LOS waiver to certain conditions, approval of the LOS waiver shall be contingent upon agreement to the conditions or additional provisions by the Delaware Department of Transportation (DelDOT) and/or the applicant.

4.5.6. Consideration of Budget Legislation.

4.5.6.1. Capital Program Resolution[46]. Council cannot legally vote "no" on the Capital Program Resolution but may move to amend once a recommendation has been received from the County Executive. Council shall not be bound by such recommendation and may act without such recommendation if not received within fifteen (15) days. Capital Program Resolutions shall be considered prior to the Capital Budget Ordinance because the Capital Program adopts the budget book.

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[43] *NCC* § 40.31.130.D
[44] 9 *Del. C.* § 1313
[45] *NCC* § 40.11.230
[46] 9 *Del. C.* § 1159

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4.5.6.2. Capital Budget Ordinance[47]. Fiscal note for Capital Budget ordinance shall be submitted at next regular meeting following introduction, but no later than May 1st.

4.5.6.2.1. Before Council debates the Capital Budget Ordinance, the President shall announce that he or she has received a letter from the Planning Board indicating that the proposed amendment is in conformance with the spirit and intent of the Comprehensive Development Plan for New Castle County[48].

4.5.6.2.2. Council cannot legally vote "no" on the Capital Budget Ordinance but may move to amend it so long as such amendments conform to the pertinent portions of the Capital Program in its original or amended form. **Appendix 6** (sample amendment to Capital Budget Ordinance).

4.5.6.3. Proposed revenue and operating budget shall be presented to Council no later than April 1st.[49] Both the Capital Program and Capital Budget shall be adopted before or at the same meeting as the Annual Operating Budget. Council can only increase, decrease, or delete any item of appropriation and may add new items of appropriation[50]. However, no amendment to the Operating Budget ordinance shall increase the aggregate of authorized expenditures to an amount greater than the estimate of revenue for the corresponding period. Operating Budget shall be passed by June 1st [51].

4.5.7. Consideration of Resolutions for Board and/or Commission Appointments

4.5.7.1. All Resolutions for Board and/or Commission Appointments shall be accompanied by the candidate's resume and the Ethic Commission's approval of the candidate's Statement of Financial Interests. No

[47] 9 *Del. C.* § 1159
[48] 9 *Del. C.* § 1134 (a)
[49] 9 *Del. C.* § 1132
[50] 9 *Del. C.* § 1155
[51] 9 *Del .C.* § 1155(b)

Revised September 17, 2010
Revised March 4, 2011 (Rule 3.8, 3.8.1 adopted 2/22/11; Rule 15, 15.1 adopted 12/7/10)
Revised March 29, 2011 (Rule 7.2, adopted 3/22/11)
Revised September 14, 2011 (Rule 2.4, adopted 7/26/11; Rule 3.8, 3.8.1 correction)
Revised November 16, 2012 (Rule 1.2, Rule 2.2.1 & 2.2.6 adopted 3/8/11; Rule 3.8.1 adopted 10/11/11; Rule 13.1.2.1 adopted 1/10/12; Rule 2.4.2.1 adopted 2/14/12 to remove former section in entirety and subsequently revise section numbers; Rule 3.1.4 adopted 11/13/12; Rule 4.1 adopted 5/8/12).
Revised January 16, 2013 (Correction to Rule 13.1.2.1.)
Revised February 25, 2013 (Rule 13.1.2.3, 13.1.4, 13.1.5, 13.1.6, and 13.1.7 (remove former section in its entirely and subsequently revise section number) adopted 1/10/12.)
Revised March 1, 2013 (Rule 2.4.2, corrections and subsequent revisions to subsection numbers 2.4.2.1, 2.4.2.2, 2.4.2.3 and 2.4.2.4, etc. adopted 2/26/13).
Revised March 19, 2013 (Rule 5.3.3 amended and adopted 3/12/13.)
Last Revised: September 5, 2013 (R13-197).

Resolution shall be considered until the candidate has obtained the consent of the County Executive, if consent is required, and has been interviewed by County Council.

4.5.7.2. Where there is more than one nomination for membership on a Board or Commission, a vote shall occur after the last Council interview is conducted.

RULE NO. 5. COUNCIL COMMITTEE MEETINGS.

5.1. **Composition.**

5.1.1. The President shall establish all standing, select, and special committees and identify their purposes in writing to Council and the Administration.

5.1.2. Committee Chairpersons are appointed by the President subject to Council approval and shall be identified in writing to Council and the Administration. The Council President and Committee Chairpersons shall work together to determine when the Committee will meet.

5.1.3. All Council Committees are comprised of committee of the whole Council, so a simple majority of seven (7) of thirteen (13) Council members is necessary for the passage of a motion unless otherwise required.

5.1.4. If less than a quorum is present upon commencement of a Committee Meeting, the presiding officer shall commence the meeting, note the lack of a quorum, and make motion to convene upon arrival of a quorum. Notes shall be taken in lieu of minutes, noting the lack of a quorum. Any action taken by less than a quorum shall be ratified at the next Committee Meeting where a quorum is present. If not ratified, the action shall be considered null and void.

5.2. **Order of Business.**

5.2.1. Call to order.

Revised September 17, 2010
Revised March 4, 2011 (Rule 3.8, 3.8.1 adopted 2/22/11; Rule 15, 15.1 adopted 12/7/10)
Revised March 29, 2011 (Rule 7.2, adopted 3/22/11)
Revised September 14, 2011 (Rule 2.4, adopted 7/26/11; Rule 3.8, 3.8.1 correction)
Revised November 16, 2012 (Rule 1.2, Rule 2.2.1 & 2.2.6 adopted 3/8/11; Rule 3.8.1 adopted 10/11/11; Rule 13.1.2.1 adopted 1/10/12; Rule 2.4.2.1 adopted 2/14/12 to remove former section in entirety and subsequently revise section numbers; Rule 3.1.4 adopted 11/13/12; Rule 4.1 adopted 5/8/12).
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Last Revised: September 5, 2013 (R13-197).

5.2.2. Minutes (i.e. motion to correct, amend, and approve) (second, yes-no required).

5.2.3. Discussion of any Committee-related resolutions.

5.2.4. Discussion of any Committee-related ordinances that have been introduced.

5.2.5. Discussion of any emergency ordinances.

5.2.6. Other

5.2.7. Public Comment.

5.2.8. Motion to Adjourn (i.e. motion to adjourn and/or recess can be done by less than a quorum)

5.3. **Matters to be Discussed in Committee.**

5.3.1. Proposed Legislation (all Committees). The Sponsor of legislation, or his or her designee, shall notify the relevant Committee Chairperson that legislation should be placed on the agenda for the Committee Meeting prior to the regular Council meeting when the legislation is scheduled to be discussed. The Sponsor of legislation, or his or her designee, shall be present at such Committee Meeting to discuss the legislation.

5.3.2. Council Investigations (all Committees).

5.3.3. Appeals (Land Use Committee).

5.3.3.1. Council acts in a quasi-judicial capacity to hear appeals on the record in certain instances as set forth below. The record includes plans, documents, reports, studies, drawings, testimony, transcripts and the like available to the body rendering the initial decision. The record also includes information submitted to, but not discussed by, the official or body rendering the initial decision.[52] Appeals to County Council are from:

[52] *New Castle County Code* Section 40.31.511.

Revised September 17, 2010
Revised March 4, 2011 (Rule 3.8, 3.8.1 adopted 2/22/11; Rule 15, 15.1 adopted 12/7/10)
Revised March 29, 2011 (Rule 7.2, adopted 3/22/11)
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A. Denial of a subdivision variance by the Planning Board. County Council may grant relief to the applicant where it finds that the strict application of the subdivision provisions of the Unified Development Code ("UDC") would cause an unjust result.[53]

B. Action on a historic permit by the Historic Review Board. Council may grant relief if the Board made an error in interpretation of the Code or the Board's findings and conclusions were not the result of an orderly and logical review of the evidence and the applicable Chapter provisions.[54]

C. Approval or disapproval via resolution of a use variance (permitting a use otherwise prohibited by any zoning ordinance, code or regulation) granted by the Board of Adjustment or return of the matter to the Board for further hearings and findings consistent with 9 *Del. C.* Section 1313. When Council consent is required, the Department of Land Use shall forward the Board's decision granting the use variance along with a draft resolution for Council's consideration to the Clerk, the sponsor(s), and the sponsor(s)'s legislative aide(s); the resolution will be provided in electronic form to the sponsor(s)'s legislative aide. Consent to the resolution shall be granted if the Board did not err in its interpretation of the UDC and the Board's findings and conclusions were the result of an orderly and logical review of the evidence and the applicable UDC provisions.[55]

5.3.3.2. Appeals may be taken based only upon a final agency decision, rather than a recommendation. All appeals to County Council must be filed with the Clerk (and copied to Counsel to Council and the Office of Law) within 20 days of a final written decision and include a copy of the written decision. The applicant shall be required to pay all transcript fees and **shall attach a copy of**

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[53] Section 40.31.512(B).
[54] Sections 40.30.110 and 40.31.280.
[55] 9 *Del. C.* and *New Castle County Code* Section 40.31.412(C).

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Revised March 4, 2011 (Rule 3.8, 3.8.1 adopted 2/22/11; Rule 15, 15.1 adopted 12/7/10)
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Revised February 25, 2013 (Rule 13.1.2.3, 13.1.4, 13.1.5, 13.1.6, and 13.1.7 (remove former section in its entirely and subsequently revise section number) adopted 1/10/12.)
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the transcript to the application for appeal. [56] The appeal also shall be in writing, shall state the subject of the appeal, shall cite the administrative body the decision is being appealed from, and shall include a request that the record below be produced by the Department of Land Use or the Board of Adjustment as the case may be.

5.3.3.3. The Clerk of Council or his or her designee shall in writing acknowledge the appeal or reject the appeal with an explanation, and provide the same to all parties within five (5) working days (with copies to the Chair of the Land Use Committee, his or her legislative aide, Counsel to Council, the subject-administrative body and the Office of Law). The Clerk of Council or his or her designee and the legislative aide to the Chair or Co-chair of the Land Use Committee who will preside over the hearing (other than the hearing of the resolution) shall choose the time, date and place for the public hearing on the appeal. The record and this notice shall be sent by the Clerk to the Applicant, subject administrative body and Office of Law no less than 20 days in advance of the public hearing.

5.3.3.4. The Applicant (Appellant) and body from which an appeal is taken (Appellee) shall file legal memoranda in support of their positions with the legislative aide of the presiding chair and the counsel for the opposing party no less than 10 days before the public hearing and said legislative aide shall distribute these materials to Council, the Clerk and Counsel to Council no later than 5 days before the hearing.

5.3.3.5. Upon the filing of an appeal with the Clerk of Council, there shall be no *ex parte* (one-sided) communications between Council members and the Appellant and Appellee and any and all correspondence from Council and the parties must be copied to all. An *ex parte* communication shall be disclosed at the hearing by a voting Council member or alternatively the Council member may recuse him or herself. At the hearing, Council members shall refrain from making comments that would create an appearance of bias. Both parties will have eight minutes to present initial argument at the hearing and both parties will have two minutes to present a rebuttal at the hearing. The vote taken on appeals

[56] *New Castle County Code* Sections 40.31.510 and .511.

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Revised March 29, 2011 (Rule 7.2, adopted 3/22/11)
Revised September 14, 2011 (Rule 2.4, adopted 7/26/11; Rule 3.8, 3.8.1 correction)
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heard by Council in a quasi-judicial capacity and approval of the subsequent written opinion shall be by a majority of Council members present for the entirety of the appeal (for the resolution by a majority of members elected to Council). The legislative aide to the presiding chair shall provide copies of the adopted written opinion (not applicable to adoption of the resolution) to the applicant, the subject administrative body, Council members, the Clerk and Counsel to Council.

5.3.4. Council Budget Review (Finance Committee) The Council Budget shall be prepared by Council's Financial Advisor, submitted to the President and the Finance Committee Chairperson for review, and then scheduled before the Finance Committee for review and recommendation. The Council Auditor shall prepare Council Audit' budget, submitted to the President and the Finance Committee Chairperson for review, and then scheduled before the Finance Committee for review and recommendation.

RULE NO. 6. EXECUTIVE SESSIONS.

6.1. **Purpose**. Executive Sessions shall only be held for the following purposes[57]:

6.1.1. Discussion and/or consideration of an individual's qualification to hold a job, pursue training, or personnel matters in which the names, competency, and abilities of employees are discussed unless the individual or employee at-issue requests a public hearing [58];

6.1.2. Discussion and/or consideration of a disciplinary or dismissal action against an employee unless the employee at-issue requests a public hearing[59];

6.1.3. Preliminary discussions on site acquisitions for publicly funded capital improvement projects[60];

[57] 29 *Del. C.* § 10004(b)
[58] 29 *Del. C.* § 10004(b)(1)&(9)
[59] 29 *Del. C.* § 10004(b)(8)
[60] 29 *Del. C.* § 10004(b)(2)

Revised September 17, 2010
Revised March 4, 2011 (Rule 3.8, 3.8.1 adopted 2/22/11; Rule 15, 15.1 adopted 12/7/10)
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Revised January 16, 2013 (Correction to Rule 13.1.2.1.)
Revised February 25, 2013 (Rule 13.1.2.3, 13.1.4, 13.1.5, 13.1.6, and 13.1.7 (remove former section in its entirely and subsequently revise section number) adopted 1/10/12.)
Revised March 1, 2013 (Rule 2.4.2, corrections and subsequent revisions to subsection numbers 2.4.2.1, 2.4.2.2, 2.4.2.3 and 2.4.2.4, etc. adopted 2/26/13).
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6.1.4. Strategy sessions involving legal advice or opinions regarding collective bargaining agreements or potential or pending litigation[61];

6.1.5. Discussion of documents excluded from public disclosure under the Delaware Freedom of Information Act (FOIA)[62]; or

6.1.6. Discussions which would disclose the identity of the contributor of a bona fide and lawful charitable contribution to Council whenever public anonymity has been requested of the Council with respect to said contribution by the contributor[63].

6.2. **Procedure**[64].

6.2.1. Agenda must state purpose for Executive Session but need not state specifics of what personnel, legal, or other matter is being discussed[65]. It is recommended that the presiding officer shall consult with Counsel to Council to review the propriety and procedures for Executive Session prior to entering into Executive Session.

6.2.2. Motion to go into Executive Session with stated purpose (second, yes-no) shall be made during the public portion of meeting[66]. The presiding officer shall then request that the public be cleared.

6.2.3. Written minutes of the Executive Session shall be taken but no recording is required.

6.2.4. Motion to come out of Executive Session (second, yes-no) shall be made at close of Executive Session. The presiding officer shall then request that the public be invited back in. Once public enters, the presiding officer shall state that an Executive Session was held, state the purpose, and (if applicable) make a motion to ratify any action taken during the Executive Session. Such motion and vote shall be reflected in the public minutes.

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[61] 29 *Del. C.* § 10004(b)(4)
[62] 29 *Del. C.* § 10004(b)(6)
[63] 29 *Del. C.* § 10004(b)(5)
[64] 29 *Del. C.* § 10004(b)
[65] 29 *Del. C.* § 10004(e)(2)
[66] 29 *Del. C.* § 10004(c)

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Revised March 4, 2011 (Rule 3.8, 3.8.1 adopted 2/22/11; Rule 15, 15.1 adopted 12/7/10)
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6.2.5. Minutes for public session and executive session shall be maintained separately.

6.3. **Penalties**. Any action taken at a meeting in violation of FOIA is voidable by Chancery and a successful plaintiff can be awarded attorney fees

RULE NO. 7. SPECIAL MEETINGS AND WORKSHOPS OF COUNCIL.

7.1. **Special meetings.**

7.1.2. Scheduling. Special Meetings of Council may be called at any time by President or a majority of Council with actual notice to all Council members[67].

7.1.3. Location. Special Meetings of Council shall be held in New Castle County at a location that can accommodate the public.

7.1.4. Emergencies. Emergency meetings called pursuant to 9 *Del. C.* § 1150(a) necessary for the immediate preservation of the public peace, health or safety need not be noticed in advance[68]. Council members may participate, be counted towards the quorum, and vote in any emergency meeting by teleconference.

7.2. **Workshops, Ad Hoc and Subcommittee Meetings.**

7.2.1. Workshops, Ad Hoc and Subcommittee meetings are informal meetings and attendance by Council members is voluntary.

7.2.2. Workshops, Ad Hoc, Subcommittee meetings, other than Standing, Select and Special Committees of the Whole as set forth in Rules 5.1.1. and 5.1.3., shall adhere to the notice requirements of the Freedom of Information Act (FOIA) and the notice requirements in these Rules, as for other meetings of Council.

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[67] 9 *Del. C.* § 1150(a)
[68] 29 *Del. C.* § 10004(e)(1)

Revised September 17, 2010
Revised March 4, 2011 (Rule 3.8, 3.8.1 adopted 2/22/11; Rule 15, 15.1 adopted 12/7/10)
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Revised January 16, 2013 (Correction to Rule 13.1.2.1.)
Revised February 25, 2013 (Rule 13.1.2.3, 13.1.4, 13.1.5, 13.1.6, and 13.1.7 (remove former section in its entirely and subsequently revise section number) adopted 1/10/12.)
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7.2.3 In addition to the notice required in 7.2.2, Council Members shall receive personal electronic mail notice of the meetings listed in 7.2.2, along with agendas and minutes (if applicable). Notices, agenda and minutes of the meetings described in Rule 7.2.2 also shall be placed on New Castle County Council's website as additional notice to the public.

RULE NO. 8. COUNCIL MEMBERS.

8.1. Conduct at Meetings.

8.1.1. The Council President shall be the presiding officer at regular and special meetings of Council. Council members who are unable to attend such meetings shall inform the presiding officer.

8.1.2. Where Council members are absent without leave, the Council President may issue an order in the following form:

"It is hereby ordered that the Chief of Police of New Castle County shall forthwith take into custody and bring to the meeting specified in the order, those members of the New Castle County Council who are absent without leave."

8.1.3. Council members shall conduct themselves in a professional manner at all times and avoid characterizing another member's personal intent or motives. Council members shall refrain from speaking disrespectfully of the presiding officer or other members, engaging in personal attacks, and from using profane or vulgar language.

8.1.4. If a Council member shall transgress the rules, the presiding officer, or a Council member through the presiding officer, shall 'Call to Order' the Council member at which point the Council member shall not proceed absent a motion that he or she be allowed to proceed. A motion to proceed shall be non-debatable (second, yes-no required). Council member may be interrupted when speaking only by a 'Call to Order'.

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Revised March 4, 2011 (Rule 3.8, 3.8.1 adopted 2/22/11; Rule 15, 15.1 adopted 12/7/10)
Revised March 29, 2011 (Rule 7.2, adopted 3/22/11)
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8.1.5. Motions, generally. All motions shall be repeated by the presiding officer before being put to a vote. A majority of Council may decide questions of general procedures. Roll call is taken on all but procedural motions (which require second, yes-no). The Council member making the motion shall be permitted to withdraw or amend the motion before consideration of amendment by another Council member or a vote on the Motion. Motions for reconsideration made only at same meeting where the motion for original consideration was made. If legislation amended by someone other than the sponsor, the sponsor may make a motion to reintroduce legislation as amended or withdraw the legislation.

8.1.6. When a motion is under debate, only the following motions can be made (second, yes-no required for all motions):

8.1.6.1 *Amend.* A motion to amend;

8.1.6.2. *Table*. A motion to table or a statement withdrawing the legislation by the sponsor;

8.1.6.3. *Limit Debate.* A motion to limit debate regarding substance of debate (i.e. to set the parameters if debate straying from issue), a motion to limit debate regarding length of debate (i.e. to set time certain upon which debate will end), a motion to limit debate regarding source of debate (i.e. end Council debate and open floor to public comment);

8.1.6.4. *End Debate.* A motion to 'Call for the Question' which immediately ends debate and calls for a vote on the pending motion (non-debatable); or

8.1.6.5. *Continue the Debate.* Continue the debate at future designated time.

8.1.8. 'Points of Order' shall be raised at the time of the alleged breach of the procedural rule, unless the breach is a violation of law (i.e. notice requirements) and may be followed by a Motion for Enforcement (second, yes-no required). A procedural error which is not in violation of law and is not challenged by a 'Point of Order' at the time, shall have no effect on an otherwise valid vote.

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Revised March 4, 2011 (Rule 3.8, 3.8.1 adopted 2/22/11; Rule 15, 15.1 adopted 12/7/10)
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8.1.9. Participating by electronic means (teleconference or combined audio and video). Any member of Council may participate from a remote location that is not open to the public by electronic means. Except for emergency meetings called pursuant to 9 *Del. C.* § 1150(a), members participating by teleconference shall not be counted towards the quorum or vote.

8.2**. Reporting Of Gifts**[69]

8.2.1. Permitted so long as reported. Any Council official or employee or their spouse or dependent child, because of the official or employee's holding public office or employment, may accept the following non-cash gifts so long as they are recorded within thirty (30) days of receipt in a Public Gift Log that shall be maintained by the Clerk of Council and made available to the public. Note: where gifts "greater than" a certain amount are required to be recorded, gifts less than such amount need not be recorded; where gifts "less than" a certain amount are required to be recorded, gifts greater than such amount cannot be accepted.

8.2.1.1. Gifts greater than $101.00 in the form of ticket(s) for attendance or for meal(s) consumed at publicly advertised or regularly scheduled functions of non-profit organizations, civic or government groups, associations of business or trade groups.

8.2.1.2. Gifts greater than $50.00 from non-governmental source(s).

8.2.1.3. Gifts greater than $50.00 in the form of a public and commemorative gift from a governmental source or association of governmental sources for the recipient's performance of an official duty or service.

8.2.1.4. Gifts less than $50.00 in the form of a public and commemorative gift from an entity or entities for the recipient's performance of an official duty or service.

[69] See *NCC* § 2.03.104.

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8.2.1.5. Gifts less than $50.00 to the people of New Castle County, accepted by a representative or agent of the County Government, that becomes property of the County Government, and remains at a County location.

8.2.1.6. Gifts less than $50.00 to the officers and employees of Council, accepted by the Council President, or his or her designee, and remains at a County location.

8.2.1.7. Gifts greater than $25.00 from any entity or entities regulated or doing business with the County, or which may be reasonably foreseen to be regulated or to do business with the County within the next three (3) years, where approved in advance by the Ethics Commission through the issuance of an Advisory Opinion.

8.2.2. Timeframes. Within thirty (30) days of receipt of any of the gifts listed above, the recipient shall report the gift to the Clerk of Council on a Public Gift Log Form which shall contain the following information: the official or employee receiving the gift, the date received, the individual, entity, or organization that provided the gift (including address), a description of the gift, and the approximate value of the gift.

RULE NO. 9. PUBLIC ATTENDEES.

9.1. **Conduct at Meetings.**

9.1.1. All persons present at the meeting shall obey orders of the presiding officer. In controlling order, the presiding officer should maintain a calm deliberate tone, although the tone may become increasingly firm if the situation requires. The presiding officer shall refrain from trying to drown out a disorderly attendee, either by voice or gavel, and may request that such attendee leave the room, or, with police assistance, order removal if the attendee is willfully and seriously disruptive[70].

9.1.2. Members of the public shall be afforded an opportunity to comment during all public meetings of Council. The presiding officer may impose reasonable time,

[70] 29 *Del. C.* § 1004(d)

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place, and manner restrictions if the speakers prevent Council from accomplishing its business in a reasonable manner (i.e. speaking too long, being unduly repetitious, or by extended discussion of irrelevancies). Unless otherwise waived by the presiding officer, all public speakers shall be limited to three (3) minutes.

9.1.3. News media: Press is permitted to air, record, and report any Council meeting.

RULE NO. 10. PUBLIC NOTICE AND PRODUCTION OF PUBLIC RECORDS.

10.1 **Notice and Agendas of Meetings of Council**.

10.1.1. Posting. Written notice including the time, date, place and agenda of any meeting of Council shall be posted seven (7) days in advance where feasible[71]. If such notice or agenda is posted less than seven (7) days in advance of any meeting of Council, an explanation of why seven (7) days notice could not be given shall be provided on the notice[72]. If date, time or place of meeting changes after posting, the Legislative Aide shall consult with the Clerk of Council before re-posting. **Appendix 7** (sample notice and agenda).

10.1.2. Location. Public notice requires posting outside where the meeting is to be held and at the main offices of Council (i.e. for regular meetings the 1st and 8th floor lobbies of the City/County Building)[73].

10.1.3. Deadlines. No meeting of Council shall be held if the agenda is not posted at least six (6) hours in advance or notice cannot be posted at least twenty-four (24) hours in advance[74] . Copies of notices shall be available for the public[75]. Notwithstanding the foregoing, emergency meetings necessary for the immediate preservation of the public peace, health or safety need not be noticed in advance[76].

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[71] 29 *Del. C.* § 10004(e)(2)
[72] 29 *Del. C.* § 10004(e)(5)
[73] 29 *Del. C.* § 10004(e)(4)
[74] 29 *Del. C.* § 10004(e)(3)
[75] 29 *Del. C.* § 10004(e)(4)
[76] 29 *Del. C.* § 10004(e)(1)

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10.1.4. The agenda shall provide that it is subject to change and that an Executive Session may arise. However, if is known that an Executive Session will be held, the stated purpose shall be listed on the agenda[77].

10.2. **Requests for Copies of Public Records.**

10.2.1. In writing. Requests for copies of public records shall be made in writing to the Clerk of Council and identify the specific public file or record and include dates and/ or any identifying numbers[78]. Upon receipt, the Clerk shall notify Council Members of the request unless the request seeks existing records prepared for routine distribution to the public including agendas, minutes, legislation, and documents distributed during committee meetings.

10.2.2. Response. Within ten (10) days after receipt of the request, the Clerk of Council shall respond in writing complying with the request, or alternatively, outlining what was not produced and why (e.g. requests not sufficient in identifying the document or file sought or requires research).

10.2.3. An ordinance or resolution may be requested verbally and will be provided free of charge. For other public records, one dollar **(**$1.00) per page will be charged after the first one-hundred (100) pages. Over-sized plans will be outsourced and the costs incurred will be assessed to the requestor. In lieu of copying, appointments to review the requested documents may be made at a mutually convenient time during regular business hours ending at four o'clock (4:00) p.m.

10.1.4. Recordings. All requests for copies of recording(s) shall be made to the Clerk of Council.

RULE NO. 11. POSTING AND/OR PUBLISHING NOTICE TIMEFRAMES; MINUTES.

11.1. **Posting.** The number of days referenced below are consecutive calendar days vs. working days.

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[77] 29 *Del. C.* § 10004(c)
[78] 29 *Del. C.* § 10002(d)

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11.1.2. Zero (0) days notice: Consideration of resolutions with the exception of deed restriction changes, use variances, and Level of Service (LOS) waivers that require a Planning Board – Department of Land Use recommendation and emergency meetings.

11.1.3. Seven (7) days notice:

11.1.3.1. Posted notice of a meeting[79].

11.1.3.2. Published notice of consideration of non-emergency ordinances before public hearing[80].

11.1.3.3. Written notice to the local school district for the area at least seven (7) days prior to the initial hearing upon a residential zoning change[81].

11.1.4. Fifteen (15) days notice:

11.1.4.1. Published notice of tri-annual rezoning ordinances[82] to be considered at the first regular Council meeting in February, June and October.

11.1.4.2. Published notice of ordinances containing text amendments to the UDC[83].

11.1.4.3. Published notice of resolutions containing deed restriction changes, use variances, or Level of Service (LOS) waivers[84].

11.2 **Taking of Minutes.**

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[79] 29 *Del. C.* § 10004
[80] 9 *Del. C.* § 1152(b); It is the practice of the Clerk of Council to publish notice of non-emergency ordinances eleven (11) days before public hearing.
[81] 9 *Del. C.* § 2613
[82] 9 *Del. C.*§ 2607(c); It is the practice of the Clerk of Council to publish notice eighteen (18) days in advance.
[83] *NCC §* 40.31.340.F.2; It is the practice of the Clerk of Council to publish notice eighteen (18) days in advance.
[84] It is the practice of the Clerk of Council to publish notice eighteen (18) days in advance.

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11.2.1. Minutes shall be taken at every Council meeting. Notes shall be taken absent a quorum.

11.2.2. Minutes shall include the type of meeting (i.e. regular, committee, special), date, place, name of presiding officer, the Council members present, approval of the minutes from the prior meeting, ordinances or resolutions discussed or considered, main motions (who made) and outcome of vote on the same (but not if motion subsequently withdrawn), names of those not voting, and time of adjournment. Minutes shall reflect what was done rather then what was said.

11.2.3. Recordings of Council meetings shall be permitted but not required. Minutes should reflect meeting was recorded and recording shall be retained for five (5) years.

RULE NO. 12. EXPENDITURES FOR TRIPS BY COUNCIL MEMBERS OR EMPLOYEES.

12.1 **Travel Approval Request**.

12.1.1. Request and Approval: County related business travel outside New Castle County estimated to cost over $200, or outside the State of Delaware, shall be approved at least two (2) weeks in advance by Council. Each request shall be made via a Travel Approval Request submitted to the Financial Advisor for review, who shall then forward the request to the Finance Committee. Council's approval of the Travel Approval Request is based upon presented estimates and is not a blanket approval of the actual expenses incurred. **Appendix 8** (sample Travel Approval Request Form).

12.1.2. The Travel Approval Request shall contain the following information: individual traveling, title of the meeting, seminar, training session, etc., location, dates, a detailed cost estimate, an explanation as to how the trip will benefit the individual traveling in the performance of his or her duties and the Council as a whole, the signature of the Financial Advisor certifying that sufficient funds exist in Council's

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budget to fund the travel, and, by way of an attachment, any brochures, documents, or other information concerning the meeting, seminar, training session.

12.1.3. No advance expenses may be incurred prior to Council approval unless incurred at the personal expense of the individual traveling.

12.2 **Travel Reimbursement Request.**

12.2.1. Request and Approval. Travel reimbursement requests shall be submitted to the Financial Advisor within ten (10) working days after completion of the trip via a New Castle County Travel and Training Expense Form. If the reimbursement request does not exceed ten percent (10%) of the estimated costs outlined on the Travel Approval Request, payment shall be authorized upon approval of the Financial Advisor and signed off by the Council President. If the reimbursement amount exceeds ten percent (10%), the Financial Advisor shall forward the request to the Finance Committee for approval. In no case shall a reimbursement request be approved when submitted after ninety (90) days from the time the expense was incurred. **Appendix 9** (sample Travel and Training Expense Form).

12.2.3. Reimbursement.

12.2.3.1. Petty cash may be used for efficiency to reimburse allowable County business expenses up to seventy-five dollars ($75.00) and shall adhere to Administrative Policy No. 22 (Petty Cash and Change Fund Policy).

12.2.3.2. For reimbursement of approved County business expenses not paid by petty cash, the Financial Advisor shall submit the New Castle County Travel and Training Expense Form to the Accounts Payable Division.

12.2.4. The New Castle County Travel and Training Expense Form shall contain the same information as the Travel Approval Request and additionally identify:

12.2.4.1. Any advance costs already paid (i.e. registration, books, etc.), detailed costs relating to meals plus related taxes and tips (meal meetings shall include purpose and attendees), lodging plus related taxes and tips, commercial transportation, or number of miles traveled in the individual's vehicle while on

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official County business, parking, tolls, limo or taxi costs, or other reimbursable expenses;

12.2.4.2. A brief explanation as to how the trip benefited the individual traveling in the performance of his or her duties and the Council as a whole; and

12.2.4.3. The signature of the individual shall be the equivalent of a sworn statement stating that the expenses were incurred during official County business. Any Council official or employee who is found to have sought or recovered reimbursement without submitting the New Castle County Travel and Training Expense Form, or who is found to have falsified the information contained on the form by failing to submit required correct itemizations or receipts, shall be acting in violation of her or his public office and shall be subject to discipline, including termination.

12.2.5. All original receipts (with the exception of meals being claimed per diem, mileage, and tips) shall be attached to the New Castle County Travel and Training Expense Form. In cases of lost receipts, alternative proof of payment and/or a statement of circumstances surrounding the expenses and the lost receipt shall be provided to the Financial Advisor before payment will be considered. When reservations are made via the internet, the traveling individual shall print itinerary and confirmation pages.

12.2.6. Council officials and employees shall be reimbursed for lodging based upon a single occupancy hotel room which is either at the site of the conference/workshop or is listed on the conference/workshop hotel list. Council officials and employees may opt to be reimbursed for meals per diem (no receipts necessary for reimbursement) or may seek reimbursement for itemized receipts. Other reimbursable expenses shall be reimbursed in accordance with Administrative Policy No. 1 ("AP-1") (Guidelines for Reimbursable Expenses) or on a per diem basis. Travelers shall refer to AP-1 prior to traveling or confer with the Financial Advisor for AP-1 Clarification. **Appendix 10** (Provisions within AP-1 applicable to Council officials and employees).

12.2.7. The following items are not reimbursable: Purchase of alcoholic beverages, expenses for family members traveling with the Council official or employees, non-business expenses purely personal in nature and not an official part of a meeting or conference (e.g. entertainment, movies, etc.), dry cleaning unless travel exceeds six (6) days,

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purchases normally acquired through Purchasing, gifts, donations, or outlays not specifically approved in advance as part of this policy, and any expense claimed outside an ordinary and reasonable business expenses. Purchase of seminar materials shall be approved prior to travel.

12.2.8. Within thirty (30) days after returning from the trip, the Council official or employee shall submit a written memorandum to Council and the Financial Advisor providing a detailed explanation as to how the trip benefited the individual traveling in the performance of his or her duties and the Council as a whole. The memorandum may be placed on a future committee meeting agenda at which the Council official or employee shall be present to answer any questions.

RULE NO. 13. COUNCIL GRANTS.

13.1. **Council Grants.**

13.1.1. Eligibility. To qualify for these funds, an applicant organization must be a nonprofit organization, or under the umbrella of a nonprofit organization, with goals and/or objectives that advance the health, safety, and/or welfare of New Castle County citizens. No organization shall be awarded grant(s) more than $2500.00 during the County fiscal year. No grants are made to any religious organization if the funds would be used in whole or in part for religious purposes.

13.1.2. Application. Each request for an appropriation shall require a signed written application (typed or legibly handwritten) stating the reason for the grant request and contain the following:

13.1.2.1. Documentation of the organization's non-profit status evidencing there is no distribution of profits to owners or shareholders, the organization's non-discrimination policy (or, alternatively, the attestation required below) and any other applicable documentation (i.e. W9 Form, Federal Tax ID, etc.). Council reserves discretion to not require all elements of the above-referenced documentation.

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13.1.2.2. An attestation that such request benefits the health, safety, and/or welfare of County residents, is not for normal operating expenses, shall be used only for the purposes indicated in the application, and (in the absence of a written policy) that it does not discriminate against any employee, prospective employee, vendor, volunteer, or individual seeking service or assistance on the basis of race, creed, color, sex, or natural origin;

13.1.2.3. An attestation that the organization agrees to submit a one-page report or other documentation to the Clerk of Council sixty (60) days after the receipt of the funds proving that the funds were expended for the purpose requested, that it has accounting procedures of sufficient detail to adequately account for all funds collected and expended, that it agrees to cooperate with any future audit performed by Council;

13.1.2.4. Budget information on the organization and its project for which funding is sought including, but not limited to, the purpose for which the grant will be used, the total cost of the project, percentage of the project's funds the grant comprises, total amount of funding on the project received from other sources, and the total of the organization's operating budget.

13.1.3. It is suggested that Council members receiving requests from individuals residing in their District, but representing Organizations not located in their District, confer with the Council member(s) in whose District the Organization is located and / or is IRS-registered.

13.1.4. Validity. Upon receipt, the Council member's Legislative Aide shall confirm the application is complete. The Council member, or his or her Legislative Aide, shall contact the applicant to discuss the purpose and intent of the grant request and assess its validity. After determining the worthiness of the grant request, the Council member shall submit the application to the Clerk of Council.

13.1.5. Submission to Finance Committee. One (1) working week prior to the Finance Committee Meeting during which the grant request shall be considered, the Clerk of Council shall distribute a Grants Packet and provide all necessary information to the Finance Committee Chairperson for inclusion of the items on the agenda. The Grants

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Revised November 16, 2012 (Rule 1.2, Rule 2.2.1 & 2.2.6 adopted 3/8/11; Rule 3.8.1 adopted 10/11/11; Rule 13.1.2.1 adopted 1/10/12; Rule 2.4.2.1 adopted 2/14/12 to remove former section in entirety and subsequently revise section numbers; Rule 3.1.4 adopted 11/13/12; Rule 4.1 adopted 5/8/12).
Revised January 16, 2013 (Correction to Rule 13.1.2.1.)
Revised February 25, 2013 (Rule 13.1.2.3, 13.1.4, 13.1.5, 13.1.6, and 13.1.7 (remove former section in its entirely and subsequently revise section number) adopted 1/10/12.)
Revised March 1, 2013 (Rule 2.4.2, corrections and subsequent revisions to subsection numbers 2.4.2.1, 2.4.2.2, 2.4.2.3 and 2.4.2.4, etc. adopted 2/26/13).
Revised March 19, 2013 (Rule 5.3.3 amended and adopted 3/12/13.)
Last Revised: September 5, 2013 (R13-197).

Packet shall identify all grants the organization has received for the most recent three (3) County fiscal years.

13.1.6. Approval. Council members may issue grants of $150.00 or less from their grant allocation, not to exceed $1,000.00 in the aggregate in any fiscal year, to eligible organizations without Council approval. The Council member shall submit written request for payment to the Clerk of Council accompanied by a copy of the application, request, or ticket. Council shall be notified in writing or verbally at a committee meeting of such grants.

13.1.7. The Clerk of Council shall provide written monthly and fiscal year-end reports to Council outlining how much funding has been invested to date in the current fiscal year and how much funding remains. The Clerk of Council shall inform Council of the grant recipient's compliance with the requirement to submit a one-page report, or other documentation, sixty (60) days after the grant application is approved proving that the funds were expended for the purpose requested.

RULE NO. 14. REIMBURSABLE EXPENSES.

14.1. **Expenditures; Necessary Approvals**.

14.1.1. Assuming sufficient funds exist, the Financial Advisor shall approve all expenditures for day-to-day operations (i.e. reimbursements from petty cash, the purchase of supplies, etc.) and the Council President shall approve all expenditures up to $1,000.00 for non-day-to-day expenditures (i.e. travel, service, etc.). Council expenditures $1,000.00 and over shall be approved by the Finance Committee. Expenditures for goods not provided for in the operating budget shall be approved by a majority of members of Council (i.e. specialty goodwill and award items).

14.1.2. Council officials or employees requesting funds must comply with the following procedural steps:

Revised September 17, 2010
Revised March 4, 2011 (Rule 3.8, 3.8.1 adopted 2/22/11; Rule 15, 15.1 adopted 12/7/10)
Revised March 29, 2011 (Rule 7.2, adopted 3/22/11)
Revised September 14, 2011 (Rule 2.4, adopted 7/26/11; Rule 3.8, 3.8.1 correction)
Revised November 16, 2012 (Rule 1.2, Rule 2.2.1 & 2.2.6 adopted 3/8/11; Rule 3.8.1 adopted 10/11/11; Rule 13.1.2.1 adopted 1/10/12; Rule 2.4.2.1 adopted 2/14/12 to remove former section in entirety and subsequently revise section numbers; Rule 3.1.4 adopted 11/13/12; Rule 4.1 adopted 5/8/12).
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14.1.2.1. A request form must be completed and signed by the Council official or employee for each instance in which funds are to be disbursed. The form must be submitted to the Financial Advisor for compliance review and approval in advance of the expenditure. If applicable, receipts will be required and a memorandum outlining the details of the expenditure(s). When completed, the form will be forwarded to the President for signature. If the request requires additional clarification, the Financial Advisor will discuss the matter on an individual basis with the official or employee.

14.1.2.2. In making a request, each Council member shall act at all times in a manner that promotes public confidence in his or her integrity and the impartiality of New Castle County government. The Financial Advisor will forward any requests thought to be questionable in terms of whether it is an appropriate use of public funds to the Council President. If the Council member disagrees with the decision of the President, the request may be presented to the Finance Committee for final resolution.

14.1.2.3. There will be no requests approved for payments to individuals with the exception of a reimbursement of expenditures to the requesting official or employee.

14.1.2.4. The Financial Advisor will provide a statement at the end of each fiscal year for evaluation and modification of these guidelines.

14.1.3. Appropriate Expenditures include, but are not limited to, the following:

14.1.3.1. Non- generic office supplies.

14.1.3.2. Mileage Reimbursement: Claims for mileage shall be in accordance with Federal Regulation IR-2004-139, or its successor. A log must accompany the reimbursement request form listing miles driven and business purpose.

14.1.3.3. Tolls Reimbursement.

14.1.3.4. Business Travel and Professional Development Materials under $200.00.

Revised September 17, 2010
Revised March 4, 2011 (Rule 3.8, 3.8.1 adopted 2/22/11; Rule 15, 15.1 adopted 12/7/10)
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14.1.3.5. Goodwill and Award Items to be awarded by the Council member.

14.1.3.6. Technology (e.g. cellular phones, palm pilots, computer laptops, provider services, etc) for Council members.

14.1.3.7. Light Refreshments for Meetings.

14.1.3.8. Office Furnishings.

14.1.4. Inappropriate Expenditures include, but are not limited to, the following:

14.1.4.1. Campaign literature, signs, or campaign material of any kind, or any activities related to a political campaign.

14.1.4.2. Emergency housing, clothing, rent, shoes, for any individual or anyone related to a Council member.

14.1.4.3. Awards for Council members.

14.1.4.4. Advertisements for individual Council members.

14.1.4.5. Purchase of media time for individual Council members (e.g. cable, regular TV, radio, print, or internet).

14.1.4.6. The award of high school and/or college scholarships.

14.1.4.7. Item(s) appropriate to the grants budget.

RULE NO. 15. CONTINGENCY FUND

15.1. **Contingency Fund Expenditures.**

15.1.1**.** No funds may be transferred from Council's Contingency Fund without having been approved by a majority of Council at a Council Committee meeting.

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