

Introduced by: Ms. Kilpatrick
Date of introduction: June 28, 2011

SUBSTITUTE NO. 1 TO ORDINANCE 11-068

**TO AMEND *NEW CASTLE COUNTY CODE* CHAPTER 26 (“HUMAN RESOURCES”),
ARTICLE 1 (“IN GENERAL”), TO DELETE SECTION 26.01.003 (“RESIDENCY
REQUIREMENTS FOR CERTAIN COUNTY EMPLOYEES”)**

WHEREAS, *New Castle County Code* currently requires that the Chief Administrative Officer, each department general manager and director, the County Attorney, First Assistant County Attorney(s), all Assistant County Attorneys, and any other senior Executive appointees as deemed appropriate by the County Executive and conveyed to County Council in writing become residents of the County within six (6) months after assuming such position; and

WHEREAS, New Castle County Council has determined that requiring the listed employees to become residents of the County limits the County’s ability to recruit qualified employees from neighboring states or counties who may not be in a position to re-locate to New Castle County; and

WHEREAS, difficult economic times coupled with a global economy downturn have led to an understanding that state and county borders do not delineate separate economies; and

WHEREAS, in addition to allowing qualified candidates of neighboring states or counties to apply for work within New Castle County Government, New Castle County does not want to negatively affect the ability of its residents to procure jobs in neighboring states or counties by upholding the current residency requirements found in the *New Castle County Code*; and

WHEREAS, due to the reasons stated, New Castle County Council does not believe that residing in New Castle County should be a requirement to hold the above mentioned positions.

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

Section 1. *New Castle County Code* Chapter 26 (“Human Resources”), Article 1 (“In General”), Section 26.01.033 (“Residency requirement for certain County employees”) is hereby amended by the deletion of the stricken text and the addition of the underlined text as set forth below:

Sec. 26.01.003. Reserved. ~~Residency requirement for certain County employees.~~

~~The Chief Administrative Officer, each department general manager and director, the County Attorney, First Assistant County Attorney(s), all Assistant County Attorneys, and any other senior Executive appointees as deemed appropriate by the County Executive and conveyed to County Council in writing must become residents of the County within six (6) months after~~

~~assuming such position. The County Executive, with the advice of the County Attorney, may extend the time within which to obtain residency for good cause. Good cause shall include, but not be limited to, conclusion of a school year for children of the appointee, difficulties in the sale of a listed home such as during a severe economic downturn, or an unexpected medical condition in an appointee's family after assumption of the position, during which a move would create a hardship. In no event may an extension exceed eighteen (18) months.~~

Section 2. Severability. It is hereby declared to be the intention of the County Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance. If any provision of this ordinance is found to be unconstitutional or void, the applicable former ordinance provisions shall become effective and shall be considered as continuations thereof and not as new enactments regardless if severability is possible.

Section 3. Effective date of the ordinance. This ordinance shall become effective upon its adoption by County Council and approval by the County Executive or as otherwise provided by *9 Del. C. § 1156*.

Section 4. Effective date of the provisions of the ordinance. The provisions of this ordinance shall become effective on January 1, 2013.

Approved on:

Adopted by County Council of
New Castle County on:

County Executive

President of County Council of
New Castle County

SYNOPSIS: This ordinance removes the requirement for the Chief Administrative Officer, each department general manager and director, the County Attorney, First Assistant County Attorney(s), all Assistant County Attorneys, and any other senior Executive appointees as deemed appropriate by the County Executive and conveyed to County Council in writing to become residents of New Castle County within six months after assuming such position.

FISCAL IMPACT: There will be no discernible fiscal impact with the adoption of this Ordinance.