

Introduced by: Mr. Street, Mr. Carter
Date of introduction: April 30, 2019

ORDINANCE NO. 19-046

TO AMEND NEW CASTLE COUNTY CODE CHAPTER 40 (“UNIFIED DEVELOPMENT CODE”), ARTICLE 3 (“USE REGULATIONS”) AND ARTICLE 33 (“DEFINITIONS”) REGARDING LANDFILLS

WHEREAS, the zoning regulation established by this Ordinance has been made in accordance with the Comprehensive Development Plan for New Castle County and is designed to avoid transportation congestion, to avoid threats to health and the general welfare, to ensure adequate light and air, to avoid overcrowding of the land, and to safeguard water and sewerage, among other potential concerns; and

WHEREAS, the regulation also has been made with reasonable consideration of the character of the relevant zoning district and the suitability for particular uses, with a view to protecting and promoting desirable living conditions, sustaining the stability of neighborhoods, protecting property against blight and depreciation, conserving the property value of homes and buildings, and encouraging the most appropriate use of land and structures in New Castle County; and

WHEREAS, New Castle County Council has determined that the provisions of this Ordinance substantially advance, and are reasonably and rationally related to, legitimate government interests.

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

Section 1. *New Castle County Code* Chapter 40 (“Unified Development Code”), Article 3 (“Use Regulations”), Section 40.03.323. is hereby amended by adding the material that is underscored and deleting the material that is stricken, as set forth below.

Sec. 40.03.323. – ~~Reserved~~ Solid Waste Landfills.

In addition to satisfying all other legal requirements and standards, landfills shall conform with the following standards:

- A. Landfills shall not exceed 140 feet in height, as determined pursuant to industry standards, and all requests to increase the landfill height up to and including this maximum shall be subject, first, to an assessment of:
1. The benefits of and need for any proposed height increase;
 2. The impact of such height increase and associated landfill operations on the health of nearby residents;
 3. The impact of such height increase and associated landfill operations on the values of real property in proximity thereto;
 4. The impact on traffic in the surrounding area;

5. The impact on noise and visual blight to the surrounding area;
6. The impact on stormwater, wastewater discharge, and flooding in proximity thereto;
7. All other impacts on the health, safety, and general welfare of nearby residents;
8. The compatibility with the policies and objectives of the Comprehensive Development Plan of New Castle County;
9. The impact of the proposed height increase on immediate residents and neighborhoods and the compatibility therewith, and a comparison of the impact on and compatibility with surrounding residents and neighborhoods; and
10. Whether the benefits of a height increase outweigh the negative impacts.

B. The height limitation shall not apply to existing non-conforming landfills.

Section 2. *New Castle County Code* Chapter 40 (“Unified Development Code”), Article 3 (“Use Regulations”), Section 40.03.110. (“Use Table”) is hereby amended by adding the material that is underscored and deleting the material that is stricken, as set forth below.

Sec. 40.03.110. - Use table.

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Table 40.03.110A. General Use Table										Table 40.03.110B. General Use Table						Table 40.03.110C. General Use Table	
Zoning District (Urban and Suburban-Transition Character) Y=permitted, N=prohibited, L=limited review, S=special use review, A=accessory										Zoning District (Suburban and Special Character)						Additional Standards (all districts)	
Land Use	TN*	ST	MM	ON	OR	CR	BP	I	CN	S***	SE	NC..	HI	EX	SR	Parking	Limited & Special Use Standards
...																	
Industrial Uses										Industrial Uses						Industrial Uses	
Heavy industry	N	N	N	N	N	N	N	N	N	N	N	N	¥ S	N	N	Table 40.03.522	<u>Section 40.03.323.</u>
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Section 3. *New Castle County Code* Chapter 40 (“Unified Development Code”), Article 33 (“Definitions”), Section 40.33.270. (“Industrial Uses”) is hereby amended by adding the material that is underscored and deleting the material that is stricken, as set forth below.

Sec. 40.33.270. - Industrial uses.

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C. *Heavy industry*. This category includes construction, mining, manufacturing, transportation, and public utilities due to the land use intensity impacts typically associated with large industrial uses, their accessory outdoor storage uses, and large building areas. The following uses are permitted:

Animal food, meat product, seafood product manufacturing (NAICS 3111, 3116, 3117)

Tobacco manufacturing (NAICS 3122)

Breweries, wineries, distilleries other than brewery-pubs and craft alcohol production establishments (NAICS 31212, 31213, 31214)

Sawmills (NAICS 3211)

Manufactured home manufacturing (NAICS 321991)

Pulp, paper and paperboard mills (NAICS 3221)

Petroleum refining and related industries (NAICS 324)

Chemical manufacturing, including compost operations (NAICS 325)

Cement manufacturing (NAICS 32731)

Ready-mix concrete manufacturing (NAICS 32732)

Other nonmetallic mineral product manufacturing (NAICS 3279)

Primary metal manufacturing (NAICS 331)

Ammunition (except small arms) manufacturing (NAICS 332993)

Transportation equipment manufacturing (NAICS 336, except 3363, 336991)

Rail and water freight facilities (NAICS 482, 483)

Solid Waste Landfills (NAICS 562212)

Section 4. This Ordinance shall become effective immediately upon its adoption by New Castle County Council and approval of the County Executive, or as otherwise provided in 9 *Del. C.* Section 1156.

Adopted by County Council of
New Castle County on:

President of County Council
of New Castle County

Approved on:

County Executive
New Castle County

SYNOPSIS: This Ordinance establishes that *Solid Waste Landfills* (NAICS 562212) shall not exceed 140 feet in height, as determined pursuant to industry standards, and all requests to increase the landfill height up to and including this maximum shall be subject, first, to an assessment of:

- The benefits of and need for any proposed height increase; the impact of such height increase and associated landfill operations on the health of nearby residents; the impact of such height increase and associated landfill operations on the values of real property in proximity thereto; the impact on traffic in the surrounding area; the impact on noise and visual blight to the surrounding area; the impact on stormwater, wastewater discharge, and flooding in proximity thereto; all other impacts on the health, safety, and general welfare of nearby residents and neighborhoods; the compatibility with the policies and objectives of the Comprehensive Development Plan of New Castle County; the impact of the proposed height increase on immediate residents and neighborhoods and the compatibility therewith, and a comparison of the impact on and compatibility with surrounding neighborhoods; and whether the benefits of a height increase outweigh the negative impacts.

In addition, this Ordinance clarifies that a *Solid Waste Landfill* (NAICS 562212) is a permissible use in a Heavy Industry zoning district.

Furthermore, the zoning regulation established by this Ordinance has been made in accordance with the Comprehensive Development Plan for New Castle County and is designed to avoid transportation congestion, to avoid threats to health and the general welfare, to ensure adequate light and air, to avoid overcrowding of the land, and to safeguard water and sewerage, among other important concerns.

The regulation also has been made with reasonable consideration of the character of the relevant zoning district and the suitability for particular uses, with a view to protecting and promoting desirable living conditions, sustaining the stability of neighborhoods, protecting property against blight and depreciation, conserving the property value of homes and buildings, and encouraging the most appropriate use of land and structures in New Castle County

FISCAL NOTE: There is no discernible fiscal note.