

Introduced by: Ms. Kilpatrick
 Date of introduction: January 14, 2020

ORDINANCE NO. 20-008

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

WHEREAS, New Castle County encourages heavy industrial uses where compatible with existing zoning and nearby uses; and

WHEREAS, the Unified Development Code allowed existing heavy industrial uses to reinvest and expand without the need for approval of a special use permit before the passage of Ordinance 19-046; and

WHEREAS, solid waste landfills are properly considered special uses given the attention to detail or conditions necessary to make this use a good neighbor to nearby properties; and

WHEREAS, New Castle County Council finds that the provisions of this Ordinance substantially advance, and are reasonably and rationally related to, legitimate government interests, including, but not limited to, the protection and preservation of the public health, safety, prosperity, general welfare, and quality of life.

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

Section 1. *New Castle County Code* Chapter 40 (Unified Development Code or “UDC”), 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	N	<u>S</u>	N	N	Table 40.03.522	---
...																		
<u>Solid Waste Landfills</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>S</u>	<u>N</u>	<u>N</u>	<u>Table 40.03.522</u>	<u>Section 40.03.323</u>
...																		

Section 2. *New Castle County Code Chapter 40 (Unified Development Code or “UDC”), Article 33 (“Definitions”)*, is hereby amended by adding the material that is underscored and deleting the material that is bracketed and stricken, as set forth below:

Sec. 40.33.270. Industrial uses.

A. *Compost operations . . .*

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:

~~[Solid Waste Landfills (NAICS 562212)]~~

F. *Solar energy system, large scale. . .*

G. *Solid Waste Landfills (NAICS 562212).*

~~[G]~~H. *Utility, major. . .*

~~[H]~~I. *Utility, minor. . .*

~~[H]~~ J. *Utilities, maintenance facilities. . .*

Section 3. New Castle County Council finds that the provisions of this Ordinance are consistent with the spirit and intent of the New Castle County Comprehensive Development Plan.

Section 4. All ordinances or parts of ordinances and all resolutions or parts of resolutions that may be in conflict herewith are hereby repealed except to the extent they remain applicable to

land use matters reviewed under previous Code provisions as provided in Chapter 40 of the *New Castle County Code*.

Section 5. The provisions of this Ordinance shall be severable. If any provision of this Ordinance is found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds that the valid provisions of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that County Council would have enacted the remaining valid provisions without the unconstitutional or void one, or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable of being executed in accordance with County Council's intent. If any provision of this Ordinance or any zoning map or portion thereof is found to be unconstitutional or void, all applicable former ordinances, resolutions, zoning maps or portions thereof shall become applicable and shall be considered as continuations thereof and not as new enactments regardless if severability is possible.

Section 6. This Ordinance shall become effective immediately upon passage by New Castle County Council and signature of the County Executive or as otherwise provided in 9 *Del. C. § 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 clarifies that heavy industry uses are permitted by right in the Heavy Industry District. The solid waste landfill use is listed separately and is only permitted as a special use.

FISCAL NOTE: There is no discernible fiscal note.