

Introduced by: Mr. Reda
Date of introduction: November 25, 2014

ORDINANCE NO. 14-127

TO AMEND CHAPTER 40 OF THE *NEW CASTLE COUNTY CODE* (ALSO KNOWN AS THE “UNIFIED DEVELOPMENT CODE” OR “UDC”), ARTICLE 33 (“DEFINITIONS”), REGARDING PARKING STRUCTURES

WHEREAS, providing required parking through the construction of a parking structure can substantially benefit a land development plan since less site area would need to be disturbed than if surface parking was provided; and

WHEREAS, limiting the amount of land that is needed for parking creates flexibility in site design and increases development opportunities, while allowing for the preservation of open space, public space, and other on-site amenities; and

WHEREAS, the construction of parking structures has been minimal at best in the unincorporated areas of New Castle County and future construction of parking structures should not be discouraged; and

WHEREAS, County Council has determined that the gross floor area of parking garages should not apply to the maximum gross floor area allowed as a minor land development if the land development plan provides a landscape surface ratio (LSR) twenty-five percent or more over the required LSR; and

WHEREAS, County Council has determined 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 33 (“Definitions”), Division 40.33.300 (“General definitions”), is hereby amended by underlining that material to be added as set forth below.

Sec. 40.33.300. General definitions.

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

Minor change

Minor land development. A plan that proposes one (1) or more of the following:

A. A subdivision of land resulting

B. Except for single-family

1. Proposed buildings

7. The floor area of parking structures shall not apply to the maximum gross floor area allowed as a minor land development plan; provided, that there is an increase in the landscape surface ratio (LSR) of no less than twenty-five (25) percent above the minimum LSR required by Table 40.04.110.

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Section 2. Consistent with Comprehensive Development Plan. New Castle County Council finds that the provisions of this Ordinance are consistent with the spirit and intent of the New Castle County Comprehensive Development Plan.

Section 3. Inconsistent Ordinances and Resolutions Repealed. All ordinances or parts of ordinances and all resolutions or parts of resolutions that may be in conflict herewith are hereby repealed except to the extent they remain applicable to land use matters reviewed under previous Code provisions as provided in Chapter 40 of the *New Castle County Code*.

Section 4. Severability. The provisions of this Ordinance shall be severable. If any provision of this Ordinance is found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds that the valid provisions of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that County Council would have enacted the remaining valid provisions without the unconstitutional or void one, or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable of being executed in accordance with County Council's intent. If any provision of this Ordinance or any zoning map or portion thereof is found to be unconstitutional or void, all applicable former ordinances, resolutions, zoning maps or portions thereof shall become applicable and shall be considered as continuations thereof and not as new enactments regardless if severability is possible.

Section 5. Effective Date. This Ordinance shall become effective immediately upon passage by New Castle County and signature of the County Executive or as otherwise provided in 9 *Del. C.* § 1156.

Approved on:

Adopted by County Council
of New Castle County on:

County Executive
New Castle County

President of County Council
of New Castle County

SYNOPSIS: This amendment will encourage the use of parking structures by simplifying the processing of a land development plan by excluding parking structure gross floor area when determining whether a plan meets the definition of a minor land development; provided that the developer increases the landscape surface ratio (LSR) no less than twenty-five (25) percent over the required LSR. Benefits will include more compact parking site areas and preservation of more open space on the property.

FISCAL NOTE: This ordinance will have no discernable fiscal impact.