

Introduced by: Mr. Carter
Date of introduction: November 22, 2022

ORDINANCE NO. 22-135

**IMPLEMENTING A MORATORIUM ON MAJOR AND MINOR LAND
DEVELOPMENT APPLICATIONS PROPOSING A WAREHOUSE
OR SIMILAR BUILDING OR FACILITY OF 150,000 SQUARE FEET OR LARGER
IN NEW CASTLE COUNTY**

WHEREAS, there are currently 11 active warehouses and similar building and facility projects, including, for example, logistics centers, in New Castle County with a total building area of approximately 12.3 million square feet; and

WHEREAS, 1 building in the approved projects is under construction with certain remaining buildings and facilities still to be constructed in the near future; and

WHEREAS, the recent emergence and rapid expansion of mega-warehousing and logistics centers and similar buildings and facilities was not anticipated at the time New Castle County's zoning districts, including the Business Park (BP) district, were created, which has resulted in contemporary zoning classes that contemplate these uses in areas that are not consistent with the planned regional land use or compatible with residential uses in close proximity thereto, including Suburban and Suburban Transition zoning; and

WHEREAS, land development in this context includes warehouses, distribution facilities, trucking facilities, and logistics centers, among other similar uses (collectively, "Warehouses" or "Warehousing"), which include uses for the conduct, business, or management of Warehouses, storage, freight forwarding, keeping inventory, and distribution activities; and

WHEREAS, the dramatically increased size of Warehouses, which includes similar buildings and facilities, consumes large land areas and limits space envisioned for other uses; and

WHEREAS, the development and siting of Warehouses in the County, if not contemplated and executed in a comprehensive and thoughtful manner, presents a substantial risk of increased negative public health outcomes and other adverse impacts, including:

- The exacerbation of air pollution levels and, therefore, health impacts including in already overburdened, vulnerable communities that have been identified by, among others, the Delaware Department of Natural Resources and Environmental Control and will run in conflict with the intent of *New Castle County Code* Section 28.01.003.D.;
- Increased noise and vibration impacts on adjacent residential and commercial properties;
- The exacerbation of light pollution;
- Increased public safety risk for smaller vehicles, pedestrians, and bicyclists, including school-age children traveling to and from public schools and residents traveling to and from adjacent public parks and facilities;

- Damage to streets, property, and facilities from collisions with street lights, traffic signal equipment, signs, trees, curbs, medians, etc.;
- Traffic congestion impacts and reduced levels of service on public streets and at public intersections;
- Increased public safety impacts from improperly over-loaded trucks; and
- Increased stormwater impacts from Warehouse pavement, which then increases the intensity and frequency of flooding; and

WHEREAS, the close proximity of Warehouses to schools and residential areas in the County also can lead to a decline in aesthetic standards and visual quality for those living in the residences and attending the schools; and

WHEREAS, due to high volume truck traffic and potentially continuous, round-the-clock operations, surrounding and nearby land uses should be compatible with 24-hour operation of Warehouses and similar facilities and associated noise level of heavy truck traffic; and

WHEREAS, the current traffic impact study process may not accurately reflect the traffic associated with large Warehouses, especially if vertical stacking or mezzanine area stacking of products is included; and

WHEREAS, there is a need to study, assess, and develop policy guidance to ensure there is a logical relationship between the placement of Warehouses and available truck routes to avoid the deleterious effects of routing trucks past sensitive areas and uses; and

WHEREAS, New Castle County should provide safeguards that adjacent zoning districts and transitions are compatible and minimize impacts on the quality of life in nearby residential zoning districts; and

WHEREAS, County Council has determined that a one year moratorium on new Warehouse land development applications is in the best interests of the County and its residents in order to allow the Department of Land Use and County Council to comprehensively review the County's zoning code and uses, including applicable terminology and key definitions, to identify, review, and assess the need for safeguards related to the development of large-scale Warehouses, including, for example, logistic centers, and the need for better criteria for site specific review and consideration of proposed land development plans to ensure that quality of life concerns, among others, are addressed; and

WHEREAS, County Council further finds that new Warehouse land development applications should be temporarily stayed for one year until already approved Warehouses are constructed and the impact of the construction, operation, and development of the projects already approved, including the fiscal, environmental, traffic, and quality of life impacts on the County and its citizens, can be evaluated; and

WHEREAS, additionally the proposed moratorium will provide a reasonable period of time for County Council and the Department of Land Use to study the County's current ordinances and zoning regulations to assess adverse impacts on the environment, traffic, aesthetics, and visual quality of properties within the County, to provide greater clarity and predictability, to more cohesively align community development and contemporary economic goals, and to make recommendations on alternative or additional regulations for Warehouses within the County; and

WHEREAS, a moratorium on all new major and minor land development applications proposing Warehouses and similar buildings or facilities that are 150,000 square feet or larger will allow New Castle County to comprehensively evaluate its zoning code and to assess current and anticipated growth and demand in the County to ensure sound land use planning; and

WHEREAS, County Council has determined that the provisions of this Ordinance substantially advance, and are reasonably related to, legitimate government interests, including promoting the health, safety, morals, convenience, order, prosperity and welfare of present and future inhabitants of New Castle County.

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

Section 1. A one-year moratorium shall apply to stay all major and minor land development applications proposing a Warehouse or similar building or facility, which includes warehouses, distribution facilities, trucking facilities, and logistics centers (collectively, "Warehouses" or "Warehousing"), in New Castle County of 150,000 square feet or more submitted after the date of introduction of this ordinance. During the temporary stay, the Department of Land Use shall not accept any major or minor land development applications proposing a Warehouse or similar building or facility of 150,000 square feet or more.

Section 2. Any land development application submitted prior to the introduction of this ordinance that is complete and found acceptable upon review by the Department of Land Use shall be exempt from the application of this stay.

Section 3. During the moratorium, the County Council in collaboration with the Department of Land Use shall: (1) comprehensively review the County's zoning code and uses, including applicable terminology and key definitions, to identify, review, and assess the need for safeguards related to the development of large-scale Warehouses, and the need for better criteria for site specific review and consideration of proposed plans to ensure that quality of life concerns, among others, are addressed; (2) assess the impact of the construction, operation, and development of already approved Warehouse projects, including the fiscal, environmental, traffic, and quality of life impacts on the County and its citizens; (3) assess the County's current ordinances and zoning regulations to determine adverse impacts on the environment, traffic, aesthetics, and visual quality of properties within the County, to provide greater clarity and predictability, to more cohesively align community development and contemporary economic goals, and issue a report recommending alternative or additional regulations for Warehouses and similar buildings and facilities within the County; and (4) comprehensively evaluate the County's zoning code and assess current and anticipated growth and demand in the County to ensure sound land use planning.

Section 4. This Ordinance shall become effective, after its adoption by New Castle County Council and approval by 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
of New Castle County

SYNOPSIS: This ordinance proposes the implementation of a temporary, one-year moratorium on all new major and minor land development applications proposing a Warehouse, logistics center, or similar building or facility in New Castle County of 150,000 square feet or more that is submitted after the date of introduction of this ordinance.

The intent of this ordinance is to avoid ill-advised and incompatible siting of large Warehouses, logistics centers, and similar buildings or facilities in zoning districts developed without anticipation of this emerging use. The goal, among other things, is to avoid negative impacts on quality of life for New Castle County and its residents as a result thereof.

FISCAL NOTE: There is no discernible fiscal impact.