

Introduced by: Ms. Durham, Mr. Carter
Date of introduction: October 27, 2020

ORDINANCE NO. 20-115

**TO AMEND *NEW CASTLE COUNTY CODE* CHAPTER 2 (“ADMINISTRATION”),
ARTICLE 5 (“DEPARTMENTS AND OFFICES”), DIVISION 2.05.300.
 (“DEPARTMENT OF PUBLIC WORKS”) TO CREATE A
NEW CASTLE COUNTY OPEN SPACE CONSERVATION COMMISSION**

WHEREAS, New Castle County contains a unique combination of natural resources that comprise Delaware’s Piedmont and Coastal Plain regions, and this unique combination contains critical natural areas, forests, upland habitat, soils, streams, floodplains, and wetlands; and

WHEREAS, the citizens of New Castle County place a high value on having accessible parkland and protected passive open space for environmental protection, wildlife habitat, and being able to enjoy all forms of recreation and scenic beauty; and

WHEREAS, to develop an open space preservation strategy for New Castle County, a Land Preservation Task Force was formed in August, 2019 with representatives appointed by the County Executive’s office and County Council, and was composed of representation from all county council districts and diversity of interests relevant to the issue of land conservation, farmland preservation, recreation, and natural resources protection; and

WHEREAS, cost of services studies show that preservation of open space and parkland has the lowest cost to tax payers over time of any land use classification, and is considered the highest and best use of our lands, protecting air quality, water quality, providing areas for passive and active recreation and enjoyment, and enhancing quality of life; and

WHEREAS, through the work and final report of the New Castle County Land Preservation Task Force in 2020, it has been proposed to establish an Open Space Conservation Commission to implement the recommendations of the task force, including to advise the County in prioritizing use of funds for conservation and permanent protection of open space, assist in developing additional funding partnerships to leverage County funds to protect and maintain parkland and County natural lands, and to ensure an enhanced level of conservation initiatives by the County to protect our natural resources in perpetuity.

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

Section 1. *New Castle County Code* Chapter 2 (“Administration”), Article 5 (“Departments and Offices”), Division 2.05.300 (“Department of Public Works”) is hereby amended by adding the underscored material set forth below.

Sec. 2.05.306 New Castle County Open Space Conservation Commission; created; duties generally.

- A. There is hereby established the New Castle County Open Space Conservation Commission (“Commission”), the purpose of which is: to establish policies and priorities for the investment of New Castle County funds for land conservation expenditures for the purchase of open space, including natural lands in fee simple or conservation easements, intended for both passive recreation and active parks or simply for environmental protection through conservation easements with limited public access, to make recommendations regarding the terms, conditions, and other matters relating to such expenditures, to recommend changes in laws and policies to effectuate the goal of land preservation, to advise on best practices for investment in land conservation, and to advise New Castle County Council, the County Executive, and the Office of Finance on all other matters regarding County open space conservation. Initially, the work of the Commission shall be guided by the 2020 Report of the Land Preservation Task Force, including other research and reports cited therein.
- B. The Commission shall advise the General Manager of the Department of Public Works on issues relating to the functions of the Department pertaining to the acquisition and preservation of open space parcels and preservation easements for active and passive recreation and for environmental protection. It is expected that the Open Space Conservation Commission and the Department will coordinate with the Department of Land Use on priorities and acquisitions.
- C. The Commission shall consist of nine (9) members, who shall have expertise in land conservation programs, parks acquisition and management, knowledge in the fields of open space or historic resources protection or management, and/or environmental protection, with documented professional or significant volunteer experience in the above, in addition to one (1) youth member with proven interest and involvement in conservation. Nominations shall strive to include representation from a broad cross section of New Castle County planning and councilmanic Districts, and to reduce the potential for conflicts of interest of professionals actively engaged in land conservation programs. To attempt to avoid conflicts of interest and to help ensure broad subject matter expertise, Commission members are not required to reside in New Castle County.
- D. The nine (9) members of the Commission shall be appointed by County Council, with the advice and consent of the County Executive. Each member shall serve for a term of three (3) years as of the date of their appointment by County Council, with no limitation on reappointment. Members of the Commission shall continue to serve, if able and qualified, until their successor is appointed and qualified. A majority of the nine (9) members shall elect the Chair from within for a renewable term of two (2) years.
- E. Each Commission member shall be entitled to one (1) vote and a quorum of at least five (5) Commission members shall be necessary to render decisions at any regular or special meeting.

F. The Commission shall meet as often as necessary to discharge its duties; provided, however, that the Commission shall meet at least quarterly.

G. Other powers and duties of the Commission include:

1. Authority to employ or contract for the services of private and public consultants for research, technical, legal, or other services and facilities deemed necessary by the Commission for the performance of its functions, provided that the County has appropriated sufficient funds to pay for the obligations incurred by the Commission;
2. Authority to adopt rules and regulations for the general administration of its duties;
3. Development of an Open Space Preservation Master Plan;
4. Reviewal of proposals for open space properties under consideration by the County for permanent protection, and to advise County Council and the Administration on prioritization of funds following the guidelines and selection criteria established in the 2020 Report of the Land Preservation Task Force, using fee simple purchases or other tools such as conservation easements;
5. Preparation and publication of an annual report concerning its activities, to be submitted to County Council and the County Executive by the end of March; and
6. Review and update the County's Long Range Park Acquisition and Development Plan at least once every five (5) years.

H. Commission members shall be entitled to reimbursement for reasonable travel and other expenses incurred in attending meetings, shall be entitled to representation by the County Attorney or designee thereof in a legal action arising out of or related to the performance by such member within the scope of their duties under the conditions set forth in *New Castle County Code*, and may be indemnified for reasonable legal fees and expenses in a legal action arising out of or related to the performance by such member within the scope of their duties under the conditions set forth in *New Castle County Code*.

Section 2. 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
of New Castle County

SYNOPSIS: This Ordinance creates a New Castle County Open Space Conservation Commission, similar to the Delaware State Open Space Council, to advise New Castle County on land conservation priorities, expenditures, and policies to, among other things, preserve open space and parkland.

FISCAL NOTE: This Ordinance, if enacted, will have no discernible fiscal impact.