



## Town of Townsend Code Review Committee Meeting

May 22<sup>nd</sup>, 2026, @ 3:00pm

VIA Conference Call & Town Hall

141 Main St, Townsend, DE 19734

### 3:00 pm Code Review Committee Meeting

- I. Call to Order:
- II. Opening Ceremonies
  - A. Roll Call:
  - B. Pledge of Allegiance:
  - C. Recognition of Visitors:
  - D. Announcements:
- III. Citizens Comments & Participation.
- IV. Adoption of Agenda.
- V. **ACTION ITEM:** Discussion and review of Senate Bill No. 23 regarding housing affordability.
- VI. **ACTION ITEM:** Discussion and review of adoption of the latest building code editions.
- VII. Discussion regarding new business.
- VIII. Discussion regarding next meeting date.
- IX. Adjourn.

Committee Meetings will be held both in person and in a virtual format.

Those wishing to attend virtually may dial **1(301)715-8592**. When directed, provide following meeting ID **827-6421-7575#** and then the following password **361631#** to enter the meeting. If you choose to access the meeting online click the following link:  
<https://us02web.zoom.us/j/82764217575?pwd=aHI4RDhTZ0xjME1HV0ZOcHRxSHZ3QT09>

Residents will be able to view documents posted to the meeting tab on the Town website at <https://townsend.delaware.gov> or by joining the meeting via computer.



SPONSOR: Sen. Huxtable & Rep. K. Johnson  
Sens. Lockman, Sokola, Townsend; Reps. Berry,  
Morrison, Romer

DELAWARE STATE SENATE  
153rd GENERAL ASSEMBLY

SENATE BILL NO. 23

AN ACT TO AMEND TITLE 9, TITLE 22, AND TITLE 29 OF THE DELAWARE CODE RELATING TO HOUSING  
SUPPLY AND HOUSING AFFORDABILITY.

1 WHEREAS, Delawareans of all income levels deserve to have access to housing they can afford; and

2 WHEREAS, the 2023 Delaware State Housing Authority's Statewide Housing Needs Assessment concluded that  
3 50% of Delaware renters and 21% of Delaware homeowners are "cost burdened", meaning rent or mortgage payments  
4 consume 30% or more of the household's gross income; and

5 WHEREAS, Delaware lacks sufficient affordable housing to meet the needs of its residents, with an estimated  
6 shortage of nearly 20,000 affordable units to meet the needs of renters with incomes of less than 50% of the Area Median  
7 Income; and

8 WHEREAS, municipalities and counties in this State are required to engage in an comprehensive planning process  
9 that takes housing into account, but the process can fall short when it comes to actually increasing the supply of housing,  
10 particularly affordable housing, for Delaware residents; and

11 WHEREAS, zoning codes play a critical role in shaping housing supply and affordability, and can be used to  
12 support a range of policy goals related to housing, including an increased supply of affordable housing and more diversity  
13 in the types of housing available; and

14 WHEREAS, zoning codes can also impede strategic growth and development in the housing realm if they are not  
15 consistent with best practices; and

16 WHEREAS, the April 2025 Affordable Housing Production Task Force Final Report identified local zoning  
17 reform as essential to increasing housing supply and diversity, stating that "changes are needed at the local level to enable  
18 more diverse housing types", and recommending the creation of a legislative framework for such changes; and

19 WHEREAS, Senate Joint Resolution No. 8 from the 153<sup>rd</sup> General Assembly created a technical assistance pilot  
20 aimed at helping local jurisdictions modify their zoning ordinances to better support development, including housing  
21 development, in this State; and

22 WHEREAS, while several local jurisdictions have taken advantage of the resources afforded by Senate Joint  
23 Resolution No. 8 to modernize their zoning codes, addressing housing supply and affordability require a comprehensive,  
24 statewide approach that goes beyond voluntary participation and technical assistance; and

25 WHEREAS, requiring local jurisdictions to take zoning-related measures to increase the supply and diversity of  
26 housing, particularly affordable housing, while providing them with flexibility as to method, is a reasonable and measured  
27 approach to closing this State's housing gaps.

28 NOW, THEREFORE:

29 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all  
30 members elected to each house thereof concurring therein):

31 Section 1. Amend Subchapter II, Chapter 26, Title 9 of the Delaware Code by making deletions as shown by strike  
32 through and insertions as shown by underline as follows:

33 Subchapter II. The Quality of Life Act

34 § 2651. Short title; intent and purpose.

35 (b) It is also the intent of this subchapter to encourage and assure cooperation between and among municipalities,  
36 ~~counties~~ counties, and the State and to encourage and assure coordination of planning and development activities of units of  
37 County Council, municipalities, regional ~~agencies~~ agencies, and state government in accord with applicable provisions of  
38 law. A growth management plan or policy plan that meets the standards and requirements of this subchapter ~~shall be~~ is an  
39 acceptable comprehensive plan. The ~~land use map or map series forming part of the~~ comprehensive plan as required by this  
40 ~~subchapter~~ subchapter, including the land use map or map series forming part of the plan, ~~shall have~~ has the force of law,  
41 and ~~no development, as defined in this subchapter, shall be~~ development is not permitted except in conformity with the  
42 comprehensive plan and the land use map or map series and with county land development regulations enacted to  
43 implement the other elements of the adopted comprehensive plan.

44 § 2652. Definitions.

45 For the purposes of this subchapter:

46 (2) "Comprehensive plan" or "comprehensive development plan" ~~shall mean,~~ means, from and after the  
47 respective dates by which the counties must ~~be in compliance~~ comply with this subchapter, a plan that meets the  
48 requirements of this subchapter. ~~Wherever in this subchapter land use regulations are required to be in accordance with~~  
49 ~~the comprehensive plan, such requirements shall mean only that such regulations must be in conformity with the~~  
50 ~~applicable maps or map series of the comprehensive plan. Whenever in this subchapter land use orders, permits or~~  
51 ~~zoning district changes are required to be in accordance with the comprehensive plan, such requirements shall mean~~  
52 ~~only that such orders, permits and changes must be in conformity with the map or map series of the comprehensive~~

53 ~~plan and county land use regulations enacted to implement the other elements of the adopted comprehensive plan.~~  
54 subchapter and is reviewed and certified in accordance with § 9103 of Title 29.

55 § 2656. Required and optional elements of comprehensive plan; studies and surveys [Effective until Nov. 15,  
56 2026].

57 (f) The comprehensive plan and its elements shall contain policy recommendations and a timeline for the  
58 implementation of the plan and its elements.

59 (g) The comprehensive plan shall include:

60 (6) A housing element that is consistent with county housing plans, ~~standards~~ standards, and principles. ~~Such~~  
61 County housing plans shall be in accordance with state and federal rules and regulations and the housing plan or  
62 housing element of the comprehensive plan shall include the following:

63 h. An affordable housing plan that complies with Subchapter III of Chapter 92 of Title 29.

64 § 2656. Required and optional elements of comprehensive plan; studies and surveys [Effective Nov. 15, 2026].

65 (f) The comprehensive plan and its elements shall contain policy recommendations and a timeline for the  
66 implementation of the plan and its elements.

67 (g) The comprehensive plan shall include:

68 (6) A housing element that is consistent with county housing plans, ~~standards~~ standards, and principles. ~~Such~~  
69 County housing plans shall be in accordance with state and federal rules and regulations and the housing plan or  
70 housing element of the comprehensive plan shall include the following:

71 h. An affordable housing plan that complies with Subchapter III of Chapter 92 of Title 29.

72 § 2658. Evaluation and appraisal of comprehensive plan.

73 (b) The State ~~shall not be~~ is not obligated to provide state financial assistance or infrastructure improvements to  
74 support land use or development actions by the County where the County's adopted comprehensive plan or portions thereof  
75 are determined to be substantially inconsistent with state development ~~policies.~~ policies, including policies related to  
76 affordable housing.

77 § 2659. Legal status of comprehensive plan.

78 (a) After a comprehensive plan or element or portion thereof has been adopted by County Council in conformity  
79 with this subchapter, the ~~land use map or map series forming part of the comprehensive plan plan, including the land use~~  
80 map or map series, as required by this subchapter ~~shall have~~ has the force of law, and ~~no development, as defined in this~~  
81 ~~subchapter, shall be~~ development is not permitted except in conformity with the ~~land use map or map series and with land~~  
82 ~~development regulations enacted to implement the other elements of the adopted comprehensive plan.~~

83 § 2660. County comprehensive plan.

84 (e) Within ~~18~~ 12 months of the date of adoption of the county comprehensive plan or revisions thereof, New  
85 Castle County shall amend its official zoning ~~map or maps~~ to administratively rezone all lands in accordance with the uses  
86 and intensities of uses provided for in the future land use element for the County. Administrative rezoning under this  
87 subsection satisfies all hearing and notice requirements otherwise required for zoning and rezoning under this title if a  
88 public hearing was held in connection with the adoption or revision of the county comprehensive plan. ~~In the event that If~~  
89 the comprehensive plan includes provisions governing the rate of growth of particular planning districts or sub-areas of the  
90 County, the County's zoning district regulations shall be amended to reflect the timing elements of the comprehensive plan.

91 Section 2. Amend Subchapter II, Chapter 49, Title 9 of the Delaware Code by making deletions as shown by strike  
92 through and insertions as shown by underline as follows:

93 Subchapter II. The Quality of Life Act

94 § 4951. Short title; intent and purpose.

95 (b) It is also the intent of this subchapter to encourage and assure cooperation between and among municipalities,  
96 ~~counties~~ counties, and the State and to encourage and assure coordination of planning and development activities of units of  
97 county government, municipalities, regional ~~agencies~~ agencies, and state government in accord with applicable provisions  
98 of law. A growth management plan or policy plan that meets the standards and requirements of this subchapter ~~shall be is~~  
99 an acceptable comprehensive plan. ~~The land use map or map series forming part of the comprehensive plan as required by~~  
100 this subchapter subchapter, including the land use map or map series forming part of the plan, shall have has the force of  
101 law, and ~~no development, as defined in this subchapter, shall be~~ development is not permitted except in conformity with the  
102 comprehensive plan and the land use map or map series and with county land development regulations enacted to  
103 implement the other elements of the adopted comprehensive plan.

104 § 4952. Definitions.

105 For the purposes of this subchapter:

106 (2) "Comprehensive plan" or "comprehensive development plan" ~~shall mean,~~ means, from and after the  
107 respective dates by which the counties must ~~be in compliance~~ comply with this subchapter, a plan that meets the  
108 requirements of this subchapter. ~~Whenever in this subchapter land use regulations are required to be in accordance with~~  
109 ~~the comprehensive plan, such requirements shall mean only that such regulations must be in conformity with the~~  
110 ~~applicable maps or map series of the comprehensive plan. Whenever in this subchapter land use orders, permits or~~  
111 ~~zoning district changes are required to be in accordance with the comprehensive plan, such requirements shall mean~~  
112 ~~only that such orders, permits and changes must be in conformity with the map or map series of the comprehensive~~

113 ~~plan and county land use regulations enacted to implement the other elements of the adopted comprehensive plan.~~  
114 subchapter and is reviewed and certified in accordance with § 9103 of Title 29.

115 § 4956. Required and optional elements of comprehensive plan; studies and surveys [Effective until Nov. 15,  
116 2026].

117 (f) The comprehensive plan and its elements shall contain policy recommendations and a timeline for the  
118 implementation of the plan and its elements.

119 (g) The comprehensive plan shall include:

120 (6) A housing element that is consistent with county housing plans, ~~standards~~ standards, and principles. ~~Such~~  
121 County housing plans shall be in accordance with state and federal rules and regulations and the housing plan or  
122 housing element of the comprehensive plan shall include the following:

123 h. An affordable housing plan that complies with Subchapter III of Chapter 92 of Title 29.

124 § 4956. Required and optional elements of comprehensive plan; studies and surveys [Effective Nov. 15, 2026].

125 (f) The comprehensive plan and its elements shall contain policy recommendations and a timeline for the  
126 implementation of the plan and its elements.

127 (g) The comprehensive plan shall include:

128 (6) A housing element that is consistent with county housing plans, ~~standards~~ standards, and principles. ~~Such~~  
129 County housing plans shall be in accordance with state and federal rules and regulations and the housing plan or  
130 housing element of the comprehensive plan shall include the following:

131 h. An affordable housing plan that complies with Subchapter III of Chapter 92 of Title 29.

132 § 4958. Evaluation and appraisal of comprehensive plan.

133 (b) The State ~~shall not be~~ is not obligated to provide state financial assistance or infrastructure improvements to  
134 support land use or development actions by the county where the County's adopted comprehensive plan or portions thereof  
135 are determined to be substantially inconsistent with State development ~~poicies.~~ policies, including policies related to  
136 affordable housing.

137 § 4959. Legal status of comprehensive plan.

138 (a) After a comprehensive plan or element or portion thereof has been adopted by ~~County Council or~~ Levy Court  
139 in conformity with this subchapter, the ~~land use map or map series forming part of the comprehensive plan plan, including~~  
140 the land use map or map series, as required by this subchapter ~~shall have~~ has the force of law, and ~~no development, as~~  
141 ~~defined in this subchapter, shall be~~ development is not permitted except in conformity with the ~~land use map or map series~~  
142 ~~and with land development regulations enacted to implement the other elements of the adopted comprehensive plan.~~

143 § 4960. County comprehensive plan.

144 (e) Within ~~18~~ 12 months of the date of adoption of the county comprehensive plan or revision thereof, Kent  
145 County shall amend its official zoning ~~map(s)~~ maps to administratively rezone all lands in accordance with the uses and  
146 intensities of uses provided for in the future land use element for the County. Administrative rezoning under this subsection  
147 satisfies all hearing and notice requirements otherwise required for zoning and rezoning under this title if a public hearing  
148 was held in connection with the adoption or revision of the county comprehensive plan. ~~In the event that~~ If the  
149 comprehensive plan includes provisions governing the rate of growth of particular planning districts or sub-areas of the  
150 County, the County's zoning district regulations shall be amended to reflect the timing elements of the comprehensive plan.

151 Section 3. Amend Subchapter II, Chapter 69, Title 9 of the Delaware Code by making deletions as shown by strike  
152 through and insertions as shown by underline as follows:

153 Subchapter II. The Quality of Life Act

154 § 6951. Short title; intent and purpose.

155 (b) It is also the intent of this subchapter to encourage and assure cooperation between and among municipalities,  
156 ~~counties~~ counties, and the State and to encourage and assure coordination of planning and development activities of units of  
157 county government, municipalities, regional ~~agencies~~ agencies, and state government in accord with applicable provisions  
158 of law. A growth management plan or policy plan that meets the standards and requirements of this subchapter ~~shall be~~ is  
159 an acceptable comprehensive plan. ~~The land use map or map series forming part of the comprehensive plan as required by~~  
160 this subchapter subchapter, including the land use map or map series forming part of the plan, shall have has the force of  
161 law, and ~~no development, as defined in this subchapter, shall be~~ development is not permitted except in conformity with the  
162 comprehensive plan and the land use map or map series and with county land development regulations enacted to  
163 implement the other elements of the adopted comprehensive plan.

164 § 6952. Definitions.

165 For the purposes of this subchapter:

166 (2) "Comprehensive plan" or "comprehensive development plan" ~~shall mean,~~ means, from and after the  
167 respective dates by which the counties must ~~be in compliance~~ comply with this subchapter, a plan that meets the  
168 requirements of this subchapter. ~~Whenever in this subchapter land use regulations are required to be in accordance with~~  
169 ~~the comprehensive plan, such requirements shall mean only that such regulations must be in conformity with the~~  
170 ~~applicable maps or map series of the comprehensive plan. Whenever in this subchapter land use orders, permits or~~  
171 ~~zoning district changes are required to be in accordance with the comprehensive plan, such requirements shall mean~~  
172 ~~only that such orders, permits and changes must be in conformity with the map or map series of the comprehensive~~

173 ~~plan and county land use regulations enacted to implement the other elements of the adopted comprehensive plan.~~  
174 subchapter and is reviewed and certified in accordance with § 9103 of Title 29.

175 § 6956. Required and optional elements of comprehensive plan; studies and surveys [Effective until Nov. 15,  
176 2026].

177 (f) The comprehensive plan and its elements shall contain policy recommendations and a timeline for the  
178 implementation of the plan and its elements.

179 (g) The comprehensive plan shall include:

180 (6) A housing element that is consistent with county housing plans, ~~standards~~ standards, and principles. ~~Such~~  
181 County housing plans shall be in accordance with state and federal rules and regulations and the housing plan or  
182 housing element of the comprehensive plan shall include the following:

183 h. An affordable housing plan that complies with Subchapter III of Chapter 92 of Title 29.

184 § 6956. Required and optional elements of comprehensive plan; studies and surveys [Effective Nov. 15, 2026].

185 (f) The comprehensive plan and its elements shall contain policy recommendations and a timeline for the  
186 implementation of the plan and its elements.

187 (g) The comprehensive plan shall include:

188 (6) A housing element that is consistent with county housing plans, ~~standards~~ standards, and principles. ~~Such~~  
189 County housing plans shall be in accordance with state and federal rules and regulations and the housing plan or  
190 housing element of the comprehensive plan shall include the following:

191 h. An affordable housing plan that complies with Subchapter III of Chapter 92 of Title 29.

192 § 6958. Evaluation and appraisal of comprehensive plan.

193 (b) The State ~~shall not be~~ is not obligated to provide state financial assistance or infrastructure improvements to  
194 support land use or development actions by the county where the county's adopted comprehensive plan or portions thereof  
195 are determined to be substantially inconsistent with State development ~~poicies.~~ policies, including policies related to  
196 affordable housing.

197 § 6959. Legal status of comprehensive plan.

198 (a) After a comprehensive plan or element or portion thereof has been adopted by County Council ~~or Levy Court~~  
199 in conformity with this subchapter, the ~~land use map or map series forming part of the comprehensive plan plan, including~~  
200 the land use map or map series, as required by this subchapter ~~shall have~~ has the force of law, and ~~no development, as~~  
201 ~~defined in this subchapter, shall be~~ development is not permitted except in conformity with the ~~land use map or map series~~  
202 ~~and with land development regulations enacted to implement the other elements of the adopted comprehensive plan.~~

203 § 6960. County comprehensive plan.

204 (e) Within ~~48~~ 12 months of the date of adoption of the county comprehensive plan or revisions thereof, Sussex  
205 County shall amend its official zoning ~~map or~~ maps to administratively rezone all lands in accordance with the uses and  
206 intensities of uses provided for in the future land use element for the County. Administrative rezoning under this subsection  
207 satisfies all hearing and notice requirements otherwise required for zoning and rezoning under this title if a public hearing  
208 was held in connection with the adoption or revision of the county comprehensive plan. ~~In the event that~~ If the  
209 comprehensive plan includes provisions governing the rate of growth of particular planning districts or sub-areas of the  
210 County, the County's zoning district regulations shall be amended to reflect the timing elements of the comprehensive plan.

211 Section 4. Amend § 702, Title 22 of the Delaware Code by making deletions as shown by strike through and  
212 insertions as shown by underline as follows:

213 § 702. Comprehensive development plan [Effective until Nov. 15, 2026].

214 (b) Comprehensive plan means a document in text and maps, containing at a minimum, a municipal development  
215 strategy setting forth the jurisdiction's position on population and housing growth within the jurisdiction, expansion of its  
216 boundaries, development of adjacent areas, redevelopment potential, community character, ~~and~~ the general uses of land  
217 within the community, and critical community development and infrastructure issues. The comprehensive planning process  
218 shall demonstrate coordination with other municipalities, the county and the State during plan ~~preparation.~~ preparation and  
219 comprehensive plans must be reviewed and certified by the State under § 9103 of Title 29. The comprehensive plan for  
220 municipalities of greater than 2,000 population shall also contain, as appropriate to the size and character of the jurisdiction,  
221 a description of the physical, demographic and economic conditions of the jurisdiction; as well as policies, statements,  
222 goals and planning components for public and private uses of land, transportation, economic development, affordable  
223 housing, community facilities, open spaces and recreation, protection of sensitive areas, community design, adequate water  
224 and wastewater systems, protection of historic and cultural resources, annexation and such other elements which in  
225 accordance with present and future needs, in the judgment of the municipality, best promotes the health, safety, prosperity  
226 and general public welfare of the jurisdiction's residents. The comprehensive plan for municipalities of greater than 2,000  
227 population must also include an affordable housing plan consistent with Subchapter III of Chapter 92 of Title 29.

228 (c) The comprehensive plan shall be the basis for the development of zoning regulations as permitted ~~pursuant to~~  
229 under Chapter 3 of this title. Should a jurisdiction exercise its authority to establish municipal zoning regulations ~~pursuant~~  
230 ~~to~~ under Chapter 3 of this title, it shall, within ~~48~~ 12 months of the adoption of a comprehensive development plan or  
231 revision thereof, amend its official zoning map to administratively rezone all lands within the municipality in accordance  
232 with the uses of land provided for in the comprehensive development plan. Notwithstanding any law to the contrary, an

233 administrative rezoning under this subsection satisfies all hearing and notice requirements otherwise required for zoning  
234 and rezoning if a public hearing was held in connection with the adoption or revision of the municipal comprehensive plan.

235 (h) The State is not obligated to provide state financial assistance or infrastructure improvements to support land  
236 use or development actions by a municipality where the municipality's adopted comprehensive plan or portions thereof are  
237 determined to be substantially inconsistent with state development policies, including policies related to affordable housing.

238 § 702. Comprehensive development plan [Effective Nov. 15, 2026].

239 (b) Comprehensive plan means a document in text and maps, containing at a minimum, a municipal development  
240 strategy setting forth the jurisdiction's position on population and housing growth within the jurisdiction, expansion of its  
241 boundaries, development of adjacent areas, redevelopment potential, community character, ~~and~~ the general uses of land  
242 within the community, and critical community development and infrastructure issues. The comprehensive planning process  
243 shall demonstrate coordination with other municipalities, the county and the State during plan ~~preparation.~~ preparation and  
244 comprehensive plans must be reviewed and certified by the State under § 9103 of Title 29. The comprehensive plan for  
245 municipalities of greater than 2,000 population shall also contain, as appropriate to the size and character of the jurisdiction,  
246 a description of the physical, demographic and economic conditions of the jurisdiction; as well as policies, statements,  
247 goals and planning components for public and private uses of land, transportation, economic development, affordable  
248 housing, community facilities, open spaces and recreation, protection of sensitive areas, climate change and resiliency,  
249 community design, adequate water and wastewater systems, protection of historic and cultural resources, annexation and  
250 such other elements which in accordance with present and future needs, in the judgment of the municipality, best promotes  
251 the health, safety, prosperity and general public welfare of the jurisdiction's residents. The comprehensive plan for  
252 municipalities of greater than 2,000 population must also include an affordable housing plan consistent with Subchapter III  
253 of Chapter 92 of Title 29.

254 (c) The comprehensive plan shall be the basis for the development of zoning regulations as permitted ~~pursuant to~~  
255 under Chapter 3 of this title. Should a jurisdiction exercise its authority to establish municipal zoning regulations ~~pursuant~~  
256 ~~to~~ under Chapter 3 of this title, it shall, within ~~48~~ 12 months of the adoption of a comprehensive development plan or  
257 revision thereof, amend its official zoning map to administratively rezone all lands within the municipality in accordance  
258 with the uses of land provided for in the comprehensive development plan. Notwithstanding any law to the contrary, an  
259 administrative rezoning under this subsection satisfies all hearing and notice requirements otherwise required for zoning  
260 and rezoning if a public hearing was held in connection with the adoption or revision of the municipal comprehensive plan.

261           (h) The State is not obligated to provide state financial assistance or infrastructure improvements to support land  
262 use or development actions by a municipality where the municipality’s adopted comprehensive plan or portions thereof are  
263 determined to be substantially inconsistent with state development policies, including policies related to affordable housing.

264           Section 5. Amend § 9103, Title 29 of the Delaware Code by making deletions as shown by strike through and  
265 insertions as shown by underline as follows:

266           § 9103. Comprehensive Plan Review and Certification Process.

267           (f) Within 20 days of receipt of the findings and recommendations from the Cabinet Committee, the Governor  
268 shall certify the comprehensive plan or return the comprehensive plan to the municipality or county for revision. The  
269 municipality or county shall have the right to accept or reject any or all of the recommendations. The final decision on the  
270 adoption of the comprehensive plan is that of the municipality or county. Once the municipality or county has completed its  
271 revisions to the comprehensive plan, which it must do with 20 days of receiving the request for revisions from the  
272 Governor, the municipality or county shall return the revised comprehensive plan to the Governor for final review and  
273 certification.

274           Section 6. Amend § 9202, Title 29 of the Delaware Code by making deletions as shown by strike through and  
275 insertions as shown by underline as follows and redesignating accordingly:

276           § 9202. Definitions.

277           For the purpose of this chapter:

278           (1) “Affordable housing” means housing that is affordable to households making up to 80% of the AMI for  
279 rental units and up to 120% of the AMI income for homeownership units.

280           (3) “Area median income” or “AMI” means the median income for households based on household size and  
281 geographic area as established annually by the U.S. Department of Housing and Urban Development.

282           Section 7. Amend Chapter 92, Title 29 of the Delaware Code by making deletions as shown by strike through and  
283 insertions as shown by underline as follows:

284           Subchapter III. Affordable Housing Act

285           § 9207. Purpose.

286           The purpose of this subchapter is to increase the supply and diversity of housing in this State for all income levels  
287 by supporting local jurisdictions in their efforts to close housing supply gaps, including affordable housing supply gaps,  
288 through measures such as rezoning to allow for higher-density development and more diverse housing types.

289           § 9208. Affordable housing plans.

290 (a) A local jurisdiction that has a population greater than 2,000 and that is required to adopt a comprehensive plan  
291 under Title 9, Title 22, or this title must develop an affordable housing plan consistent with this subchapter as part of its  
292 comprehensive plan. The affordable housing plan must establish a concrete strategy with clearly defined and measurable  
293 goals and outcomes to accomplish both of the following objectives:

294 (1) Provide that a minimum of 20% of all housing inventory in the local jurisdiction will be affordable  
295 housing units.

296 (2) Diversify the types of housing, including affordable housing, available in the local jurisdiction.

297 (b) An affordable housing plan developed under this subchapter must be reviewed and approved by the Director of  
298 the Delaware State Housing Authority. A local jurisdiction must obtain approval of its initial affordable housing plan  
299 concurrent with approval of its comprehensive plan. Thereafter, an affordable housing plan must be included in every  
300 comprehensive plan.

301 (c) An affordable housing plan must be developed through an open and inclusive process, which must take place  
302 concurrently with the comprehensive plan development process.

303 (d) Once an affordable housing plan is approved by the Director of the Delaware State Housing Authority, it  
304 becomes incorporated into the local jurisdiction's comprehensive plan and has the force of law.

305 § 9209. Required and optional elements of affordable housing plans.

306 (a) An affordable housing plan developed under this subchapter must do all of the following:

307 (1) Clearly state the local jurisdiction's goals, policies, and objectives for increasing the housing supply for all  
308 income levels, including how the local jurisdiction will achieve the requirement under paragraph § 9208 (a)(1) of this  
309 title.

310 (2) Provide an inventory of existing affordable housing.

311 (3) Provide an analysis of existing and projected housing needs for all income levels, including market-rate  
312 and affordable housing, and an assessment of barriers to meeting those needs. The analysis and assessment must  
313 include all of the following:

314 a. An analysis of population and employment trends and projections.

315 b. An inventory of land suitable and available for residential development of housing for all income  
316 levels, including vacant sites and sites that have potential for redevelopment but may need to be rezoned.

317 c. An analysis of the relationship of the sites identified in the land inventory to fair housing principles.

318 d. An analysis of any special housing needs, such as those of the elderly, individuals with disabilities,  
319 very low-income households, agricultural workers, seasonal workers, and families in need of emergency housing

320 shelter. The analysis must include a description of any local efforts to provide for any identified special housing  
321 needs.

322 e. For local jurisdictions with a population greater than 10,000, identification of 1 or more zoning  
323 designations that allow and are suitable for residential uses where emergency housing shelters, group homes,  
324 recovery homes, or other supportive housing are allowed as a permitted use without a conditional use or other  
325 discretionary permit required.

326 f. An analysis of existing and potential constraints on the maintenance, improvement, or development of  
327 housing for all income levels, including zoning ordinances or land use controls, building codes and their  
328 enforcement, site improvements, fees and other exactions required of developers, local processing and permit  
329 procedures, historical preservation practices and policies, and any locally adopted ordinances that directly impact  
330 the cost and supply of residential development. The analysis must also identify efforts by the local jurisdiction to  
331 reduce the impacts of the identified constraints and set forth a plan for removing the constraints.

332 g. An analysis of incentives and programs for the conversion of existing vacant retail, office, or other  
333 commercial space to residential use, including identification of specific sites suitable for such conversion.

334 h. An assessment of how regulations related to bulk standards, minimum lot sizes, minimum lot widths,  
335 minimum setbacks, minimum unit size, maximum lot coverage limitations, and maximum building height  
336 limitations impact zoning for affordable housing and housing diversity.

337 (4) Describe existing or planned efforts for the development of affordable housing, or, if such efforts do not  
338 exist, efforts that the local jurisdiction will undertake to increase or improve affordable housing.

339 (5) Describe existing financial resources that may be used to further affordable housing goals and estimate the  
340 additional funding that would be required to achieve those goals.

341 (6) Provide a timeline showing how the local jurisdiction will achieve the affordable housing objectives  
342 established in the affordable housing plan.

343 (b) An affordable housing plan must include the following 4 elements for increasing housing diversity and  
344 production, including for affordable housing, in the local jurisdiction:

345 (1) Increases in maximum permitted residential density, including increases in the number of dwelling units  
346 permitted per acre in order to facilitate an affordable and diverse housing stock.

347 (2) Authorization for a mix of housing types, including single-family detached, single-family attached,  
348 duplexes, triplexes, multifamily dwellings, accessory dwelling units, cottage housing developments, and manufactured  
349 housing without the need for a conditional use permit or special exception.

350           (3) Revise bulk standards, including minimum lot sizes, maximum lot widths, minimum setbacks, minimum  
351 unit size, maximum lot coverage, maximum building heights, and dedicated open space requirements if the total  
352 housing inventory consists of less than 20% of affordable housing units.

353           (4) Replacement of discretionary reviews of residential development applications that conform with the  
354 zoning requirements of the local jurisdiction with a by-right administrative review and approval process.

355           (c) An affordable housing plan must include at least 5 of the following elements for increasing housing production,  
356 including affordable housing production, in the local jurisdiction:

357           (1) Provision of density bonuses or other incentives for including affordable housing units in residential and  
358 mixed-use developments, which may include additional permitted dwelling units per acre, additional building height,  
359 reduced parking requirements, or reduced open space requirements.

360           (2) Creation of transit-oriented development zoning designations with significant increases in density along  
361 fixed transportation routes, including buses, trains, and other means of public transportation. Transit-oriented  
362 development zoning designations must include the reduction or elimination of minimum parking requirements for  
363 residential developments located within any of the following areas:

364           a. ¼ mile of a transit stop.

365           b. A designated town center.

366           c. A mixed-use zoning district.

367           (3) Creation of expedited or accelerated permit review and approval timelines for residential development  
368 units that include affordable housing units.

369           (4) Provision of fee waivers, reductions, or deferrals for residential development units that include affordable  
370 housing.

371           (5) Reduction or waiver of local impact fees for any affordable housing unit.

372           (6) Facilitation of diverse housing types at different price points by adopting form-based codes or other  
373 alternative development standards in areas designated for growth in the comprehensive plan.

374           (7) Amendment of land use regulations to allow single-room occupancy housing as a permitted use in at least  
375 1 residential zone.

376           (8) Amendment of land use regulations to allow transitional housing or emergency shelters as a permitted use  
377 in at least 1 residential zone.

378           (9) Amendment of land use regulations to allow as a permitted use the conversion of commercial, office, and  
379 retail spaces into mixed-use and residential use without burdensome bulk and area standards or conditions such as  
380 parking requirements, setbacks, height restrictions, or open space requirements.

381           (10) Designation of at least 1 residential zone where multifamily housing is a permitted use by right, or if such  
382 zoning already exists, allowing for a substantial increase, through zoning or rezoning, in the amount of land zoned to  
383 allow additional multifamily housing as a permitted use by right.

384           § 9210. Implementation.

385           (a) Zoning changes necessitated by a local jurisdiction's adoption of the affordable housing plan elements under §  
386 9209(b) and § 9209(c) of this title must be implemented within 12 months of the certification of the local jurisdiction's  
387 comprehensive plan.

388           (b) At the request of the local jurisdiction, the Delaware State Housing Authority shall provide technical assistance  
389 to local jurisdictions in implementing the elements of affordable housing plans within the timeframe required under this  
390 section.

391           § 9211. Reporting requirements.

392           (a) The Delaware State Housing Authority shall coordinate with the Office of State Planning Coordination to  
393 create a template for local jurisdictions to use in reporting their compliance with affordable housing plans developed and  
394 implemented under this subchapter.

395           (b) The template created for purposes of subsection (a) of this section must request, at minimum, all of the  
396 following information for each local jurisdiction with an affordable housing plan:

397           (1) The number of residential building permits issued by the local jurisdiction during the previous calendar  
398 year.

399           (2) The number of residential building permits issued by the local jurisdiction for affordable housing units  
400 during the previous calendar year.

401           (3) The percentage of all housing units in the local jurisdiction that met the definition of affordable housing  
402 in § 9202 of this title during the previous calendar year.

403           (4) A narrative description of zoning or other changes made during the previous calendar year to increase the  
404 supply and diversity of affordable housing in the local jurisdiction.

405           (5) Any other information that the Delaware State Housing Authority deems relevant in assessing the  
406 effectiveness of efforts to advance affordable housing in this State.

407 (d) Each local jurisdiction with an affordable housing plan must submit all information requested in the template to  
408 the Office of State Planning and the Delaware State Housing Authority no later than March 15<sup>th</sup> of each year.

409 (e) The Delaware State Housing Authority must publish the reports required under this section on its website no  
410 later than May 15<sup>th</sup> of each year.

411 Section 8. This Act may be cited as “The Housing for Every Delawarean Act”.

#### SYNOPSIS

This Act aims to increase this State’s supply of housing for Delawareans. Despite rapid development, Delaware is facing a significant and growing shortage of affordable housing. Senate Joint Resolution No. 8 of the 1st session of the 153rd General Assembly created a pilot program designed to encourage local zoning reform efforts that would help increase affordable housing. While several local jurisdictions have taken advantage of the assistance offered by SJR 8, the scope of the problem is statewide, and it will take more than isolated local reform to scale up housing production, particularly affordable housing production, to the degree necessary to meet this State’s needs. To that end, this Act does the following:

Sections 1 through 3 amend the requirements for comprehensive plans for New Castle, Kent, and Sussex Counties. Current statute specifies that only the land use map or map series part of the comprehensive plan has the force of law. Under this Act, the entire comprehensive plan would have the force of law, as is the case in municipalities. This means that no development will be permitted in the Counties that is not in conformity with the comprehensive plan. These Sections also create a new requirement that the housing element of a comprehensive plan must include an affordable housing plan, the contents of which are dictated by newly created Subchapter III of Chapter 92 of Title 29. These Sections also change the amount of time a County has to administratively rezone from the date of adopting a comprehensive plan from 18 months to 12 months. No additional public meetings beyond those required to be held in connection with the comprehensive plan are required to accomplish administrative rezoning.

Section 4 amends Title 22 to require municipalities with populations of greater than 2,000 to develop affordable housing plans as part of their comprehensive plans. As with the counties, the municipalities must meet the affordable housing plan requirements under newly created Subchapter III of Chapter 92 of Title 29. This section also reduces the amount of time from comprehensive plan adoption to rezoning, which is to be done administratively and without the need for additional public meetings beyond those required for the comprehensive plan, from 18 months to 12 months.

Section 5 amends the comprehensive plan review and certification process under Chapter 91 of Title 29 to remove the ability of counties and municipalities to reject the comprehensive plan once it has been certified by the Governor or returned to the county for revision. If a comprehensive plan is returned to a county or municipality for revision, the county or municipality has 20 days to make any revisions and return the plan to the Governor for review and certification.

Section 6 adds definitions related to affordable housing to Chapter 92 of Title 29.

Section 7 creates the Affordable Housing Act in Title 29 and establishes the requirements for affordable housing plans that must be included in all county comprehensive plans, and all municipal comprehensive plans for municipalities with populations greater than 2,000. Affordable housing plans, which must be approved by the Delaware State Housing Authority as part of the comprehensive planning process, are focused on identifying a local jurisdiction’s housing needs and developing strategies and timelines for addressing them. The Delaware State Housing Authority will review each local jurisdiction annually for compliance with its affordable housing plan. These reports will be available on the Delaware State Housing Authority’s website.

Section 8 provides that this Act may be cited as “The Housing for Every Delawarean Act”.

In making these changes, this Act seeks to increase access to housing for all income levels while allowing local jurisdictions the flexibility to develop their own strategies for doing so.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

Under § 1 of Article IX of the Delaware Constitution, this Act requires a two-thirds majority vote because the amendments it makes to Title 22 of the Delaware Code would indirectly amend the charter of one or more incorporated municipalities.

Author: Senator Huxtable



SPONSOR: Sen. Huxtable & Rep. K. Johnson  
Sens. Lockman, Sokola, Townsend; Reps. Berry,  
Morrison

DELAWARE STATE SENATE  
153rd GENERAL ASSEMBLY

SENATE SUBSTITUTE NO. 1  
FOR  
SENATE BILL NO. 23

AN ACT TO AMEND TITLE 9, TITLE 22, AND TITLE 29 OF THE DELAWARE CODE RELATING TO HOUSING  
SUPPLY AND HOUSING AFFORDABILITY.

1 WHEREAS, Delawareans of all income levels deserve to have access to housing they can afford; and

2 WHEREAS, the 2023 Delaware State Housing Authority's Statewide Housing Needs Assessment concluded that  
3 50% of Delaware renters and 21% of Delaware homeowners are "cost burdened", meaning rent or mortgage payments  
4 consume 30% or more of the household's gross income; and

5 WHEREAS, Delaware lacks sufficient affordable housing to meet the needs of its residents, with an estimated  
6 shortage of nearly 20,000 affordable units to meet the needs of renters with incomes of less than 50% of the Area Median  
7 Income; and

8 WHEREAS, municipalities and counties in this State are required to engage in an comprehensive planning process  
9 that takes housing into account, but the process can fall short when it comes to actually increasing the supply of housing,  
10 particularly affordable housing, for Delaware residents; and

11 WHEREAS, zoning codes play a critical role in shaping housing supply and affordability, and can be used to  
12 support a range of policy goals related to housing, including an increased supply of affordable housing and more diversity  
13 in the types of housing available; and

14 WHEREAS, zoning codes can also impede strategic growth and development in the housing realm if they are not  
15 consistent with best practices; and

16 WHEREAS, the April 2025 Affordable Housing Production Task Force Final Report identified local zoning  
17 reform as essential to increasing housing supply and diversity, stating that "changes are needed at the local level to enable  
18 more diverse housing types", and recommending the creation of a legislative framework for such changes; and

19 WHEREAS, Senate Joint Resolution No. 8 from the 153<sup>rd</sup> General Assembly created a technical assistance pilot  
20 aimed at helping local jurisdictions modify their zoning ordinances to better support development, including housing  
21 development, in this State; and

22 WHEREAS, while several local jurisdictions have taken advantage of the resources afforded by Senate Joint  
23 Resolution No. 8 to modernize their zoning codes, addressing housing supply and affordability require a comprehensive,  
24 statewide approach that goes beyond voluntary participation and technical assistance; and

25 WHEREAS, requiring local jurisdictions to take zoning-related measures to increase the supply and diversity of  
26 housing, particularly affordable housing, while providing them with flexibility as to method, is a reasonable and measured  
27 approach to closing this State's housing gaps.

28 NOW, THEREFORE:

29 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all  
30 members elected to each house thereof concurring therein):

31 Section 2. Amend Subchapter II, Chapter 26, Title 9 of the Delaware Code by making deletions as shown by strike  
32 through and insertions as shown by underline as follows:

33 Subchapter II. The Quality of Life Act

34 § 2652. Definitions.

35 For the purposes of this subchapter:

36 (2) "Comprehensive plan" or "comprehensive development plan" shall mean, from and after the respective  
37 dates by which the counties must be in compliance with this subchapter, a plan that meets the requirements of this  
38 ~~subchapter.~~ subchapter and that is reviewed and certified in accordance with § 9103 of Title 29. Wherever in this  
39 subchapter land use regulations are required to be in accordance with the comprehensive plan, such requirements shall  
40 mean only that such regulations must be in conformity with the applicable maps or map series of the comprehensive  
41 plan. Whenever in this subchapter land use orders, permits or zoning district changes are required to be in accordance  
42 with the comprehensive plan, such requirements shall mean only that such orders, permits and changes must be in  
43 conformity with the map or map series of the comprehensive plan and county land use regulations enacted to  
44 implement the other elements of the adopted comprehensive plan.

45 § 2656. Required and optional elements of comprehensive plan; studies and surveys [Effective until Nov. 15,  
46 2026].

47 (f) The comprehensive plan and its elements shall contain policy recommendations and a timeline for the  
48 implementation of the plan and its elements.

49 (g) The comprehensive plan shall include:

50 (6) A housing element that is consistent with county housing plans, standards and principles. Such housing  
51 plans shall be in accordance with state and federal rules and regulations and the housing plan or housing element of the  
52 comprehensive plan shall include the following:

53 h. An affordable housing plan that complies with Subchapter III of Chapter 92 of Title 29.

54 § 2656. Required and optional elements of comprehensive plan; studies and surveys [Effective Nov. 15, 2026].

55 (f) The comprehensive plan and its elements shall contain policy recommendations and a timeline for the  
56 implementation of the plan and its elements.

57 (g) The comprehensive plan shall include:

58 (6) A housing element that is consistent with county housing plans, standards and principles. Such housing  
59 plans shall be in accordance with state and federal rules and regulations and the housing plan or housing element of the  
60 comprehensive plan shall include the following:

61 h. An affordable housing plan that complies with Subchapter III of Chapter 92 of Title 29.

62 § 2658. Evaluation and appraisal of comprehensive plan.

63 (b) The State shall not be obligated to provide state financial assistance or infrastructure improvements to support  
64 land use or development actions by the County where the County's adopted comprehensive plan or portions thereof are  
65 determined to be substantially inconsistent with state development ~~policies.~~ policies, including policies related to affordable  
66 housing.

67 § 2660. County comprehensive plan.

68 (e) Within ~~48~~ 12 months of the date of adoption of the county comprehensive plan or revisions thereof, New  
69 Castle County shall amend its official zoning map or maps to rezone all lands in accordance with the uses and intensities of  
70 uses provided for in the future land use element for the County. In the event that the County does not complete the rezoning  
71 within the required 12 month period, a rezoning request made by a property owner that is consistent with the future land use  
72 map and applicable implementing provisions of the comprehensive plan, and that is made within 24 months of the date of  
73 adoption of the county comprehensive plan or revisions thereof, must be approved within 90 days of delivery of the  
74 application for the rezoning. If a public hearing was held in connection with the adoption or revision of the county  
75 comprehensive plan, that hearing shall satisfy all hearing and notice requirements otherwise required for zoning and  
76 rezoning under this title. In the event that the comprehensive plan includes provisions governing the rate of growth of  
77 particular planning districts or sub-areas of the County, the County's zoning district regulations shall be amended to reflect  
78 the timing elements of the comprehensive plan.

79 Section 2. Amend Subchapter II, Chapter 49, Title 9 of the Delaware Code by making deletions as shown by strike  
80 through and insertions as shown by underline as follows:

81 Subchapter II. The Quality of Life Act

82 § 4952. Definitions.

83 For the purposes of this subchapter:

84 (2) “Comprehensive plan” or “comprehensive development plan” shall mean, from and after the respective  
85 dates by which the counties must be in compliance with this subchapter, a plan that meets the requirements of this  
86 ~~subchapter.~~ subchapter and that is reviewed and certified in accordance with § 9103 of Title 29. Wherever in this  
87 subchapter land use regulations are required to be in accordance with the comprehensive plan, such requirements shall  
88 mean only that such regulations must be in conformity with the applicable maps or map series of the comprehensive  
89 plan. Whenever in this subchapter land use orders, permits or zoning district changes are required to be in accordance  
90 with the comprehensive plan, such requirements shall mean only that such orders, permits and changes must be in  
91 conformity with the map or map series of the comprehensive plan and county land use regulations enacted to  
92 implement the other elements of the adopted comprehensive plan.

93 § 4956. Required and optional elements of comprehensive plan; studies and surveys [Effective until Nov. 15,  
94 2026].

95 (f) The comprehensive plan and its elements shall contain policy recommendations and a timeline for the  
96 implementation of the plan and its elements.

97 (g) The comprehensive plan shall include:

98 (6) A housing element that is consistent with county housing plans, standards and principles. Such housing  
99 plans shall be in accordance with state and federal rules and regulations and the housing plan or housing element of the  
100 comprehensive plan shall include the following:

101 h. An affordable housing plan that complies with Subchapter III of Chapter 92 of Title 29.

102 § 4956. Required and optional elements of comprehensive plan; studies and surveys [Effective Nov. 15, 2026].

103 (f) The comprehensive plan and its elements shall contain policy recommendations and a timeline for the  
104 implementation of the plan and its elements.

105 (g) The comprehensive plan shall include:

106 (6) A housing element that is consistent with county housing plans, standards and principles. Such housing  
107 plans shall be in accordance with state and federal rules and regulations and the housing plan or housing element of the  
108 comprehensive plan shall include the following:

109                    h. An affordable housing plan that complies with Subchapter III of Chapter 92 of Title 29.  
110                    § 4958. Evaluation and appraisal of comprehensive plan.  
111                    (b) The State shall not be obligated to provide state financial assistance or infrastructure improvements to support  
112 land use or development actions by the county where the County's adopted comprehensive plan or portions thereof are  
113 determined to be substantially inconsistent with State development ~~policies.~~ policies, including policies related to  
114 affordable housing.

115                    § 4960. County comprehensive plan.

116                    (e) Within ~~48~~ 12 months of the date of adoption of the county comprehensive plan or revision thereof, Kent  
117 County shall amend its official zoning map(s) to rezone all lands in accordance with the uses and intensities of uses  
118 provided for in the future land use element for the County. In the event that the County does not complete the rezoning  
119 within the required 12 month period, a rezoning request made by a property owner that is consistent with the future land use  
120 map and applicable implementing provisions of the comprehensive plan, and that is made within 24 months of the date of  
121 adoption of the county comprehensive plan or revisions thereof, must be approved within 90 days of delivery of the  
122 application for the rezoning. If a public hearing was held in connection with the adoption or revision of the county  
123 comprehensive plan, that hearing shall satisfy all hearing and notice requirements otherwise required for zoning and  
124 rezoning under this title. In the event that the comprehensive plan includes provisions governing the rate of growth of  
125 particular planning districts or sub-areas of the County, the County's zoning district regulations shall be amended to reflect  
126 the timing elements of the comprehensive plan.

127                    Section 3. Amend Subchapter II, Chapter 69, Title 9 of the Delaware Code by making deletions as shown by strike  
128 through and insertions as shown by underline as follows:

129                    Subchapter II. The Quality of Life Act

130                    § 6952. Definitions.

131                    For the purposes of this subchapter:

132                    (2) "Comprehensive plan" or "comprehensive development plan" shall mean, from and after the respective  
133 dates by which the counties must be in compliance with this subchapter, a plan that meets the requirements of this  
134 ~~subchapter.~~ subchapter and that is reviewed and certified in accordance with § 9103 of Title 29. Wherever in this  
135 subchapter land use regulations are required to be in accordance with the comprehensive plan, such requirements shall  
136 mean only that such regulations must be in conformity with the applicable maps or map series of the comprehensive  
137 plan. Whenever in this subchapter land use orders, permits or zoning district changes are required to be in accordance  
138 with the comprehensive plan, such requirements shall mean only that such orders, permits and changes must be in

139 conformity with the map or map series of the comprehensive plan and county land use regulations enacted to  
140 implement the other elements of the adopted comprehensive plan.

141 § 6956. Required and optional elements of comprehensive plan; studies and surveys [Effective until Nov. 15,  
142 2026].

143 (f) The comprehensive plan and its elements shall contain policy recommendations and a timeline for the  
144 implementation of the plan and its elements.

145 (g) The comprehensive plan shall include:

146 (6) A housing element that is consistent with county housing plans, standards and principles. Such housing  
147 plans shall be in accordance with state and federal rules and regulations and the housing plan or housing element of the  
148 comprehensive plan shall include the following:

149 h. An affordable housing plan that complies with Subchapter III of Chapter 92 of Title 29.

150 § 6956. Required and optional elements of comprehensive plan; studies and surveys [Effective Nov. 15, 2026].

151 (f) The comprehensive plan and its elements shall contain policy recommendations and a timeline for the  
152 implementation of the plan and its elements.

153 (g) The comprehensive plan shall include:

154 (6) A housing element that is consistent with county housing plans, standards and principles. Such housing  
155 plans shall be in accordance with state and federal rules and regulations and the housing plan or housing element of the  
156 comprehensive plan shall include the following:

157 h. An affordable housing plan that complies with Subchapter III of Chapter 92 of Title 29.

158 § 6958. Evaluation and appraisal of comprehensive plan.

159 (b) The State shall not be obligated to provide state financial assistance or infrastructure improvements to support  
160 land use or development actions by the county where the county's adopted comprehensive plan or portions thereof are  
161 determined to be substantially inconsistent with State development ~~policies.~~ policies, including policies related to  
162 affordable housing.

163 § 6960. County comprehensive plan.

164 (e) Within ~~48~~ 12 months of the date of adoption of the county comprehensive plan or revisions thereof, Sussex  
165 County shall amend its official zoning map or maps to rezone all lands in accordance with the uses and intensities of uses  
166 provided for in the future land use element for the County. In the event that the County does not complete the rezoning  
167 within the required 12 month period, a rezoning request made by a property owner that is consistent with the future land use  
168 map and applicable implementing provisions of the comprehensive plan, and that is made within 24 months of the date of

169 adoption of the county comprehensive plan or revisions thereof, must be approved within 90 days of delivery of the  
170 application for the rezoning. If a public hearing was held in connection with the adoption or revision of the county  
171 comprehensive plan, that hearing shall satisfy all hearing and notice requirements otherwise required for zoning and  
172 rezoning under this title. In the event that the comprehensive plan includes provisions governing the rate of growth of  
173 particular planning districts or sub-areas of the County, the County's zoning district regulations shall be amended to reflect  
174 the timing elements of the comprehensive plan.

175 Section 4. Amend § 702, Title 22 of the Delaware Code by making deletions as shown by strike through and  
176 insertions as shown by underline as follows:

177 § 702. Comprehensive development plan [Effective until Nov. 15, 2026].

178 (b) Comprehensive plan means a document in text and maps, containing at a minimum, a municipal development  
179 strategy setting forth the jurisdiction's position on population and housing growth within the jurisdiction, expansion of its  
180 boundaries, development of adjacent areas, redevelopment potential, community character, and the general uses of land  
181 within the community, and critical community development and infrastructure issues. The comprehensive planning process  
182 shall demonstrate coordination with other municipalities, the county and the State during plan ~~preparation.~~ preparation and  
183 comprehensive plans must be reviewed and certified by the State under § 9103 of Title 29. The comprehensive plan for  
184 municipalities of greater than 2,000 population shall also contain, as appropriate to the size and character of the jurisdiction,  
185 a description of the physical, demographic and economic conditions of the jurisdiction; as well as policies, statements,  
186 goals and planning components for public and private uses of land, transportation, economic development, affordable  
187 housing, community facilities, open spaces and recreation, protection of sensitive areas, community design, adequate water  
188 and wastewater systems, protection of historic and cultural resources, annexation and such other elements which in  
189 accordance with present and future needs, in the judgment of the municipality, best promotes the health, safety, prosperity  
190 and general public welfare of the jurisdiction's residents. The comprehensive plan for municipalities of greater than 2,000  
191 population must also include an affordable housing plan consistent with Subchapter III of Chapter 92 of Title 29.

192 (h) The State shall not be obligated to provide state financial assistance or infrastructure improvements to support  
193 land use or development actions by the municipality where the municipality's adopted comprehensive plan or portions  
194 thereof are determined to be substantially inconsistent with State development policies, including policies related to  
195 affordable housing.

196 § 702. Comprehensive development plan [Effective Nov. 15, 2026].

197 (b) Comprehensive plan means a document in text and maps, containing at a minimum, a municipal development  
198 strategy setting forth the jurisdiction's position on population and housing growth within the jurisdiction, expansion of its

199 boundaries, development of adjacent areas, redevelopment potential, community character, and the general uses of land  
200 within the community, and critical community development and infrastructure issues. The comprehensive planning process  
201 shall demonstrate coordination with other municipalities, the county and the State during plan ~~preparation.~~ preparation and  
202 comprehensive plans must be reviewed and certified by the State under § 9103 of Title 29. The comprehensive plan for  
203 municipalities of greater than 2,000 population shall also contain, as appropriate to the size and character of the jurisdiction,  
204 a description of the physical, demographic and economic conditions of the jurisdiction; as well as policies, statements,  
205 goals and planning components for public and private uses of land, transportation, economic development, affordable  
206 housing, community facilities, open spaces and recreation, protection of sensitive areas, climate change and resiliency,  
207 community design, adequate water and wastewater systems, protection of historic and cultural resources, annexation and  
208 such other elements which in accordance with present and future needs, in the judgment of the municipality, best promotes  
209 the health, safety, prosperity and general public welfare of the jurisdiction's residents. The comprehensive plan for  
210 municipalities of greater than 2,000 population must also include an affordable housing plan consistent with Subchapter III  
211 of Chapter 92 of Title 29.

212 (h) The State shall not be obligated to provide state financial assistance or infrastructure improvements to support  
213 land use or development actions by the municipality where the municipality's adopted comprehensive plan or portions  
214 thereof are determined to be substantially inconsistent with State development policies, including policies related to  
215 affordable housing.

216 Section 5. Amend § 9103, Title 29 of the Delaware Code by making deletions as shown by strike through and  
217 insertions as shown by underline as follows:

218 § 9103. Comprehensive Plan Review and Certification Process.

219 (f) Within 20 days of receipt of the findings and recommendations from the Cabinet Committee, the Governor  
220 shall certify the comprehensive ~~plan or return the comprehensive plan to the municipality or county for revision.~~ The  
221 municipality or county shall have the right to accept or reject any or all of the recommendations. The final decision on the  
222 adoption of the comprehensive plan is that of the municipality or county. plan if the plan is consistent with all  
223 comprehensive plan requirements under Title 9 for counties or Title 22 for municipalities, as applicable, and with State  
224 development policies. If the Governor determines a plan is not consistent with the statutory requirements for  
225 comprehensive plans or with State development policies, the Governor shall return the plan to the municipality or county  
226 for further revision in accordance with this section. If a plan is returned to a municipality or county for revisions, the  
227 municipality or county has 45 days to make the necessary revisions and return the plan to the Governor.

228 Section 6. Amend § 9202, Title 29 of the Delaware Code by making deletions as shown by strike through and  
229 insertions as shown by underline as follows and redesignating accordingly:

230 § 9202. Definitions.

231 For the purpose of this chapter:

232 (1) “Affordable housing” means housing that is affordable to households making up to 80% of the AMI for  
233 rental units and up to 120% of the AMI income for homeownership units.

234 (3) “Area median income” or “AMI” means the median income for households based on household size and  
235 geographic area as established annually by the U.S. Department of Housing and Urban Development.

236 Section 7. Amend Chapter 92, Title 29 of the Delaware Code by making deletions as shown by strike through and  
237 insertions as shown by underline as follows:

238 Subchapter III. Affordable Housing Act

239 § 9220. Purpose.

240 The purpose of this subchapter is to increase the supply and diversity of housing in this State for all income levels  
241 by supporting local jurisdictions in their efforts to close housing supply gaps, including affordable housing supply gaps,  
242 through measures such as rezoning to allow for higher-density development and more diverse housing types.

243 § 9221. Affordable housing plans.

244 (a) A local jurisdiction that has a population greater than 2,000 and that is required to adopt a comprehensive plan  
245 under Title 9, Title 22, or this title must include an affordable housing plan consistent with this subchapter as part of its  
246 comprehensive plan. The affordable housing plan must establish a concrete strategy with clearly defined and measurable  
247 goals and outcomes to accomplish the following objectives:

248 (1) Make meaningful and measurable progress towards a strategic goal of having 20% of all housing units in  
249 the local jurisdiction be affordable housing.

250 (2) Diversify the types of housing, including affordable housing, available in the local jurisdiction.

251 (b) An affordable housing plan developed under this subchapter must be reviewed and approved by the Director of  
252 the Delaware State Housing Authority. A local jurisdiction must obtain approval of its initial affordable housing plan  
253 concurrently with approval of its first comprehensive plan due after June 30, 2026. Thereafter, an affordable housing plan  
254 must be included in every comprehensive plan.

255 (c) An affordable housing plan must be developed through an open and inclusive process, which must take place  
256 concurrently with the comprehensive plan development process.

257 (d) Once an affordable housing plan is approved by the Director of the Delaware State Housing Authority, it  
258 becomes incorporated into the local jurisdiction's comprehensive plan.

259 (e) At the request of a local jurisdiction, the Delaware State Housing Authority shall provide technical assistance  
260 in implementing the elements of the local jurisdiction's affordable housing plan.

261 § 9222. Required and optional elements of affordable housing plans.

262 (a) An affordable housing plan developed under this subchapter must do all of the following:

263 (1) Clearly state the local jurisdiction's goals, policies, and objectives for increasing the housing supply for all  
264 income levels, including how the local jurisdiction will achieve the requirement under paragraph § 9221 (a)(1) of this  
265 title.

266 (2) Describe existing or planned efforts for the development of affordable housing, or, if such efforts do not  
267 exist, efforts that the local jurisdiction will undertake to increase or improve affordable housing.

268 (3) Provide a timeline showing how the local jurisdiction will achieve the affordable housing objectives  
269 established in the affordable housing plan.

270 (b) An affordable housing plan must include all of the following elements for increasing housing diversity and  
271 production, including for affordable housing, in the local jurisdiction:

272 (1) Increases in maximum permitted residential density, including increases in the number of dwelling units  
273 permitted per acre in order to facilitate an affordable and diverse housing stock.

274 (2) Authorization for a mix of housing types, including single-family detached, single-family attached,  
275 duplexes, triplexes, multifamily dwellings, accessory dwelling units, cottage housing developments, and manufactured  
276 housing without the need for a conditional use permit or special exception.

277 (3) If the total housing inventory consists of less than 20% of affordable housing units, revision of bulk  
278 standards, including minimum lot sizes, maximum lot widths, minimum setbacks, minimum unit size, maximum lot  
279 coverage, maximum building heights, and dedicated open space requirements.

280 (4) Replacement of discretionary reviews of residential development applications that conform without  
281 conditions, variances, or exceptions with the zoning requirements of the local jurisdiction and the comprehensive plan  
282 with a by-right administrative review and approval process, which at the discretion of the local jurisdiction, may  
283 include a public meeting. A local jurisdiction's determination of whether to include or not include a public meeting and  
284 the procedures of such public meeting supersede the provision of § 4811, § 6811 and § 6812 of Title 9.

285

286           (5) For local jurisdictions with a population greater than 10,000, identification of 1 or more zoning  
287 designations that allow and are suitable for residential uses where emergency housing shelters, group homes, recovery  
288 homes, or other supportive housing are allowed as a permitted use without a conditional use or other discretionary  
289 permit required.

290           (c) An affordable housing plan must include at least 5 of the following elements for increasing housing production,  
291 including affordable housing production, in the local jurisdiction:

292           (1) Provision of density bonuses or other incentives for including affordable housing units in residential and  
293 mixed-use developments, which may include additional permitted dwelling units per acre, additional building height,  
294 reduced parking requirements, or reduced open space requirements.

295           (2) Creation of transit-oriented development zoning designations with significant increases in density along  
296 fixed transportation routes, including buses, trains, and other means of public transportation. Transit-oriented  
297 development zoning designations must include the reduction or elimination of minimum parking requirements for  
298 residential developments located within any of the following areas:

299                   a. ¼ mile of a transit stop.

300                   b. A designated town center.

301                   c. A mixed-use zoning district.

302           (3) Creation of expedited or accelerated permit review and approval timelines for residential development  
303 units that include affordable housing units.

304           (4) Provision of fee waivers, reductions, or deferrals for residential development units that include affordable  
305 housing.

306           (5) Reduction or waiver of local impact fees for any affordable housing unit.

307           (6) Facilitation of diverse housing types at different price points by adopting form-based codes or other  
308 alternative development standards in areas designated for growth in the comprehensive plan.

309           (7) Amendment of land use regulations to allow single-room occupancy housing as a permitted use in at least  
310 1 residential zone.

311           (8) Amendment of land use regulations to allow transitional housing or emergency shelters as a permitted use  
312 in at least 1 residential zone.

313           (9) Amendment of land use regulations to allow as a permitted use the conversion of commercial, office, and  
314 retail spaces into mixed-use and residential use without burdensome bulk and area standards or conditions such as  
315 parking requirements, setbacks, height restrictions, or open space requirements.

316                   (10) Designation of at least 1 residential zone where multifamily housing is a permitted use by right, or if such  
317                   zoning already exists, allowing for a substantial increase, through zoning or rezoning, in the amount of land zoned to  
318                   allow additional multifamily housing as a permitted use by right.

319                   § 9223. Reporting requirements.

320                   (a) The Delaware State Housing Authority shall coordinate with the Office of State Planning Coordination to  
321                   gather information from local jurisdictions regarding their compliance with the affordable housing plans developed under  
322                   this subchapter.

323                   (b) The Delaware State Housing Authority shall coordinate with the Office of State Planning to develop an annual  
324                   report showing each local jurisdiction’s progress toward meeting the goals identified in its affordable housing plan.

325                   (c) The Delaware State Housing Authority shall publish the reports required under this section on its website no  
326                   later than May 15<sup>th</sup> of each year, beginning in 2028.

327                   Section 8. This Act may be cited as “The Housing for Every Delawarean Act”.

#### SYNOPSIS

This Act aims to increase this State’s supply of housing. Despite rapid development, Delaware is facing a significant and growing shortage of affordable housing. Senate Joint Resolution No. 8 of the 1st session of the 153rd General Assembly created a pilot program designed to encourage local zoning reform efforts that would help increase affordable housing. While several local jurisdictions have taken advantage of the assistance offered by Senate Joint Resolution 8, the scope of the problem is statewide, and it will take more than isolated local reform to scale up housing production, particularly affordable housing production, to the degree necessary to meet this State’s needs. This Act seeks to address those needs by increasing access to housing for all income levels while allowing local jurisdictions the flexibility to develop their own strategies for doing so.

This Act is a Substitute for Senate Bill No. 23 and differs from Senate Bill No. 23 as follows:

(1) Senate Bill No. 23 gave the comprehensive plans for New Castle County, Kent County, and Sussex County the force of law, as is the case with the comprehensive plans in municipalities. This Substitute removes this provision for all 3 counties, so that only the land use map or map series part of the county comprehensive plan have the force of law, as is currently the case.

(2) Like Senate Bill No. 23, this Substitute reduces the amount of time a County has to rezone to conform land use with its comprehensive plan from 18 to 12 months. This Substitute also adds a provision that if a County does not complete this rezoning within the 12 months, and a property owner makes, within 24 months of the adoption of the comprehensive plan, a rezoning request that is consistent with the comprehensive plan’s future land use map, the rezoning request must be approved within 90 days of delivery of the rezoning application. If more than 24 months have passed since the adoption of the comprehensive plan, this provision does not apply. However, during that 24-month period, as long as a public hearing was held in connection with the comprehensive plan, all hearing and notice requirements otherwise required for zoning and rezoning will be deemed to have been met.

(3) Under Senate Bill No. 23, counties and municipalities were given 20 days to complete revisions to comprehensive plans that were returned by the Governor for further revision. This Substitute increases that period to 45 days. It also clarifies and provides additional detail regarding the revision and certification process.

(4) The requirements for the affordable housing plan under newly created Subchapter III of Chapter 92 of Title 29 have been reduced to reflect the fact that local jurisdictions already include some of the information required under Senate Bill No. 23 in their comprehensive plans.

(5) Senate Bill 23 required a minimum of 4 mandatory elements of an affordable housing plan. This Substitute increases the number of required elements of the affordable housing plan from 4 to 5, with the addition being that an affordable housing plan for a jurisdiction with greater than 10,000 population must include the identification of 1 or more zoning designations that allow and are suitable for residential uses where emergency shelters, group homes, recovery homes, or other supportive housing are allowed as a permitted use without a conditional use or other discretionary permit required.

(6) This Substitute clarifies the conditions under which discretionary reviews of residential development applications are replaced with a by-right process. Specifically, this Substitute provides that if a residential development application conforms without conditions, variances, or exceptions with the zoning requirements of the local jurisdiction and the comprehensive plan, by-right approval applies. Under the by-right process, the local jurisdiction determines whether to hold a public meeting about the application. The local jurisdiction's determination to hold or not hold a public meeting and the procedures of any public meeting held supersede the provision of 9 Del. C. §§4811, 6811 and 6812, regarding public hearings.

(7) This Substitute removes some of the reporting requirements included in Senate Bill 23 to simplify the process for local jurisdictions. Reporting is still mandatory, and the Delaware State Housing Authority and the Office of State Planning Coordination are still required to publish reported information on the Housing Authority website on an annual basis so that the public can see how local jurisdictions are meeting their obligations under this Act.

(8) Senate Bill No. 23 included technical corrections intended to make current code consistent with the standards of the Delaware Legislative Drafting Manual. This Substitute removes those technical corrections to avoid confusion over which changes were technical, and which were substantive.

Under § 1 of Article IX of the Delaware Constitution, this Act requires a two-thirds majority vote because the amendments it makes to Title 22 of the Delaware Code would indirectly amend the charter of one or more incorporated municipalities.

Author: Senator Huxtable

**From:** Earle Dempsey <earle.dempsey@firststateinspection.com>  
**Sent:** Wednesday, April 1, 2026 12:59 PM  
**To:** Julie Goodyear  
**Cc:** Brian Miller; Scott Lobdell  
**Subject:** Re: Municipal Code Updates – ICC/IRC/IBC/IFC Adoption Feedback Request

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

External ([earle.dempsey@firststateinspection.com](mailto:earle.dempsey@firststateinspection.com))

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This message originated from outside the organization

Good afternoon, Julie -

Thanks for reaching out on this topic. I can offer you a couple of items that we discuss with all of our municipal partners.

While your current 2018 adoption isn't the oldest out there, I agree that consideration should be given to moving to a later addition. In Delaware, Kent County is currently on the 2018, while both New Castle and Sussex have adopted the 2021. I know Kent County is currently reviewing the 2024 Code for adoption later this year, and we had heard New Castle had been considering the 2024 as well. The Town of Middletown recently adopted the 2024 Codes.

We would have no concern with you moving to either the 2021 or the 2024 Code versions. We do typically recommend trying to keep pace with your local County to maintain some parity for residents and contractors on both sides of Town borders, but that certainly is a decision for Town leadership. And the Town never has to worry about adopting the NEC (National Electrical Code) or the IPC (International Plumbing Code) as those are both adopted Statewide by the Fire Prevention Commission and the Division of Public Health, respectively.

Finally, when adopting Codes, we generally recommend adopting them as-is, without making many/ any local changes. The Codes are very sufficient themselves and making changes can cause confusion and enforcement challenges.

The other topic to keep in mind is that of Residential Sprinklers. Since 2012, this requirement has existed within the IRC, although historically, most jurisdictions have continued to exclude the requirement in their latest adoptions. However, more Delaware jurisdictions are adopting the Code without the exclusion. Newark, Delaware City, Lewes, and Milton are the ones with various adoptions in recent years, but Middletown is the most notable for you with their 2025 adoption that is effective in

2026. New Castle County had seriously considered it with their adoption of the 2021 Code, but ultimately it passed County Council without the requirement.

I won't lobby you one way or another, but just keep this discussion in mind when moving forward as it will continue to be a growing topic. If and when the Town moves to include the requirement, the Fire Marshal's Office will not manage the required residential plan reviews and inspections as the do for commercial installations. First State can handle this for you, as we have staff who are certified and have been trained by the Fire Marshal's Office, and we are currently performing this work for the Town of Milton.

Hope this all helps, but please feel free to let me know of any questions or further discussion desired.

Thanks - E

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Thanks,  
Earle 'Punk' Dempsey



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[earle.dempsey@firststateinspection.com](mailto:earle.dempsey@firststateinspection.com)  
302/422-3859 office

On Mon, Mar 30, 2026 at 10:45 AM Julie Goodyear  
<[jgoodyear@townsend.delaware.gov](mailto:jgoodyear@townsend.delaware.gov)> wrote:

Good Morning Brian and Earle,

We are beginning to gear up for a series of updates to the Town's Municipal Code, and one of the sections we are considering revising relates to the adoption of the ICC, IRC, IBC, and Fire Code (IFC). At this time, we are generally agreeable to adopting the most recent versions of each.

Before moving forward, we wanted to reach out and gather your input. Specifically, we would appreciate any feedback, concerns, cautions, or general recommendations you may have regarding adopting the latest code editions. While we want to ensure the Town is keeping pace with current standards, we also want to be thoughtful about implementation and any potential impacts on development, enforcement, and administration.

If there are any challenges you have seen in other municipalities, or best practices you would suggest as we consider this update, your insight would be extremely valuable.

Thank you both in advance for your time and input, we truly appreciate your partnership and expertise.

Best Regards,

Julie M. Goodyear  
Town Manager  
Phone: 302-378-8082  
Fax: 1-302-378-7099  
[jgoodyear@townsend.delaware.gov](mailto:jgoodyear@townsend.delaware.gov)

\*\*I will be on leave for the month of April with limited access to email. For immediate assistance during this time, please contact Jennifer Helms at [jhelms@townsend.delaware.gov](mailto:jhelms@townsend.delaware.gov)



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