



NEW CASTLE COUNTY COUNCIL COMMUNITY SERVICES COMMITTEE MEETING

Co-Chair: Penrose Hollins, Fourth District
Co-Chair: Lisa Diller, Fifth District

October 26, 2021

4:00 PM

VIRTUAL ZOOM WEBINAR MEETING &
LOUIS L. REDDING CITY/COUNTY BUILDING
1ST FLOOR COUNCIL CHAMBERS
800 N. FRENCH STREET, WILMINGTON, DE 19801**

AGENDA

- A. Meeting Call to Order**
- B. Approval of Minutes**
From the October 12, 2021 meeting.
- C. Review/Discussion of Resolution(s)**
- D. Review/Discussion of Ordinance(s)**
- E. Presentations**
Neighborhood Improvement Districts Legislation
- F. Other**
- G. Public Comment**
- H. Adjournment**

AGENDA POSTED: October 19, 2021

*The agenda is posted (7) seven days in advance of the scheduled meeting in compliance with 29 Del. C. Section 10004(e)(2). This agenda shall be subject to change to include additional items including executive sessions or the deletion of items including executive sessions that arise at the time of the public body's meeting. Questions should be directed to the office of Councilman Hollins at (302) 395-8344 or Councilwoman Diller at (302) 395-8345.

**Under Title 29, Section 10006A of the Delaware Code, New Castle County Council is holding this meeting as a telephone and video conference, utilizing Zoom Webinar. In addition, this meeting is open to the public in Council Chambers (800 N. French Street, 1st Floor, Wilmington, DE 19801).

The link to join the meeting via computer, smart device, or smartphone is <https://zoom.us/j/377322142>

You may also call into the meeting (audio) using the following call-in numbers: 1-312-626-6799 or +1-646-558-8656 or +1-346-248-7799 or +1-669-900-9128 or +1-253-215-8782 or +1-301-715-8592. Then enter the Webinar ID: 377 322 142. If you do not have a good connection with one, please try the others.

Additional information regarding phone functionality during the meeting is available at: <https://support.zoom.us/hc/en-us/articles/360029527911-Live-Training-Webinars>

Meeting materials, including a meeting agenda, legislation to be addressed during the meeting, and other materials related to the meeting are electronically accessible at <https://nccde.org/AgendaCenter/County-Council-1>

Members of the public joining the meeting may be provided an opportunity to make comments in real-time.

A comment period will be administered by a moderator to ensure everyone may have an opportunity to comment. If permitted to comment, you will not be able to speak until called upon by the moderator. For those appearing virtually, there are functions in the program that allow you to do this. Please see the link in the previous paragraph.

Finally, if you would like to submit comments or questions on legislation that will be considered during the meeting, please send them to: Marylee.Murphy@newcastlede.gov All comments should be given by 3:30 pm on 10/26/21.

Neighborhood Improvement District (NID) Ordinance Overview

Introduction: Some communities located in the unincorporated areas of New Castle County have experienced a breakdown in leadership, governance, or finances and cannot provide expected services to residents. For example, some residents in these communities are overpaying for services as a result of the refusal by other residents to pay for services such as snowplowing. In some cases, public health is put at risk because of the high percentage of landlords who do not make sure that garbage collection is paid for by their tenants. In other communities, misspending of community money occurs with residents having no recourse other than hoping that the police file criminal charges or pursuing an expensive remedy in Chancery Court (if they are an HOA or maintenance corporation). The NID ordinance is a way to create a fee for services, for NCC to bill residents directly for the services, and to provide fiscal accountability that many communities currently lack. The NID structure may create opportunities for communities within the same geographic area to save money by sharing information about service providers.

The NID concept has been used throughout the country to address the need to provide services in certain areas of cities and counties. Pennsylvania has a robust program that has been used to address the specific needs of certain districts. For example, a business district in PA might create a NID to provide for additional trash collection and police presence so the district would be more attractive and feel safer to customers patronizing the local businesses. The proposed NCC NID is a special district bounded by a community's record plan (or plans, if built with sections).

Highlights of a NID:

- The NID provides services to the community which is funded by fees paid by property owners and residents.
- NIDs may be requested by property owners, residents or the district council member. A NID may be created if fewer than 51% of property owners object to NID formation.
- Some communities will never need to become a NID because they do not lack leadership, governance, or finances to provide services to their communities.
- NCC will receive both a billing fee and an administrative fee above the cost of services to cover expenses ranging from 12-15%.
- The individual negotiating the services and fees will begin as a part-time, contractual employee through the Department of Community Services. If the program grows, staffing may increase.
- This program for communities is like the local service function provided to municipalities—it is designed to be covered by the fees paid by the recipients of the services. Fees will be updated annually to reflect costs.
- The bills for fees would be sent to property owners and residents by NCC through the existing billing system. Many property owners and residents in a NID could simply pay the fee as a separate line on their annual tax bill.
- The NID coordinator would meet with residents to develop a contract for needed services. These services might include snow plowing, garbage collection, open space maintenance, and additional police services for annual events. NCC has the right to decide if it is feasible to provide the services.

- A NID account will be established for each participating community within the NCC finance system. Fees will be billed and collected and invoices for services will be paid through this accounting system.
- A NID may be authorized for up to 5 years, although it may be renewable after that time. Communities could exit the program after the initial period of time.

NID WORKING GROUP PARTICIPANTS

NCC Councilwoman Lisa Diller (Legislative Assistant Marylee Murphy)
NCC Councilman John Cartier (Legislative Assistant Michele Gildea)
NCC Councilwoman Janet Kilpatrick (Legislative Assistant Anthony DeFiore)
NCC Councilman Tim Sheldon (Legislative Assistant Michael Rodriguez)
NCC Counsel to Council Michael Migliore

Acting Director of Public Safety Vaughn Bond
Acting Chief of Police Captain Joseph Bloch
S/Sgt. Sonia Trudeau (County Council Liaison)
Law Enforcement Technician Mike Walsh

Chief Financial Officer Michael Smith
Deputy Chief Administrative Officer Erik Raser-Schramm
Director of Constituent Services Ken Dunn
Policy Advisor Sue Moore
County Attorney Wilson Davis

General Manager Marcus Henry (Department of Community Services)

General Manager Rich Hall (Department of Land Use)
Assistant General Manager Jim Smith (Department of Land Use)
Assistant Manager George Hagerty (Department of Land Use)
Licensing Manager Joe Day
Land Use Administer Mark Veasey
Planner Janet Vinc (Department of Land Use)

Common Interest Community Ombudsman Chris Curtain (State of DE/Deputy AG)

NID Community Profile

Name of community:

Number of properties:

Potential indicators of public health, safety, or welfare issues for the past three years:

- % of unpaid property taxes in the community
2018:
2019:
2020:

- Number of registered rental properties in the community
2018:
2019:
2020:

- Number of vacant (registered and according to code reports) properties in the community
2018:
2019:
2020:

- Number of distressed properties
2018:
2019:
2020:

- The community is within the U.S. Census tracts that are eligible for participation in NCC HUD-funded programs. List tracts.

- Total Number of code complaints for the community for
2018:
2019:

2020:

- Total number of code complaints related to public health issues in the community (example: large numbers of residents without trash removal)

2018:

2019:

2020:

- % of community dues or fees paid is below 40%

2018:

2019:

2020:

- The community has been unable to contract for snowplowing or other maintenance issues because of lack of funds or leadership.

2018:

2019:

2020:

- Total number of HUD financed community cleanups in:

2018:

2019:

2020:

- The community's Board is unable to function because of a lack of leadership or is unresponsive to neighborhood problems.

- The community has been unable to find volunteers to serve as Board members and/or has not held an election for three years.

2018:

2019:

2020:

- The community has been designated as a crime “hotspot” by New Castle County Police for 50% of the time over the past three years (18 out of 36 months).
2018:
2019:
2020:

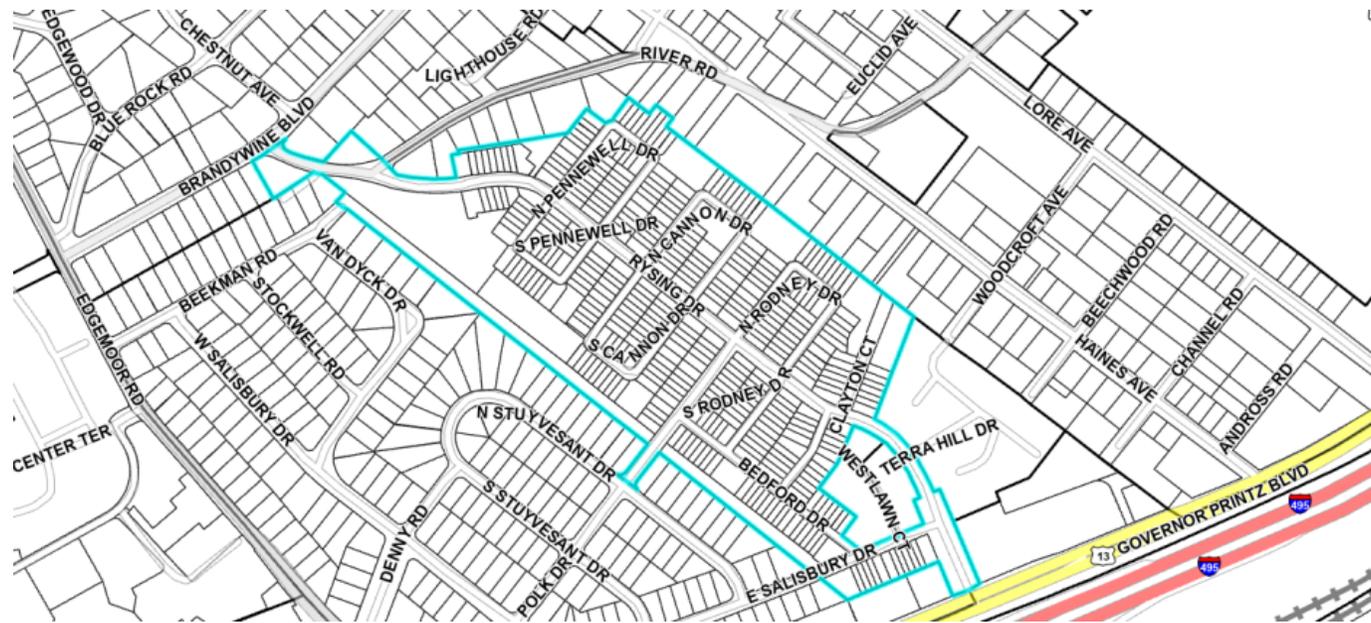
Other pertinent information such as community history:

Proposed services for this community:

Estimated Cost:

EDGEMOOR GARDENS: A CHALLENGED COMMUNITY

MAP OF EDGEMOOR GARDENS



HISTORY

Edgemoor Gardens was built in the 1940's and initially believed to be for military families and then later for DuPont plant workers. The construction stopped and then restarted under new management and developers in 1942. Wilmington Construction was the last known company and then they ended up defunct leaving a couple open space parcels unattended. The Civic Association had a revival in the 1980's. There was a merger around 2013/2014 which merged Edge Moor (two words) Gardens Civic Association, which owned parcels, and the Edgemoor (one word) Gardens Civic Association - which had a bank account. This merger established new by-laws which not only allowed for homeowners, but for tenants to participate in Civic Association meetings. In 2006 The Edgemoor Revitalization Cooperative Inc (ERC) was created and by 2008 was chosen to become one of Delaware's first Blueprint Communities. As a Blueprint Community, it allowed for the purchase of one of the homes within the neighborhood to turn it into a Resource center known to the neighborhood as the Resource House. The Resource House has been successful in building partnerships with the New Castle County Govt., the Brandywine School District, the Bellevue Community Center, local churches and other organizations to establish programming mainly for the youth of Edgemoor Gardens and for its revitalization efforts. The Civic Association and the ERC have been working together to improve the quality of life in Edgemoor. Both organizations have been instrumental in the stabilization of the neighborhood which includes affordable housing and homeownership.

PROPERTY INFORMATION
TOTAL NUMBER OF PROPERTIES-382

Year	Registered Rental Properties	Vacant Properties Total/Registered	Code Complaints Total/Public Health
2018	267	43/26	171/69
2019	263	35/21	190/81
2020	301	22/19	172/86

TAX INFORMATION

PERCENTAGES OF UNPAID TAXES

Year	Total number of parcels	Number of parc. reg. as rental	% Registered as rental	Total number of unpaid parcels	Number of unpaid parcels reg. as rental	% of all unpaid parcels that are reg. as rental	% of NCC Tax billed that was unpaid	% of School Tax billed that was unpaid	% of Sewer Charges billed that were unpaid	% of Combined amounts billed that were unpaid	% of Combined unpaid amounts related to rental
2018	420	289	68.81%	95	39	41.05%	45.74%	40.93%	33.60%	40.89%	21.37%
2019	420	240	57.14%	102	41	40.20%	47.61%	42.29%	37.56%	42.66%	28.26%
2020	420	240	57.14%	99	56	56.57%	43.76%	44.09%	35.85%	42.51%	25.24%
2021	420	240	57.14%	107	52	48.60%	49.36%	48.28%	32.10%	45.50%	24.71%

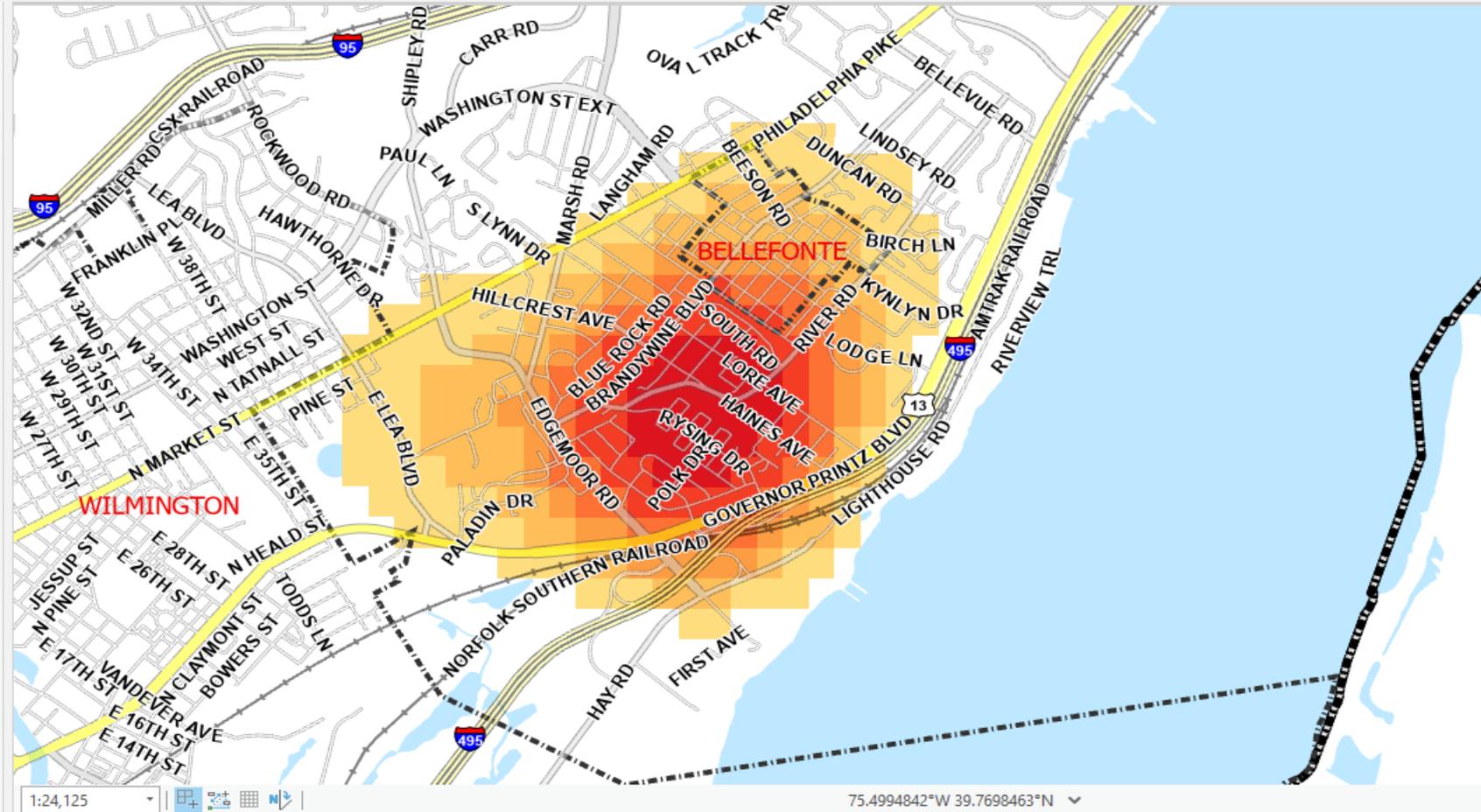
HUD QUALIFIED CENSUS TRACTS

- Research has shown that there are no HUD qualified census tracts in Edgemoor Gardens.

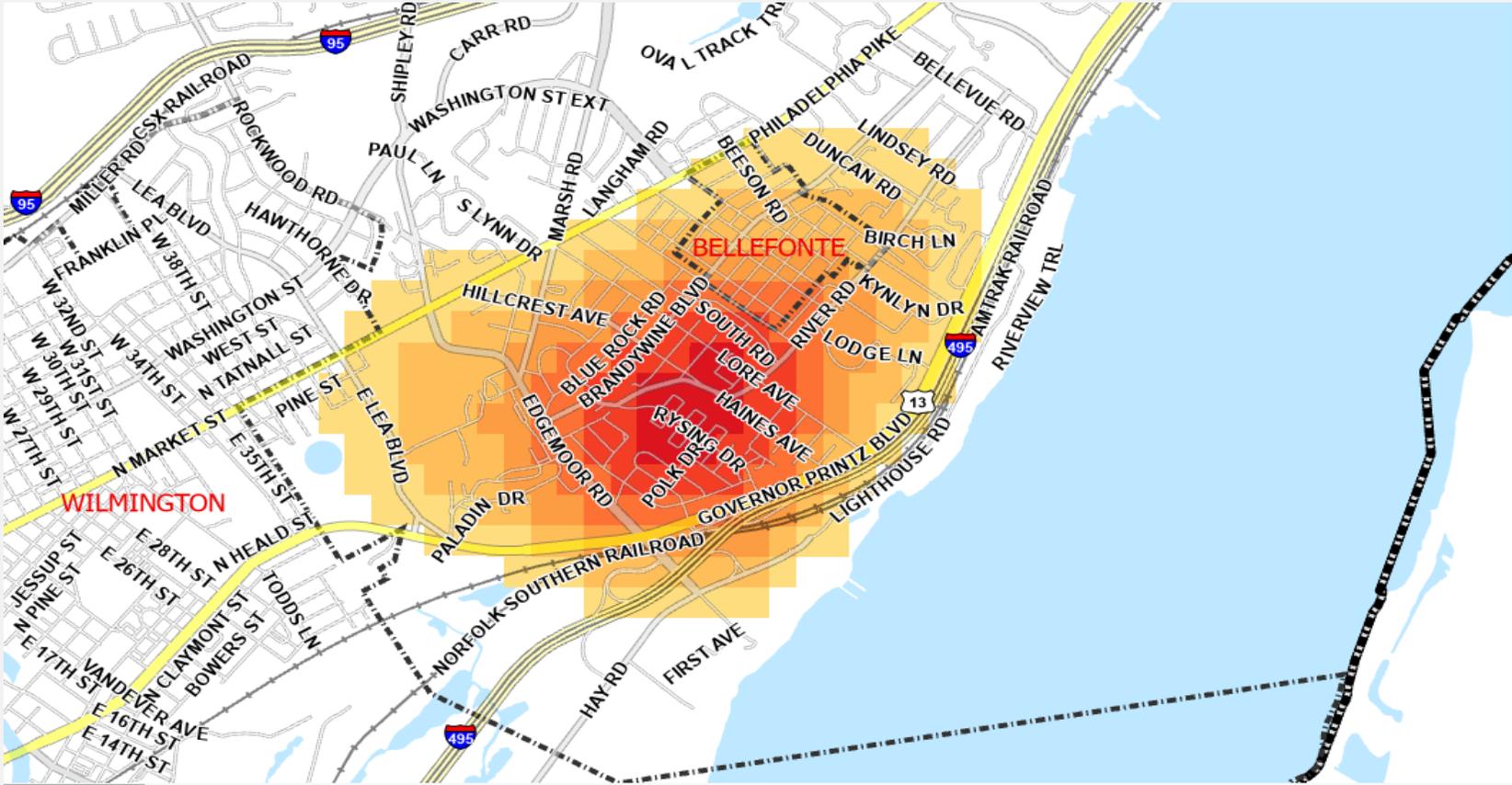
**TARGETED ANALYTICAL POLICING
SYSTEM (TAPS) DATA
NCC TOTAL/EDGEMOOR GARDENS**

YEAR	TAPS CALLS	TAPS CALLS PER ADDRESS	DISPATCHED CALLS	DISPATCHED CALLS PER ADDRESS
2018	26,212/16 1	0.145/0.438	76,085/550	0.420/1.495
2019	26,482/16 4	0.146/0.446	76,876/554	0.424/1.505
2020	27,456/15 6	0.152/0.424	76,510/619	0.422/1.682

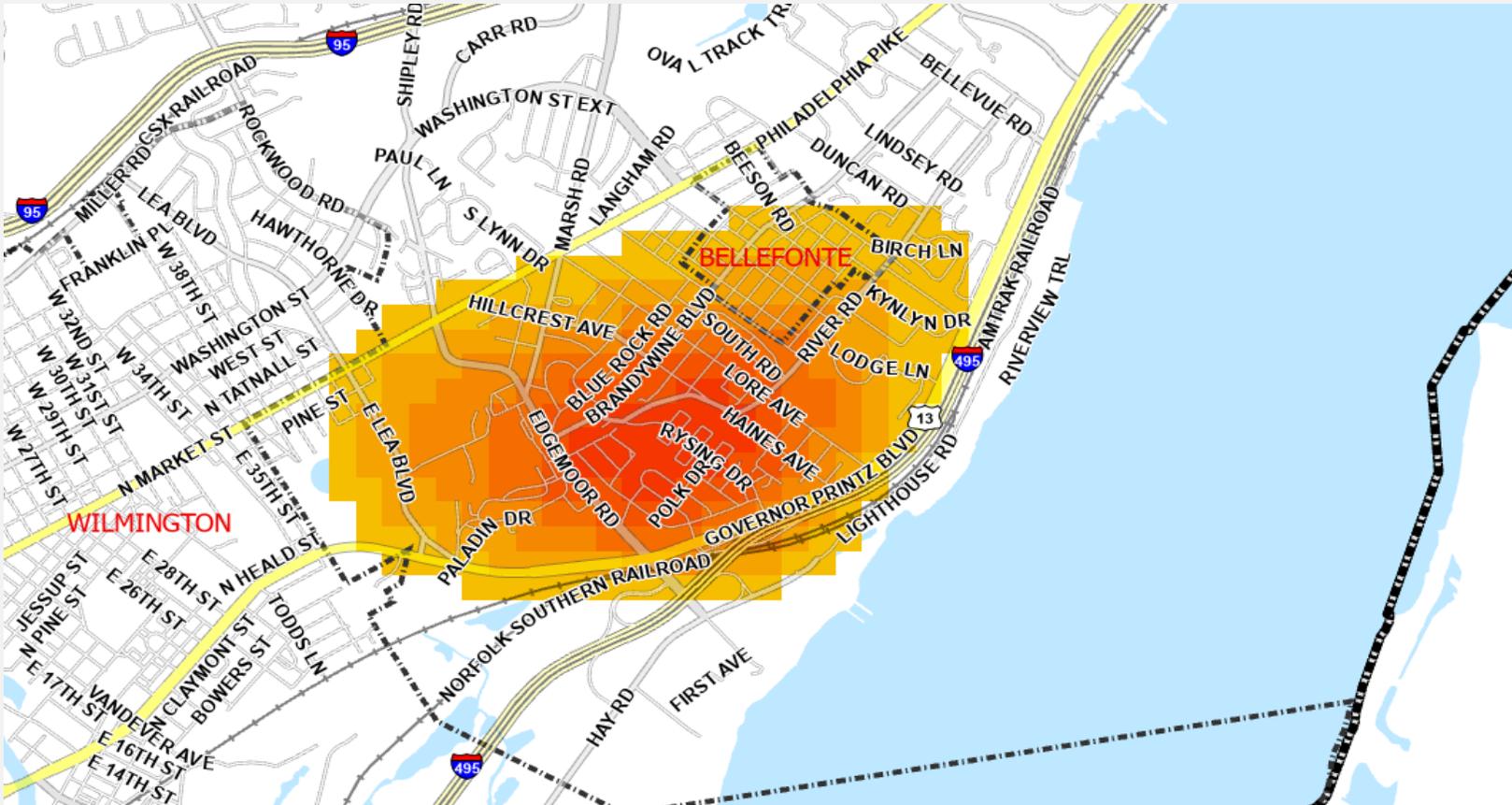
TAPS HEAT MAP 2018



TAPS HEAT MAP 2019



TAPS HEAT MAP 2020



DISORDERLY PREMISE PROPERTIES IN EDGEMOOR GARDENS

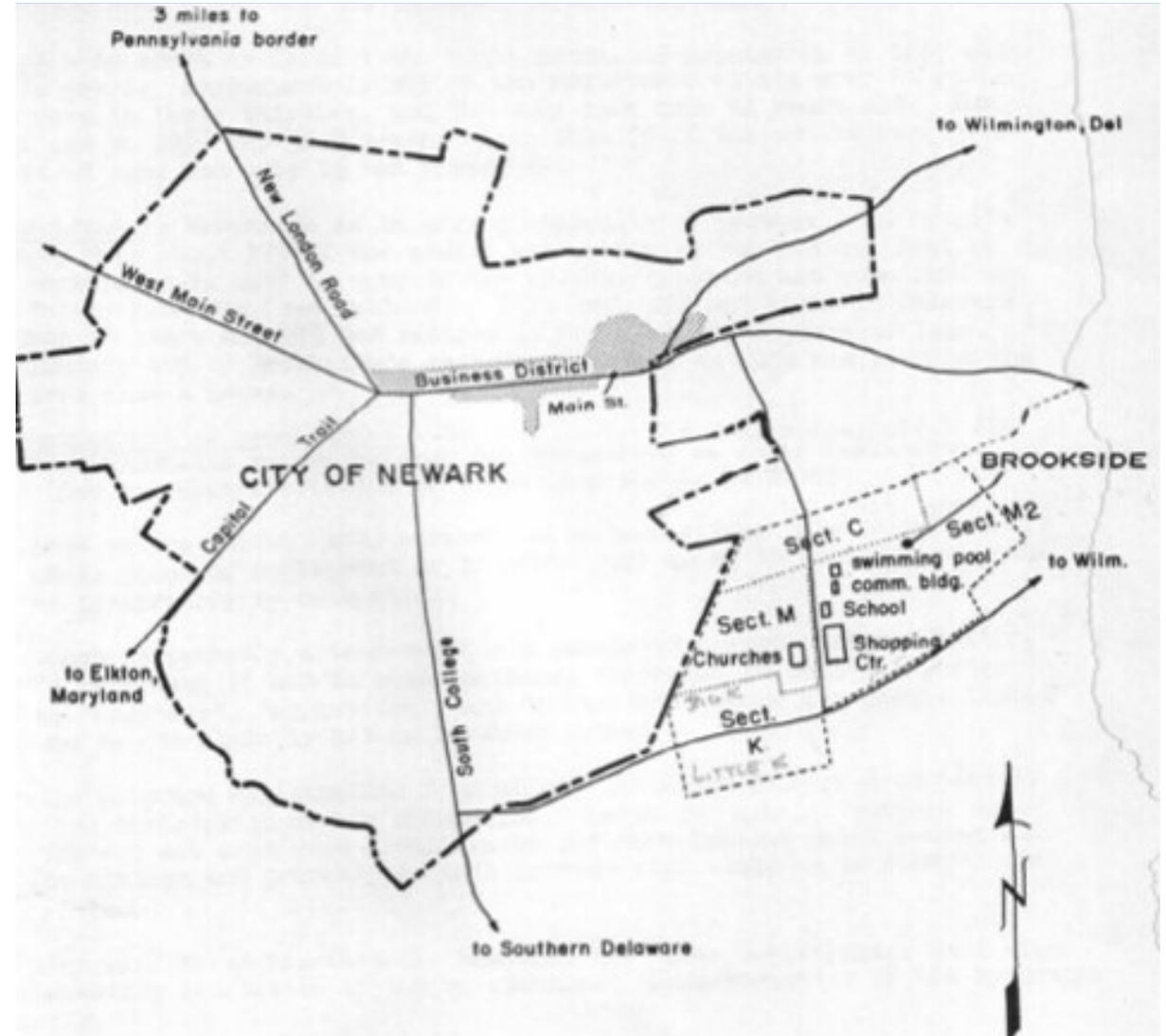
- The owners of “Disorderly Premise Properties”, or properties which are deemed to disrupt the quality of life in an area, receive letters from the NCC Department of Law apprising them of the property’s status.
- 2018- 8
- 2019- 1
- 2020- 1

ESTIMATED COSTS OF COMMUNITY-WIDE SERVICES FOR ONE YEAR

- Snow removal: \$2,540 for three 3" inch snow events \$6.65 per property
- Trash removal: \$ 240 per property \$91,680
- Administrative cost: (Currently using 15% of total cost per property) \$ 37 per property
- TOTAL PER PROPERTY PER YEAR: \$277

BROOKSIDE

CITY OF NEWARK AND BROOKSIDE (circa 1959)



History

Brookside Community, Inc. (BCI) is a planned community in unincorporated New Castle County next to the City of Newark that was developed beginning in 1951. It has over 1300 homes and was expected, when fully developed, to have about 3,000 residences. It was one of many communities that were built at that time for working and middle-class families after World War II.

The high expectations regarding governance for the community reflected in the BCI bylaws and founding documents might be explained, in part, by the demographics of the anticipated homeowners: White, middle to upper-middle-class married couples with children who had enough discretionary income and the time to devote to serving and solving community problems. The breadth of the BCI community responsibilities would be met because the residents had the education, experience, and time to fulfill them. The men worked for local corporations where civic involvement was encouraged and their stay-at-home wives had many opportunities within BCI (and were expected) to be involved with community social and educational activities.

In addition to housing, which was built in phases, Brookside included a commercial corridor as well as 2 places of worship. Brookside had its own sewer system, police force, parkland, and recreational facilities such as a swimming pool, playgrounds, ball fields, and a recreation center. Volunteers were critical to community success. The BCI handled the maintenance functions and the Brookside Civic Association provided social and recreational activities.

The original Brookside homes were small, 1000-1200 square feet, built on a slab with a single bathroom and 2 or 3 bedrooms. As the years passed, the original families moved on to new suburbs with larger homes. By the 1970s, original Brookside responsibilities such as the sewer system and policing were assumed by New Castle County. In the 1980s, the Brookside civic association was merged with BCI because of a lack of volunteers. The swimming pool was eventually closed because of a lack of funds. Today, parts of BCI are within two HUD-approved census tracts and NCC has engaged in some housing improvement work in the community.

There have been no audits in recent years and the current budget does not include funds for one this year. With all these problems, there are few solutions. Short of the residents paying an attorney to go to Chancery Court and requesting the judicial system to devise what would be an expensive solution, there is little that can be done to make BCI responsive to its residents.

Is it time for the New Castle County government to take a hard look at what we expect of communities and reassess our role by developing a fee-for-service model to assist them? This role would not be unlike the menu of services that we provide to municipalities through the local service function. We do this for towns and cities. Why can't we do this for the communities in our districts?

YEAR	# OF REGISTERED PROPERTIES IN BROOKSIDE	# OF VACANT PROPERTIES IN BROOKSIDE	TOTAL # OF CODE COMPLAINTS FOR BROOKSIDE	TOTAL # OF CODE COMPLAINTS RELATED TO PUBLIC HEALTH ISSUES (EX: TRASH REMOVAL)
2018	133	39	108	44
2019	138	36	85	35
2020	135	22	119	26
TOTAL NUMBER OF PROPERTIES IN BROOKSIDE		TOTAL 1, 357		
SECTION C	230			
SECTION K	285			
SECTION M	842			

SECTIONS	TAX DUE	SCHOOL DUE	SEWER DUE	TOTALS
SECTION C (230 PARCELS)	\$2,574.06	\$10,661.91	\$24,681.18	\$37,917.15
SECTION K (285 PARCELS)	\$13,265.91	\$53,310.71	\$25,239.54	\$91,816.16
SECTION M (851 PARCELS)	\$52,694.83	\$114,039.73	\$96,384.48	\$263,119.04

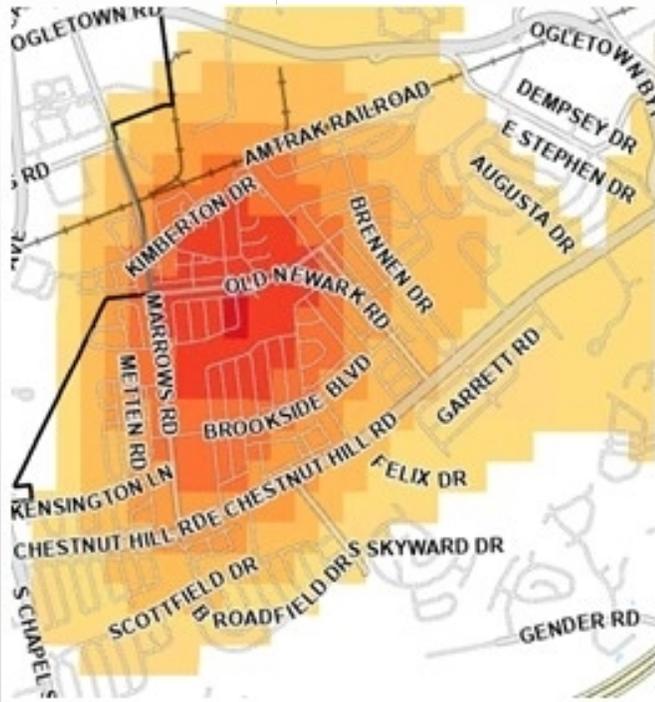
NCC OVERDUE TAXES AS OF APRIL 2021
\$392,852.35

Jurisdiction	Census Tract	Block Group	Low/Mod Count of Persons <80%	Low Mod Universe- Persons with potential for being LMI	Low Mod% -51 % must be LMI for an Area Benefit to Apply
New Castle County	014703	1	825	1215	67.90%
New Castle County	014703	2	585	870	67.24%
New Castle County	014703	3	890	2090	42.58%
New Castle County	014703	4	235	655	35.88%
New Castle County	014705	1	485	850	57.06%
New Castle County	014705	2	445	1445	30.80%
New Castle County	014705	3	1170	2555	45.79%

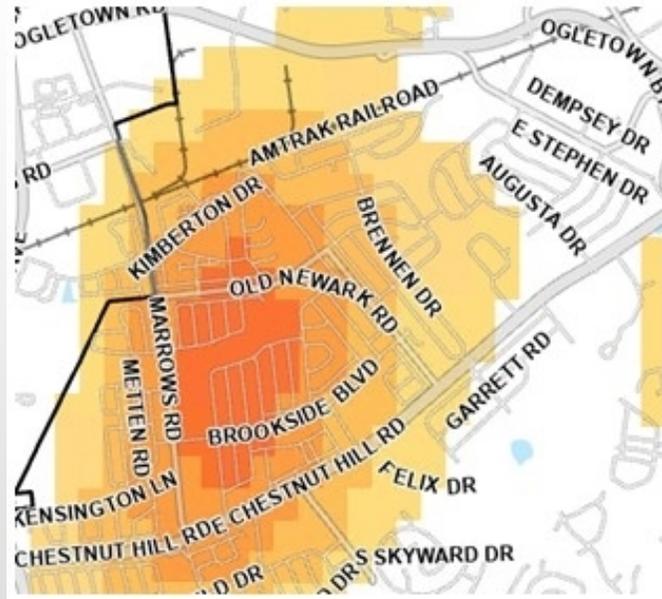
CENSUS TRACT	BLOCK GROUP	Low/Mod Count of Persons <80%	Low Mod Universe- Persons with potential for being LMI	Low Mod% -51 % must be LMI for an Area Benefit to Apply
014703	1	825	1215	67.90%
014703	2	585	870	67.24%
014705	1	485	850	57.06%

What census tracts are low mod in the brookside community in Newark? There are a total of 3 low mod areas in Brookside (see above chart).

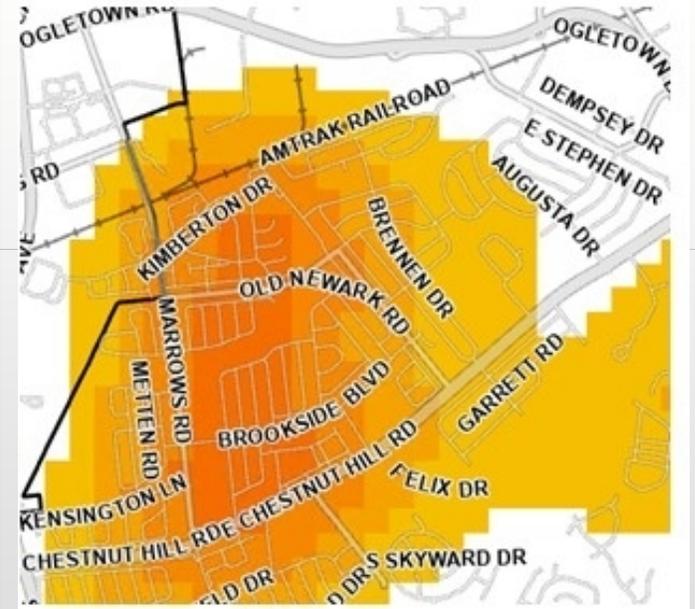
How many people does that comprise ? A total of 2,935 people are in those areas combined and 1,895 are Low/Mod Income Persons.



2018



2019



2020

Brookside Park				
	TAPS Calls	TAPS Calls per Address	All Dispatched Calls	Dispatched Calls per Address
2020	193	0.152	773	0.610
2019	166	0.131	739	0.583
2018	200	0.158	793	0.625

New Castle County				
	TAPS Calls	TAPS Calls per Address	All Dispatched Calls	Dispatched Calls per Address
2020	27456	0.152	76510	0.422
2019	26482	0.146	76876	0.424
2018	26212	0.145	76085	0.420

Neighborhood Improvement District contract recommendations:

Park mowing and maintenance: \$55 (current fee) x 1357 (# of houses) = \$74, 635

Snow removal: \$25 x 1357 = \$33,925

NCC Billing Fee of \$10.25 Per Parcel.

Note: The cost of NCC administrative fees has not been determined. Administrative fees will be 15% of the total contract.

Admin Fee \$11,784 divided by 1357 (# of houses) = \$8.70

Additional possible services in the future:

Garbage collection to reduce wear and tear on community streets

Park Mowing and Maintenance	= \$55
Snow Removal	= \$25
NCC Admin Fee	= \$8.70
Total	= \$88.70

SPONSOR: Rep. ____ & Sen. ____

HOUSE OF REPRESENTATIVES/DELAWARE STATE SENATE
151ST GENERAL ASSEMBLY

HOUSE/SENATE BILL NO.

AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO NEW CASTLE COUNTY NEIGHBORHOOD IMPROVEMENT DISTRICTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 9 of the Delaware Code by inserting a new Chapter 34 as shown by underline as follows:

CHAPTER 34. New Castle County Neighborhood Improvement Districts

§ 3401. Short title.

This Act shall be known as the “New Castle County Neighborhood Improvement District Act.”

§ 3402. Legislative findings.

The General Assembly finds and declares that:

- (a) Marshalling New Castle County resources together under “one roof” to focus on neighborhood problems, as contemplated by this Act, promotes the chances of successfully resolving systemic neighborhood issues.
- (b) Preserving and improving our neighborhoods is critical to the long-term well-being of the State of Delaware and New Castle County.
- (c) The availability of enhanced services, including district-wide sanitation and snow removal, and enhanced public safety, within New Castle County’s neighborhoods would result in greater neighborhood stability and improved quality of life.
- (d) Numerous jurisdictions around the world and the United States, including Philadelphia, Baltimore, Buffalo, and Allentown, among many others, have successfully implemented and witnessed the benefit of such enhanced services through the creation of neighborhood improvement districts.
- (e) The enhanced services and related programs provided within a neighborhood improvement district, generally speaking, are funded by property owners and the residents within each district, who are the primary beneficiaries thereof, which also lessens further demands on the strained public treasury.
- (f) It is in the best interests of the County and its residents to create, where feasible and desired by the property owners and residents in each district, assessment-based neighborhood improvement districts to promote more attractive and safer neighborhoods.
- (g) The County should be given broad discretion in establishing by County ordinance the type of assessment-based services and programs most consistent with neighborhood needs, goals, and objectives as determined and expressed by property owners and residents in the district.

§ 3403. Definitions.

The following words and phrases when used in this Chapter shall have the meanings provided herein unless the context clearly indicates otherwise:

“Benefited property” means a property located within a neighborhood improvement district that

benefits from enhanced district services and related programs based on a rational nexus test. Properties need not benefit equally to be considered to have benefited.

“Cost of services” means consulting fees, professional fees, preliminary planning expenditures, feasibility study expenditures, financing costs, administrative costs, and any other expenditures necessary and incidental to the development or provision of the enhanced services and related programs.

“County” or “New Castle County” means the governing body of New Castle County, Delaware, as more fully described in Title 9 of the *Delaware Code*. In other circumstances, as the context indicates, “County” or “New Castle County” means the geographic boundaries of New Castle County, Delaware.

“District advisory council” means an optional advisory committee comprised of property owners and residents from the neighborhood improvement district that may be established under 9 *Del. C.* § 3407 for the purpose of providing guidance and advice to the neighborhood improvement district management association regarding needed enhanced services within the district.

“Neighborhood” means a limited geographic area situated within an unincorporated area of New Castle County that includes a residential district, the limits of which form the neighborhood improvement district boundary, as identified in the filed record plan.

“Neighborhood improvement district” means a limited geographic area within an unincorporated area of the County, as identified in the filed record plan, in which a special assessment is levied on all designated property, other than exempt property, for the purpose of promoting the general welfare of the district, hereinafter referred to as a “NID.”

“Neighborhood improvement district management association” means the corporate body that oversees the management of each neighborhood improvement district established pursuant to 9 *Del. C.* § 3406, which hereinafter shall be referred to as a “NIDMA.” Such body shall be incorporated as a nonprofit corporation in the State of Delaware. As described at 9 *Del. C.* § 3406, a civic association, a maintenance corporation, among other legal entities may be designated as the NIDMA so long as the requirements of this Act are fully complied with, including that the entity is a nonprofit corporation.

“Neighborhood improvement district plan” means the strategic plan for enhanced neighborhood services required under 9 *Del. C.* § 3405, hereinafter referred to as a “NIDP,” which includes all enhanced services and related programs to be provided within the district to implement the plan by the NIDMA.

“Neighborhood improvement district services” may include, but is not limited to, those enhanced services that improve the ability of property owners and residents to enjoy a safer and more attractive neighborhood due to the provision of expanded services, which may include, without limitation, district-wide street cleaning, district-wide snow removal, district-wide trash removal, maintenance of open space, additional Code enforcement services, and security services.

“Nonprofit corporation” means a legal entity that is incorporated under the laws of the State of Delaware, is organized not for profit, and no part of the net earnings inures to the benefit of any member or individual holding an interest in such entity.

“Private security officer” means any professional person, firm, or entity employed by the NIDMA for the purpose of providing increased security or protective patrol services within the NID. The term may include off-duty police officers provided that the use of such officers for this purpose is approved by the governing body of the County.

“Rational nexus” means the legal principle which requires that there is a rational, definable benefit that accrues to any property owner assessed a fee for said benefit in a NID created under this Chapter. All property owners within a designated NID paying a special assessment fee must benefit directly or indirectly from the additional services or programs provided within the NID, provided, however, that property owners need not benefit equally.

“Residential district” means, for purposes of this Chapter, a limited geographical area comprised of real property consisting predominantly of buildings and structures for housing individuals and families, including, but not limited to, single-family detached homes, single-family semi-detached homes, townhouses, condominiums, apartments, manufactured homes, modular homes, or any combination of same.

“Service area” means the area within the boundaries of the NID in which the NIDMA provides enhanced services.

“Special assessment fee” means the fee assessed on property owners within a NID levied by the County for purposes of providing enhanced services in a district under 9 Del. C. § 3407.

“Sunset provision” means a provision in the NIDP which, under 9 Del. C. § 3405, provides for the automatic termination of the NID on a date specified in the adopted NIDP and in the County ordinance establishing each NID. The NID may be continued beyond such date, provided the County ordinance creating the original NID is re-enacted, following a review by County Council of the NID and the enhanced services provided therein.

§ 3404. Powers of New Castle County.

New Castle County shall have the power to:

- (a) Establish within the County areas designated as a NID.
- (b) Designate a nonprofit corporation, either existing or subsequently created, as the NIDMA with the certain powers established under this Chapter.
- (c) Through the County Office of Finance, administer on behalf of the NIDMA, and in accordance with any specific provisions contained in the County ordinance establishing the NID, all appropriations and expenditures as determined by the NIDMA, which may include Federal, State, and/or County funds received by the NID, as may be required to:
 - (1) Prepare or have prepared preliminary research, planning, and feasibility studies to determine needed enhanced services and related programs in the NID, including, but not limited to, graffiti removal, district-wide sanitation needs, and security; the provision of enhanced services and related programs is to supplement, not replace, existing County services provided within the NID.
- (d) Review all proposed appropriations and expenditures of funds within the NID by the NIDMA, and provide recommendations related thereto.
- (e) Advance funds to a NIDMA as may be necessary to carry out the purposes of this Act.
- (f) Levy a special assessment fee on property owners located within the NID necessary to fund enhanced services within the NID.
- (g) Collect special assessment fees on behalf of the NIDMA levied on designated property owners within the NID and to employ all legal methods to ensure collection of the special assessment.
- (h) Include a sunset provision of up to five (5) years in the County ordinance creating the NID and in the contract between the County and the NIDMA.
- (i) Impose and file liens on property for the nonpayment of the special assessment.

§ 3405. Creation of neighborhood improvement district.

(a) Establishment.

- (1) Property owners or residents in a proposed NID, or the County may petition to establish a NID, consistent with all requirements under this Chapter.
- (2) Where property owners and/or residents desire to establish a NID, which shall occur through an ordinance initiated by the District Council Member, they shall submit a petition to the County to establish a NID under the procedures provided for in this Chapter. The ordinance shall identify criteria established by County Council that supports creation of a NID.
- (3) Where the County petitions to establish a NID, which shall occur through an ordinance initiated by the District Council Member, the ordinance shall identify criteria that supports creation of the NID and shall be subject to the procedures under this Chapter.
- (4) In no case where a petition to establish a NID is submitted shall the County be obligated to do so.

(b) Specific procedures.

- (1) The County shall provide to all property owners and residents located in the proposed NID a copy of all information, including the Preliminary NIDP and the location, date, and time of the public hearing, required by this Chapter at least thirty (30) calendar days prior to the first public hearing by the County as required by this Section.
- (2) The public hearing is for the purpose of receiving public comment on the preliminary plan ("Preliminary NIDP") from affected property owners and residents within the proposed NID. Notice of the public hearing shall be advertised at least ten (10) business days prior thereto in a newspaper of general circulation in the County.
- (3) Any objection by a property owner within the proposed NID to the Preliminary NIDP must be made in writing. Each objection must be signed by the property owner, notarized, and lodged with the Clerk of County Council, as set forth in subsection (c)(1)c.7.

(c) Contents of the Preliminary NIDP.

(1) The Preliminary NIDP must include:

- a. A map indicating the boundaries of the proposed NID, as identified on the filed record plan; a designated property may not be included in more than one NID unless expressly authorized by ordinance of County Council.
- b. A written report from the County containing:
 1. The name of the proposed NID.
 2. A detailed description of the service area of the proposed NID.
 3. A list of all properties to be assessed.
 4. A list of proposed enhanced services and related programs within the NID and the estimated annual cost of services.
 5. A proposed budget for the first fiscal year, including, but not limited to, proposed expenditures for enhanced services and related programs, including costs of service such as costs related to personnel and administration, and maintenance and operational costs.
 6. The proposed revenue sources for funding the proposed enhanced services and programs.
 7. The estimated time for implementation of proposed services and related programs.
 8. A statement identifying the NIDMA.

9. Any other information, including the authority or a general description of the powers and duties of and the method for decision making by the NIDMA.
10. The method of determining the special assessment fee to be levied on property owners within the NID under 9 Del. C. § 3407.

c. In addition, the Preliminary NIDP shall:

1. Identify the respective duties and responsibilities of the NIDMA and the County in relation to the NID.
2. Require that a written agreement be entered into between the County and the NIDMA.
3. Require in the agreement between the County and the NIDMA and in the ordinance creating the NID that the County must maintain the same level of County services provided within the NID before NID-creation as after creation thereof.
4. Provide in the agreement between the County and the NIDMA and in the ordinance creating the NID a sunset provision of up to five (5) years, subject to extension following review of the NID and related services by County Council.
5. Require in the agreement between the County and the NIDMA and in the ordinance creating the NID that the County shall be responsible for collection of special assessment fees levied within the NID.
6. Allow for and encourage any exempt property owners in the NID to provide in-kind services or a financial contribution to the NIDMA in lieu of a special assessment fee.
7. Require a vote of at least 51%, in number, of the assessed property owners in the NID is necessary to defeat establishment of the proposed NID by each lodging a written, notarized objection with the Clerk of County Council within forty-five (45) calendar days after the hearing in which County Council considered the Proposed Final NIDP.

(d) *The proposed final plan.*

Prior to establishment of a NID, the County shall provide a proposed final plan (the “Proposed Final NIDP”) to all property owners and residents located within the proposed NID that incorporates any changes to the Preliminary NIDP based on comments from assessed property owners and residents within the NID submitted at the public hearing(s). Changes to the Preliminary NIDP reflected in the Proposed Final NIDP are to be identified in an easily discernible manner such as changes being in boldfaced or italicized type.

(e) *Public hearing - proposed Final NIDP.*

At least one public hearing for the purpose of receiving public comment on any revision to the Preliminary NIDP following comments by assessed property owners or residents within the proposed NID and reflected in the Proposed Final NIDP shall be held by the County before enacting an ordinance establishing a NID. Notice of the hearing shall be advertised at least ten (10) business days prior thereto in a newspaper of general circulation in the County.

(f) *Veto of the Proposed Final NIDP.*

1. Following the last public hearing required under subsection (e), assessed property owners located within a proposed NID shall have forty-five (45) calendar days from the date of the hearing to object to and disapprove of the Proposed Final NIDP.
2. If at least 51%, in number, of the assessed property owners within a proposed NID fail to register their objection to the Proposed Final NIDP, the County Council may, following the forty-five (45) day period, enact an ordinance establishing a NID or, in the case of an amendment to a Final NIDP, adopt the amendment(s) thereto. All objections must be in writing and notarized, and must be submitted to the Clerk of County Council by hand

delivery or electronic mail by the 45th day following the last public hearing under subsection (e) or via first class U.S. Mail, postmarked no later than the 45th day following the hearing.

- (3) Unless the requisite number of objections have been timely submitted, the County Council may within thirty (30) calendar days following the deadline for objections to be submitted and at its sole discretion proceed to approve or disapprove of the proposed Final NIDP.

(g) Subsequent amendments to an approved Final NIDP.

- (1) An approved Final NIDP, upon the recommendation of the NIDMA board, may be subsequently amended at any time after establishment of the NID, provided there is approval by at least 51% of the assessed property owners, in number, within the NID. Each property owner must indicate its approval in writing and clearly indicate approval of the proposed amendment(s), which must be submitted to the Clerk of Council by hand delivery or by electronic mail within 45 calendar days of the last public hearing or via first class U.S. Mail, postmarked no later than the 45th day. Subsequent amendments to an approved Final NIDP such as those identified in subsection (2) require the approval of County Council.
- (2) Subsequent amendments to an approved Final NIDP include, without limitation, the following:
 - a. Substantially changed enhanced services or programs to be provided in the NID.
 - b. Increase in expenditures of at least 25% of the total NIDMA budget for the fiscal year.
 - c. Changing the special assessment fee levied on property owners in the NID.
 - d. Changing the legal entity that administers enhanced services within the NID.
 - e. Changing the NID service area boundary.
 - f. Other substantial changes to the approved final plan as determined by County Council.
- (3) Subsequent amendments to a Final NIDP are subject to the same procedural requirements in the Chapter as required to adopt a proposed Final NIDP.
- (4) The County shall provide public notice of the hearing on proposed subsequent amendments to an approved Final NIDP by publication of a notice in at least one newspaper having a general circulation in the County, specifying the date, time and place of such hearing and the amendments to be considered. The notice shall be published once at least ten (10) business days prior to the date of the hearing.
- (5) Unless the requisite number of objections have been timely submitted, the County Council may within thirty (30) calendar days following the deadline for objections to be submitted and at its sole discretion proceed to approve or disapprove of any amendments to the Final NIDP.
- (6) Prior to adoption of an amendment to a boundary that increases the size of a NID, each owner of property proposed to be added to a NID shall be notified of the date, time, and location of the public hearing on the proposed amendment to the Final NIDP and shall be provided all information as required under subsections (c) and (d).

§ 3406. Creation of the neighborhood improvement district management association.

(a) Association designated.

When the County approves a NID under this Chapter, a NIDMA shall be designated by the County to administer the enhanced services within the NID.

(b) Administration.

- (1) Each NID shall be administered by a NIDMA, which may be an existing nonprofit corporation, or a subsequently established nonprofit corporation, and must exist within the proposed boundaries of the NID.
- (2) If an active nonprofit corporation already exists that formally indicates in writing to the County its interest in becoming the designated NIDMA, which shall contemporaneously be made known in writing to all property owners, the County shall grant the request unless at least 51%, in number, of assessed property owners within the proposed NID lodge their disapproval thereof, in a notarized writing, with the Clerk of County Council within forty-five (45) calendar days following the formal written request for designation by the nonprofit corporation to become the NIDMA.

(c) Powers.

A NIDMA created under this Chapter shall have all powers provided for in § 3407 upon the effective date of the County ordinance creating the NID.

(d) Board.

Each NIDMA shall have an administrative board.

- (1) Where an existing nonprofit corporation is to serve as the NIDMA, the board shall be appointed consistent with the bylaws of the existing entity.
- (2) Where a nonprofit corporation is established to serve as the NIDMA, the board shall be comprised of an odd number of members, between three (3) and five (5), with a minimum of three (3) voting members and at least one (1) non-voting member representing the County.

In all cases, so long as not inconsistent with existing bylaws thereof, each NIDMA board shall include a representative of the assessed property owners located in the NID, who shall be a voting member of the board. Board members need not be residents of the NID.

§ 3407. Powers of the neighborhood improvement district management association.

(a) General Powers. Subject to available funding, and as provided for in this Chapter and an agreement between the County and the NIDMA, a NIDMA shall have, in addition to any other powers provided pursuant to the charter establishing the nonprofit corporation, the power to:

- (1) Sue or be sued, implead or be impleaded, complain and defend in all courts.
- (2) Employ necessary staff or contract for the provision of same.
- (3) Prepare planning or feasibility studies or contract for the preparation of same to determine needed enhanced services within the NID.
- (4) Provide for enhanced services and related programs, as needed, within the NID.
- (5) Contract for the provision of enhanced services within the NID.
- (6) Determine the appropriation and expenditure of NID funds, which includes any Federal, State, or County funds received by the County Office of Finance on behalf of the NIDMA; provided, however, that the funds shall be administered by the County Office of Finance on behalf of and as directed by the NIDMA and in accordance with any specific provisions contained in this Chapter and the agreement between the County and the NIDMA. Such funds are to be used to provide for enhanced services within the NID for the benefit of the NID, including, but not limited to, district-wide snow removal, district-wide trash removal, maintenance of open space, and enhanced Code enforcement and safety services.
- (7) Solicit in-kind services or financial contributions from any exempt owners of property located within the NID in lieu of special assessment fees. This may include entering into

voluntary agreements between the NIDMA and any exempt property owners for the provision of same.

- (8) Hire additional off-duty police officers or private security officers, upon approval of the Chief of Police, whose patrol area responsibilities would be limited to the geographical area incorporated within the designated NID service area and whose responsibility would be to support existing County efforts aimed at reducing crime and improving security in the NID.
- (9) Designate an optional district advisory committee, to be referred to as the District Advisory Council or “DAC”, for each NID. Each DAC shall consist of an odd number of members, between five and nine, who shall be representative of the neighborhood’s character, including, but not limited to, age, gender, and cultural diversity, and shall include at least two assessed property owners.

(b) Special Assessments.

- (1) The total cost of enhanced services and related programs provided within a NID shall be assessed to all designated properties located therein under a method that equitably apportions costs among benefiting properties, as determined by the Chief Financial Officer for the County.
- (2) All special assessment fees shall be based on the estimated cost of the enhanced services and programs to be provided in the NID as identified in the Final NIDP approved by County Council.
- (3) Revenues from the special assessment fee contemplated in subsection (1) shall be accounted for by the County Office of Finance and utilized by the NIDMA to provide enhanced services and related programs within the NID as authorized under this Chapter. In no case shall the aggregate amount of all special assessment fees during any year exceed the estimated cost of proposed enhanced services for the year.
- (4) All special assessments authorized under this Chapter shall be calculated using July 1 as the first day of the fiscal year.

(c) Payment. County Council, in consultation with the Chief Financial Officer for the County, may by ordinance authorize the payment of a special assessment, including in equal annual or more frequent installments over such time and bearing interest at a rate specified under the method identified in subsection (b).

(d) Liens.

- (1) Notwithstanding the filing of any claims, all special assessments, including those which are made payable in installments, shall constitute a lien and encumbrance upon the respective benefitted properties at the beginning of each fiscal year, starting July 1, only in an amount equal to the sum of:
 - a. The annual special assessment, or outstanding installment payments, becoming payable in the current year, with penalty, if any, thereon; and
 - b. The total of all amounts, including outstanding installment payments, with penalty thereon, which became due during prior years and which remain due and unpaid at the beginning of the current year.
- (2) In the case of default in the payment of any special assessment, including any installment amount, and penalty for a period of ninety (90) days after the payment becomes due, a County special assessment ordinance may provide either for the entire special assessment, with accrued penalty, to become due and become a lien from the due date of the special assessment, including any installment, or may provide solely for the enforcement of a claim as to the overdue amounts, with penalty, in which case the

ordinance shall further provide that if any amount remains due and unpaid for six (6) months after it has become due and payable, then the entire special assessment with accrued penalty shall become due and become a lien from the due date thereof.

- (3) No action taken to enforce a claim for any special assessment, including any installment, shall affect the status of any subsequent special assessment or installment of the same special assessment, each of which shall continue to become a lien upon the property annually pursuant to this section.
- (4) The ordinance may contain any provision relating to special assessments, including installment payments, which is not inconsistent with applicable law.
- (5) Any owner of property against whom a special assessment has been made may pay the special assessment in full at any time, with accrued costs thereon, and such payment shall discharge the lien of the special assessment or installments then constituting a lien and shall also release the claim to any later installments.
- (6) A claim to secure a special assessment shall be filed in New Castle County in any court of competent jurisdiction.

§ 3408. Annual audit, report, and meeting; additional audits.

- (a) The County Auditor or designee thereof, or an entity identified by County Council shall annually audit all funds received and expended by or on behalf of the NIDMA; the audit results shall be made electronically available to each owner of property and resident located in the NID, all County departments as determined by County Council, and the County Council within 120 calendar days after the end of each fiscal year.
- (b) The NIDMA shall annually provide a report, in electronic format, including financial and programmatic information and a summary of the annual audit findings as required in subsection (a) to the County and to all owners of property and residents located in the NID, by no later than the annual meeting of the NIDMA, which shall be held each year by no later than December 31.
- (c) In addition to the annual audit required under subsection (a), the County may require additional audits as the County Council, in consultation with the County Auditor or designee thereof, deems appropriate.

§ 3409. Dissolution of neighborhood improvement district management association and neighborhood improvement district.

- (a) Request for termination.
 - (1) A request for termination of a NID or NIDMA may be initiated by a property owner or the County, must be approved by at least 51% of assessed property owners, in number, within the NID, and shall be in writing, notarized, and lodged with the Clerk of County Council. The County Council shall hold a hearing to consider the merits of the request, consistent with the hearing procedures set forth in this Chapter.
 - (2) Upon termination of a NID or NIDMA, subject to the final audit under subsection (b), the property of the NIDMA shall pass as set forth in the County ordinance, with all unencumbered funds to be equally divided among the assessed property owners consistent with any agreement between the NIDMA and the County, and the NID or NIDMA shall cease to exist.
 - (3) If a request is approved by the County Council, then a resolution to that effect shall be filed with the Secretary of the State, and the Secretary shall note the termination on the record of incorporation and return the resolution with his or her approval shown to the County Council.

(4) Upon termination of a NID or NIDMA, subject to the final audit pursuant to subsection (b), the property of the NIDMA shall pass as set forth in the County ordinance, with all unencumbered funds to be divided pro rata among the assessed property owners consistent with the agreement between the NIDMA and the County, and the NIDMA or NID shall cease to exist.

(b) Final audit.

(1) Upon termination of a NID or NIDMA, the County Auditor or designee thereof shall perform a final audit, and the audit results shall be provided to all property owners and residents in the NID, and to County Council within 90 days after termination of the NID.

Section 2. This Act is effective immediately and implemented as follows:

(1) The Clerk of New Castle County Council shall provide notice, published in the Register of Regulations, that the ordinance required under *Delaware Code* Chapter 34 of Title 9 has been adopted by County government and the date this ordinance was adopted.

(2) The implementation date is the date the ordinance necessary under Chapter 34 of Title 9 was adopted, as provided under paragraph (1).

SYNOPSIS

This Act shall be known as the “New Castle County Neighborhood Improvement District Act.” The Act assembles County resources under “one roof” to focus comprehensively on neighborhood problems, which promotes the chances of successfully resolving systemic neighborhood issues.

Summary of the legislation:

- The Act provides for creation of a Neighborhood Improvement District (“NID”).
- The purpose of creating a NID is to, among other things, provide a source of funding to allow for enhanced services in neighborhoods that are in need of such services, such as district-wide snow removal, extra duty police patrols, extra duty Code enforcement, district-wide trash collection, and maintenance of open space.
- The principal source of funding to provide for the enhanced services is a special assessment on any non-exempt property in the NID.
- The NID may be initiated by submission of a voluntary petition by property owners or residents in the district (or by the County), subject to objection by 51%, in number, of the assessed property owners in the district.

Introduced by: Ms. Diller, Mr. Cartier,
Ms. Kilpatrick, Mr. Sheldon
Date of introduction: _____, 2022

ORDINANCE NO. 22-

**TO AMEND NEW CASTLE COUNTY CODE TO CREATE A NEW CHAPTER 31
RELATING TO NEIGHBORHOOD IMPROVEMENT DISTRICTS**

WHEREAS, marshalling New Castle County resources under “one roof” to focus on neighborhood problems increases the chances of successfully resolving systemic neighborhood concerns, including unhealthy conditions and crime; and

WHEREAS, preserving and improving neighborhoods is critical to the long-term well-being of the State of Delaware and New Castle County; and

WHEREAS, the availability of enhanced services, including district-wide sanitation and snow removal, and enhanced public safety, within New Castle County’s neighborhoods would result in greater neighborhood stability and improved quality of life; and

WHEREAS, Numerous jurisdictions around the world and the United States, including Philadelphia, Baltimore, Buffalo, and Allentown, among many others, have successfully implemented and witnessed the benefit of such enhanced services through the creation of neighborhood improvement districts; and

WHEREAS, The enhanced services and related programs provided within a neighborhood improvement district, generally speaking, are funded by property owners and the residents within each district, who are the primary beneficiaries thereof, which also lessens further demands on the strained public treasury; and

WHEREAS, it is in the best interests of the County and its residents to create, where feasible and desired by the property owners and residents in each district, assessment-based neighborhood improvement districts to promote more attractive and safer neighborhoods; and

WHEREAS, County Council has determined that the provisions of this Ordinance substantially advance, and are reasonably and rationally related to, legitimate government interests, including, but not limited to, promoting the public health, safety, prosperity, general welfare, and quality of life of the present and future inhabitants of the County.

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

Section 1. *New Castle County Code* is hereby amended by inserting a new Chapter 31 (“Neighborhood Improvement Districts”) by adding the underscored material as follows.

Chapter 31 - NEIGHBORHOOD IMPROVEMENT DISTRICTS

Sec. 31.01.001. - Definitions.

The following words and phrases when used in this Chapter shall have the meanings provided herein unless the context clearly indicates otherwise:

Benefited property means a property located within a neighborhood improvement district that benefits from enhanced district services and related programs based on a rational nexus test. Properties need not benefit equally to be considered to have benefited.

Cost of services includes consulting fees, professional fees, preliminary planning expenditures, feasibility study expenditures, financing costs, administrative costs, and any other expenditures necessary and incidental to the development or provision of the enhanced services and related programs.

County or New Castle County means the governing body of New Castle County, Delaware, as more fully described in Title 9 of the *Delaware Code*. In other circumstances, as the context indicates, “County” or “New Castle County” means the geographic boundaries of New Castle County, Delaware.

District advisory council means an optional advisory committee comprised of property owners and residents from the neighborhood improvement district that may be established under 9 *Del. C.* § 3407 for the purpose of providing guidance and advice to the neighborhood improvement district management association regarding needed enhanced services within the district.

Neighborhood means a limited geographic area situated within an unincorporated area of New Castle County that includes a residential district, the limits of which form the neighborhood improvement district boundary, as identified in the filed record plan.

Neighborhood improvement district means a limited geographic area within an unincorporated area of the County, as identified in the filed record plan, in which a special assessment is levied on all designated property, other than exempt property, for the purpose of promoting the general welfare of the district, hereinafter referred to as a “NID”.

Neighborhood improvement district management association means the corporate body that oversees the management of each neighborhood improvement district established pursuant to 9 *Del. C.* § 3406, which hereinafter shall be referred to as a “NIDMA.” Such body shall be incorporated as a nonprofit corporation in the State of Delaware. As described at 9 *Del. C.* § 3406, a civic association, a maintenance corporation, among other legal entities may be designated as the NIDMA so long as the requirements of this Act are fully complied with, including that the entity is a nonprofit corporation.

Neighborhood improvement district plan means the strategic plan for enhanced neighborhood services required under 9 *Del. C.* § 3405, hereinafter referred to as a “NIDP,” which includes all enhanced services and related programs to be provided within the district to implement the plan by the NIDMA.

Neighborhood improvement district services may include, but is not limited to, those enhanced services that improve the ability of property owners and residents to enjoy a safer and more attractive neighborhood due to the provision of expanded services, which may include, without limitation, district-wide street cleaning, district-wide snow removal, district-wide trash removal, maintenance of open space, additional Code enforcement services, and security services.

Nonprofit corporation means a legal entity that is incorporated under the laws of the State of Delaware, is organized not for profit, and no part of the net earnings inures to the benefit of any member or individual holding an interest in such entity.

Private security officer means any professional person, firm, or entity employed by the NIDMA for

the purpose of providing increased security or protective patrol services within the NID. The term may include off-duty police officers provided that the use of such officers for this purpose is approved by the Chief of Police.

Rational nexus means the legal principle which requires that there is a rational, definable benefit that accrues to any property owner assessed a fee for said benefit in a NID created under this Chapter. All property owners within a designated NID paying a special assessment fee must benefit directly or indirectly from the additional services or programs provided within the NID, provided, however, that property owners need not benefit equally.

Residential district means, for purposes of this Chapter, a limited geographical area comprised of real property consisting predominantly of buildings and structures for housing individuals and families, including, but not limited to, single-family detached homes, single-family semi-detached homes, townhouses, condominiums, apartments, manufactured homes, modular homes, or any combination of same.

Service area means the area within the boundaries of the NID in which the NIDMA provides enhanced services.

Special assessment fee means the fee assessed on property owners within a NID levied by the County for purposes of providing enhanced services in a district under 9 Del. C. § 3407.

Sunset provision means a provision in the NIDP which, under 9 Del. C. § 3405, provides for the automatic termination of the NID on a date specified in the adopted NIDP and in the County ordinance establishing each NID. The NID may be continued beyond such date, provided the County ordinance creating the original NID is re-enacted, following a review by County Council of the NID and the enhanced services provided therein.

Sec. 31.01.002. - Creation of neighborhood improvement district.

A. Establishment.

1. Property owners or residents in a proposed NID, or the County may petition to establish a NID, consistent with all requirements under this Chapter.
2. Where property owners and/or residents desire to establish a NID, which shall occur through an ordinance initiated by the District Council Member, they shall submit a petition to the County to establish a NID under the procedures provided for in this Chapter. The ordinance shall identify criteria from subsection A.4. that supports creation of the NID.
3. Where the County petitions to establish a NID, which shall occur through an ordinance initiated by the District Council Member, the ordinance shall identify criteria that supports creation of the NID and shall be subject to the procedures under this Chapter. The ordinance shall identify criteria, including applicable criteria in subsection A.4., that supports creation of a NID.
4. Criteria of public health, safety, and welfare issues in the proposed NID during the past three years that support formation of a NID include:
 - a. Percent of unpaid property taxes;
 - b. Number of vacant properties;
 - c. Number of nuisance properties (under Delaware Code) or problem properties (under New Castle County Code);
 - d. Determination that the proposed NID is situated within U.S. Census tracts that are eligible for participation in County HUD-funded programs;

- e. Number of Code complaints;
 - f. Number of Code complaints related to public health issues (e.g., large numbers of residents without trash removal services);
 - g. Percent of overall community dues or fees paid is below 40%;
 - h. Inability to contract for essential services such as snowplowing or other maintenance issues due to insufficient funds;
 - i. The community board for the proposed NID is unable to function due to lack of leadership, as indicated by tangible evidence such as the community board's consistent inability to hold a meeting or satisfy quorum requirements or is unresponsive to neighborhood problems;
 - j. The community has been unable to identify volunteers to serve as board members and/or has not held a board election for three or more years; and
 - k. The community or portions thereof have been designated as a crime "hotspot" by New Castle County Police for 50% of the time during the past three years.
 - l. Other criteria as determined by County Council.
- 5. The greater the number of criteria that Council finds support formation of a NID, the greater the weight in support thereof.
 - 6. In no case where the County is petitioned to establish a NID shall the County be obligated to establish a NID.

B. Specific procedures.

- 1. The County shall provide to all property owners and residents located in the proposed NID a copy of all information, including the Preliminary NIDP and the location, date, and time of the public hearing, required by this Chapter at least thirty (30) calendar days prior to the first public hearing by the County as required by this Section.
- 2. The public hearing is for the purpose of receiving public comment on the preliminary plan ("Preliminary NIDP") from affected property owners and residents within the proposed NID. Notice of the public hearing shall be advertised at least ten (10) business days prior thereto in a newspaper of general circulation in the County.
- 3. Any objection by a property owner within the proposed NID to the Preliminary NIDP must be made in writing. Each objection must be signed by the property owner, notarized, and lodged with the Clerk of County Council, as set forth in subsection C.1.c.vii.

C. Contents of the Preliminary NIDP.

- 1. The Preliminary NIDP must include:
 - a. A map indicating the boundaries of the proposed NID, as identified on the filed record plan; a designated property may not be included in more than one NID unless expressly authorized by ordinance of County Council.
 - b. A written report from the County containing:
 - i. The name of the proposed NID.
 - ii. A detailed description of the service area of the proposed NID.
 - iii. A list of all properties to be assessed.
 - iv. A list of proposed enhanced services and related programs within the NID and the estimated annual cost of services.
 - v. A proposed budget for the first fiscal year, including, but not limited to, proposed expenditures for enhanced services and related programs, including costs of service

such as costs related to personnel and administration, and maintenance and operational costs.

- vi. The proposed revenue sources for funding the proposed enhanced services and programs.
 - vii. The estimated time for implementation of proposed services and related programs.
 - viii. A statement identifying the NIDMA.
 - ix. Any other information, including the authority or a general description of the powers and duties of and the method for decision making by the NIDMA.
 - x. The method of determining the special assessment fee to be levied on property owners within the NID under 9 Del. C. § 3407.
- c. In addition, the Preliminary NIDP shall:
- i. Identify the respective duties and responsibilities of the NIDMA and the County in relation to the NID.
 - ii. Require that a written agreement be entered into between the County and the NIDMA.
 - iii. Require in the agreement between the County and the NIDMA and in the ordinance creating the NID that the County must maintain the same level of County services provided within the NID before NID-creation as after creation thereof.
 - iv. Provide in the agreement between the County and the NIDMA and in the ordinance creating the NID a sunset provision of up to five (5) years, subject to extension following review of the NID and related services by County Council.
 - v. Require in the agreement between the County and the NIDMA and in the ordinance creating the NID that the County shall be responsible for collection of special assessment fees levied within the NID.
 - vi. Allow for and encourage any exempt property owners in the NID to provide in-kind services or a financial contribution to the NIDMA in lieu of a special assessment fee.
 - vii. Require a vote of at least 51%, in number, of the assessed property owners in the NID is necessary to defeat establishment of the proposed NID by each lodging a written, notarized objection with the Clerk of County Council within forty-five (45) calendar days after the hearing in which County Council considered the Proposed Final NIDP.

D. *The proposed final plan.*

Prior to establishment of a NID, the County shall provide a proposed final plan (the “Proposed Final NIDP”) to all property owners and residents located within the proposed NID that incorporates any changes to the Preliminary NIDP based on comments from assessed property owners and residents within the NID submitted at the public hearing(s). Changes to the Preliminary NIDP reflected in the Proposed Final NIDP are to be identified in an easily discernible manner such as changes being in boldfaced or italicized type.

E. *Public hearing - proposed Final NIDP.*

At least one public hearing for the purpose of receiving public comment on any revision to the Preliminary NIDP following comments by assessed property owners or residents within the proposed NID and reflected in the Proposed Final NIDP shall be held by the County before enacting an ordinance establishing a NID. Notice of the hearing shall be advertised at least ten (10) business days prior thereto in a newspaper of general circulation in the County.

F. *Veto of the Proposed Final NIDP.*

- 1. Following the last public hearing required under subsection E., assessed property owners located within a proposed NID shall have forty-five (45) calendar days from the date of

- the hearing to object to and disapprove of the Proposed Final NIDP.
2. If at least 51%, in number, of the assessed property owners within a proposed NID fail to register their objection to the Proposed Final NIDP, the County Council may, following the forty-five (45) day period, enact an ordinance establishing a NID or, in the case of an amendment to a Final NIDP, adopt the amendment(s) thereto. All objections must be in writing and notarized, and must be submitted to the Clerk of County Council by hand delivery or electronic mail by the 45th day following the last public hearing under subsection E. or via first class U.S. Mail, postmarked no later than the 45th day following the hearing.
 3. Unless the requisite number of objections have been timely submitted, the County Council may within thirty (30) calendar days following the deadline for objections to be submitted and at its sole discretion proceed to approve or disapprove of the proposed Final NIDP.

G. Subsequent amendments to an approved Final NIDP.

1. An approved Final NIDP, upon the recommendation of the NIDMA board, may be subsequently amended at any time after establishment of the NID, provided there is approval by at least 51% of the assessed property owners, in number, within the NID. Each property owner must indicate its approval in writing and clearly indicate approval of the proposed amendment(s), which must be submitted to the Clerk of Council by hand delivery or by electronic mail within 45 calendar days of the last public hearing or via first class U.S. Mail, postmarked no later than the 45th day. Subsequent amendments to an approved Final NIDP such as those identified in subsection 2. require the approval of County Council.
2. Subsequent amendments to an approved Final NIDP include, without limitation, the following:
 - a. Substantially changed enhanced services or programs to be provided in the NID.
 - b. Increase in expenditures of at least 25% of the total NIDMA budget for the fiscal year.
 - c. Changing the special assessment fee levied on property owners in the NID.
 - d. Changing the legal entity that administers enhanced services within the NID.
 - e. Changing the NID service area boundary.
 - f. Other substantial changes to the approved Final NIDP as determined by County Council.
3. Subsequent amendments to an approved Final NIDP are subject to the same procedural requirements in the Chapter as required to adopt a proposed Final NIDP.
4. The County shall provide public notice of the hearing on proposed subsequent amendments to an approved Final NIDP by publication of a notice in at least one newspaper having a general circulation in the County, specifying the date, time and place of such hearing and the amendments to be considered. The notice shall be published once at least ten (10) business days prior to the date of the hearing.
5. Unless the requisite number of objections have been timely submitted, the County Council may within thirty (30) calendar days following the deadline for objections to be submitted and at its sole discretion proceed to approve or disapprove of any amendments to the Final NIDP.
6. Prior to adoption of an amendment to a boundary that increases the size of a NID, each owner of property proposed to be added to a NID shall be notified of the date, time, and

location of the public hearing on the proposed amendment to the Final NIDP and shall be provided all information as required under subsections C. and D.

Sec. 31.01.003. - Creation of the neighborhood improvement district management association.

A. Association designated.

When the County approves a NID under this Chapter, a NIDMA shall be designated by the County to administer the enhanced services within the NID.

B. Administration.

1. Each NID shall be administered by a NIDMA, which may be an existing nonprofit corporation or a subsequently established nonprofit corporation, and must exist within the proposed boundaries of the NID.
2. If an active nonprofit corporation already exists that formally indicates in writing to the County its interest in becoming the designated NIDMA, which shall contemporaneously be made known in writing to all property owners, the County shall grant the request unless at least 51%, in number, of assessed property owners within the proposed NID lodge their disapproval thereof, in a notarized writing, with the Clerk of County Council within forty-five (45) calendar days following the formal written request for designation by the nonprofit corporation to become the NIDMA.

C. Powers.

A NIDMA created under this Chapter shall have all powers provided for in 9 Del. C. § 3407 upon the effective date of the County ordinance creating the NID.

D. Board.

Each NIDMA shall have an administrative board.

1. Where an existing nonprofit corporation is to serve as the NIDMA, the board shall be appointed consistent with the bylaws of the existing entity.
2. Where a nonprofit corporation is established to serve as the NIDMA, the board shall be comprised of an odd number of members, between three (3) and five (5), with a minimum of three (3) voting members and at least one (1) non-voting member representing the County.
3. In all cases, so long as not inconsistent with existing bylaws thereof, each NIDMA board shall include a representative of the assessed property owners located in the NID, who shall be a voting member of the board. Board members need not be residents of the NID.

Sec. 31.01.004. - Powers of the neighborhood improvement district management association.

A. General Powers. Subject to available funding, and as provided for in this Chapter and the agreement between the County and the NIDMA, a NIDMA shall have, in addition to any other powers provided pursuant to the charter establishing the nonprofit corporation, the power to:

1. Sue or be sued, implead or be impleaded, complain and defend in all courts.
2. Employ necessary staff or contract for the provision of same.
3. Prepare planning or feasibility studies or contract for the preparation of same to determine needed enhanced services within the NID.
4. Provide for enhanced services and related programs, as needed, within the NID.
5. Contract for the provision of enhanced services within the NID.
6. Determine the appropriation and expenditure of NID funds, which includes any Federal, State, or County funds received by the County Office of Finance on behalf of the NIDMA; provided, however, that the funds shall be administered by the County Office of

- Finance on behalf of and as directed by the NIDMA and in accordance with any specific provisions contained in this Chapter and the agreement between the County and the NIDMA. Such funds are to be used to provide for enhanced services within the NID for the benefit of the NID, including, but not limited to, district-wide snow removal, district-wide trash removal, maintenance of open space, and enhanced Code enforcement and safety services.
7. Solicit in-kind services or financial contributions from any exempt owners of property located within the NID in lieu of special assessment fees. This may include entering into voluntary agreements between the NIDMA and any exempt property owners for the provision of same.
 8. Hire additional off-duty police officers or private security officers, upon approval of the Chief of Police, whose patrol area responsibilities would be limited to the geographical area incorporated within the designated NID service area and whose responsibility would be to support existing County efforts aimed at reducing crime and improving security in the NID.
 9. Designate an optional district advisory committee, to be referred to as the District Advisory Council or “DAC”, for each NID. Each DAC shall consist of an odd number of members, between five and nine, who shall be representative of the neighborhood’s character, including, but not limited to, age, gender, and cultural diversity, and shall include at least two assessed property owners.

B. Special Assessments.

1. The total cost of enhanced services and related programs provided within the NID shall be assessed to all designated properties located therein under a method that equitably apportions costs among benefiting properties, as determined by the Chief Financial Officer for the County.
2. All special assessment fees shall be based on the estimated cost of the enhanced services and programs to be provided in the NID as identified in the Final NIDP approved by County Council.
3. Revenues from the special assessment fee contemplated in subsection 1. shall be accounted for by the County Office of Finance and utilized by the NIDMA to provide enhanced services and related programs within the NID as authorized under this Chapter. In no case shall the aggregate amount of all special assessment fees during any year exceed the estimated cost of proposed enhanced services for the year.
4. All special assessments authorized under this Chapter shall be calculated using July 1 as the first day of the fiscal year.

C. Payment.

County Council, in consultation with the Chief Financial Officer for the County, may by ordinance authorize the payment of a special assessment, including in equal annual or more frequent installments over such time and bearing interest at a rate specified under the method identified in subsection B.

D. Liens.

1. Notwithstanding the filing of any claims, all special assessments, including those which are made payable in installments, shall constitute a lien and encumbrance upon the respective benefitted properties at the beginning of each fiscal year, starting July 1, only in an amount equal to the sum of:
 - a. The annual special assessment, or outstanding installment payments, becoming

- payable in the current year, with penalty, if any, thereon; and
- b. The total of all amounts, including outstanding installment payments, with penalty thereon, which became due during prior years and which remain due and unpaid at the beginning of the current year.
 2. In the case of default in the payment of any special assessment, including any installment amount, and penalty for a period of ninety (90) days after the payment becomes due, a County special assessment ordinance may provide either for the entire special assessment, with accrued penalty, to become due and become a lien from the due date of the special assessment, including any installment, or may provide solely for the enforcement of a claim as to the overdue amounts, with penalty, in which case the ordinance shall further provide that if any amount remains due and unpaid for six (6) months after it has become due and payable, then the entire special assessment with accrued penalty shall become due and become a lien from the due date thereof.
 3. No action taken to enforce a claim for any special assessment, including any installment, shall affect the status of any subsequent special assessment or installment of the same special assessment, each of which shall continue to become a lien upon the property annually pursuant to this section.
 4. The ordinance may contain any provision relating to special assessments, including installment payments, which is not inconsistent with applicable law.
 5. Any owner of property against whom a special assessment has been made may pay the special assessment in full at any time, with accrued costs thereon, and such payment shall discharge the lien of the special assessment or installments then constituting a lien and shall also release the claim to any later installments.
 6. A claim to secure a special assessment shall be filed in New Castle County in any court of competent jurisdiction.

Sec. 31.01.005. - Annual audit, report, and meeting; additional audits.

- A. The County Auditor or designee thereof, or an entity identified by County Council shall annually audit all funds received and expended by or on behalf of the NIDMA; the audit results shall be made electronically available to each owner of property and resident located in the NID, all County departments as determined by County Council, and the County Council within 90 calendar days after the end of each fiscal year.
- B. The NIDMA shall annually provide a report, in electronic format, including financial and programmatic information and a summary of the annual audit findings as required in subsection A. to the County and to all owners of property and residents located in the NID, by no later than the annual meeting of the NIDMA, which shall be held each year by no later than December 31.
- C. In addition to the annual audit required under subsection A., the County may require additional audits as the County Council, in consultation with the County Auditor or designee thereof, deems appropriate.

Sec. 31.01.006. - Dissolution of the neighborhood improvement district and neighborhood improvement district management association.

- A. Request for termination.
 1. A request for termination of a NID or NIDMA may be initiated by a property owner or the County, must be approved by at least 51% of assessed property owners, in number, within the NID, and shall be in writing, notarized, and lodged with the Clerk of County

Council. The County Council shall hold a hearing to consider the merits of the request, consistent with the hearing procedures set forth at § 31.01.002.B.

2. Upon termination of a NID or NIDMA, subject to a final audit under subsection B., the property of the NIDMA shall pass according to County ordinance, with all unencumbered funds to be divided pro rata among the assessed property owners consistent with any agreement between the NIDMA and the County, and the NID or NIDMA shall cease to exist.

B. Final audit.

1. Upon termination of a NID or NIDMA, the County Auditor or designee thereof shall perform a final audit, and the audit results shall be provided to all property owners and residents in the NID and to County Council within 90 calendar days after termination of the NID.

Section 2. This Ordinance shall become effective upon its adoption by County Council and approval by the County Executive, or as otherwise provided in 9 *Del. C.* § 1156.

Adopted by County Council of
New Castle County on:

President of County Council of
New Castle County

Approved on:

County Executive
of New Castle County

SYNOPSIS: This Ordinance, if enacted, will create a new Chapter of New Castle County Code, known as the “New Castle County Neighborhood Improvement District Act.” The Act marshals all County resources together under “one roof” to focus comprehensively on systemic neighborhood problems, thereby effectively promoting the chances of successfully resolving community problems, by providing:

- A source of funding to provide for enhanced services and related programs in neighborhoods that are in need of these services, such as district-wide snow removal, extra duty police patrols, extra duty Code enforcement, district-wide trash collection, and maintenance of open space in the district.
- Funding for the enhanced services by means of a special assessment on property within the NID.
- The process of creating a NID, which is initiated upon submission of a voluntary petition to New Castle County Council by property owners or residents in the district (or by initiative of the County) based on specific criteria in support thereof. The petition to create a NID is subject to veto if 51%, in number, of the assessed property owners in the proposed neighborhood improvement district lodge an objection to its creation.

FISCAL NOTE: TBD