



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

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 153rd 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 ~~polices.~~ 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 15th 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 15th 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.

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