

Introduced by: Ms. Hartley-Nagle
Date of introduction: April 11, 2017

ORDINANCE 17-031

TO AMEND NEW CASTLE COUNTY CODE CHAPTER 14 (“FINANCE AND TAXATION”) TO REQUIRE A TEN-THIRTEENTHS VOTE TO EXPEND FUNDS FROM THE TAX STABILIZATION RESERVE ACCOUNT AND THE SEWER RATE STABILIZATION ACCOUNT

WHEREAS, *New Castle County Code* Section 14.01.013 provides for a Budget Reserve Account that at the beginning of each fiscal year must be funded at twenty (20) percent of the total estimated revenues for the fiscal year and may be appropriated only by a supermajority (10/13) vote of New Castle County Council; and

WHEREAS, the Delaware Court of Chancery determined that budgetary reserves in excess of the percentage established in Section 14.01.013 were technically illegal because the executive branch could not unilaterally designate or appropriate funds or reserves (*Korn et al. v. New Castle County et. al.*, 2005 WL 396341 (Del. Ch. 2005)); and

WHEREAS, the Court held that this could be remedied by a change to the Code; the County Council thus adopted law (Substitute No. 1 to Ordinance 05-021, encoded in Sections 14.01.014 and 14.01.015) to create a Tax Stabilization Reserve Account and a Sewer Rate Stabilization Account to further stabilize tax and sewer rates and capital costs that otherwise would require the issuance of bonds; and

WHEREAS, as stewards of the public trust and the County’s fiscal oversight body, County Council desires to impose a supermajority voting requirement upon itself for expenditures from the Tax Stabilization Reserve Account and Sewer Rate Stabilization Account, as is required for the Budget Reserve Account.

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

Section 1. *New Castle County Code* Chapter 14 (“Finance and Taxation”), Article 1 (“In General”), Section 14.01.014 (“Tax Stabilization Reserve Account”) is hereby amended by adding the material that is underscored and deleting the material that is stricken, as set forth below.

Sec. 14.01.014. Tax Stabilization Reserve Account. ...

C. County Council may, by a ~~majority~~ ten-thirteenths (10/13) vote, appropriate from the Tax Stabilization Reserve Account such sums as may be necessary to balance the annual operating budget or to cover budgeted capital costs that ~~would~~ would require the issuance of bonds or payments of a tax increase.

Section 2. *New Castle County Code* Chapter 14 (“Finance and Taxation”), Article 1 (“In General”), Section 14.01.015 (“Sewer Rate Stabilization Reserve Account”) is hereby amended by adding the material that is underscored and deleting the material that is stricken, as set forth below.

Sec. 14.01.015. Sewer Rate Stabilization Account. ...

C. County Council may, by a ~~majority~~ ten-thirteenths (10/13) vote, appropriate from the Sewer Rate Stabilization Account such sums as may be necessary to balance the annual operating budget or to cover budgeted sewer capital costs that ~~would~~ otherwise would require the issuance of bonds or payment of a rate increase.

Section 3. This ordinance shall become effective upon passage by New Castle County Council and approval of the County Executive, or as otherwise provided in 9 *Del. C.* Section 1156.

Adopted by County Council of
New Castle County on:

President of County Council
of New Castle County

SYNOPSIS: Same as title.

FISCAL IMPACT: There is no discernible fiscal impact.