



Department of Land Use

April 13, 2011

In reply, refer to:

Ordinance No. 11-042

Outdoor Lighting Text Amendment (2011-0189-T)

Constance Holland, Director
Office of State Planning
122 William Penn Street
Haslett Armory, Suite 301
Dover, DE 19901-3636

Dear Ms. Holland:

The New Castle County Department of Land Use is submitting a copy of the above referenced ordinance to you for a review through the Office of State Planning for a Preliminary Land Use Service (PLUS) Review and comment.

If you have questions or concerns about this request, please do not hesitate to call me at 395-5434.

Sincerely,

Kenneth R. Bieri
Assistant Planning Manager

CC: Kristen Dwyer
David Culver
George Haggerty

Enclosure

**Preliminary Land Use Service (PLUS)
Comprehensive Plan Amendments and Municipal Ordinances**

Delaware State Planning Coordination
122 William Penn Street • Dover, DE 19901 • Phone: 302-739-3090 • Fax: 302-739-6958

Name of Municipality: New Castle County Land Use Department	
Address: 87 Reads Way New Castle, DE 19720	Contact Person: David Culver
	Phone Number: 302-395-5463
	Fax Number: 302-395-5443
	E-mail Address: krbieri@nccde.org

Date of Most Recently Certified Comprehensive Plan: July 31, 2007

Application Type:

Comprehensive Plan Amendment: Not applicable

Ordinance: Ord. 11-042, Text Amendment Chapter 40 UDC

Other: _____

Comprehensive Plan Amendment or Municipal Ordinance prepared by:	
Address: ---- same as above ----	Contact Person:
	Phone Number:
	Fax Number:
	E-mail Address:

Maps Prepared by:	
Address:	Contact Person:
	Phone Number:
	Fax Number:
	E-mail Address:

Preliminary Land Use Service (PLUS)
Comprehensive Plan Amendments and Municipal Ordinances

Delaware State Planning Coordination

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Please describe the submission:

The purpose of this text amendment is to recognize the potential adverse impacts when an outdoor recreational field or court is proposed for exterior nighttime lighting. The impact is greater when the area is in close proximity to residential dwellings. This amendment will require a special use permit from the Board of Adjustment after a public hearing and my result in additional conditions and restrictions as part of the approval to protect adjacent property and neighborhoods..

See attached Ordinance 11-042.

2011-0189-T

Introduced by: Councilmen Bell and Smiley

Date of introduction: April 12, 2011

ORDINANCE NO. 11 – 042

**TO REVISE CHAPTER 40 OF THE *NEW CASTLE COUNTY CODE*
(ALSO KNOWN AS THE UNIFIED DEVELOPMENT CODE – UDC)
REGARDING EXTERIOR LIGHTING FOR OUTDOOR RECREATIONAL USES**

WHEREAS, Chapter 40 of the *New Castle County Code* provides for a number of strategies for protecting certain uses from the adverse impacts of other uses deemed to be incompatible, and;

WHEREAS, schools, parks, and other public or private recreational facilities are often sited within residential neighborhoods and communities, and;

WHEREAS, these schools, parks and other public or private recreational facilities may include outdoor recreational uses including ball diamonds, football and soccer venues, rugby pitches, tennis and basketball courts, and other playing fields that are often lit, and;

WHEREAS, it has been determined that the placement of exterior lighting either proposed at the time the recreational facility is first built or whether it is retrofitted after the outdoor facility has been in operation for sometime has the potential for adverse impacts on adjacent residential properties, and;

WHEREAS, the requirement for review and approval of a special use permit by the Board of Adjustment at a public hearing provides the public with an opportunity to express their concerns and for the Board to determine what if any additional conditions or restrictions could reduce the adverse impacts, 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, the protection and preservation of the public health, safety, prosperity, general welfare, and quality of life.

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

Section 1. *New Castle County Code* Chapter 40 (Unified Development Code or “UDC”), Article 3 (“Use Regulations”), Division 40.03.100 (“Use regulations”), Section 40.03.110 (“Use table”), Table 40.03.110 (“General Use Table”), is hereby amended by the deletion of the text in brackets and with strikethroughs and the addition of the underlined text as set forth below:

Sec. 40.03.110. Use table.

Table 40.03.110 lists the type of uses permitted in each district. Refer...

<i>Table 40.03.110 A GENERAL USE TABLE</i>										<i>Table 40.03.110 B GENERAL USE TABLE</i>							<i>Table 40.03.110 C GENERAL USE TABLE</i>	
<i>Zoning District (Urban and Suburban-Transition Character) Y=permitted, N=prohibited, L=limited review, S=special use review, A=accessory.</i>										<i>Zoning District (Suburban and Special Character)</i>							<i>Additional Standards (all districts)</i>	
<i>Land Use</i>	<i>• TN</i>	<i>ST</i>	<i>MM</i>	<i>ON</i>	<i>OR</i>	<i>CR</i>	<i>BP</i>	<i>I</i>	<i>CN</i>	<i>*** S</i>	<i>SE</i>	<i>** NC</i>	<i>HI</i>	<i>EX</i>	<i>SR</i>	<i>Parking</i>	<i>Limited & Special Use Standards</i>	
Agricultural										Agricultural							Agricultural	
....										
Other Uses										Other Uses							Other Uses	
Airports	N	N	N	N	L	N	N	L	N	S	N	N	L	N	S	Special study, Section 40.03.524	Table 40.03.210, Section 40.03.325 and 40.03.422	
....										
<u>Exterior lighting for outdoor recreational uses</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>Table 40.03.522</u>	<u>Table 40.03.210 and Division 40.22.700</u>	
...										

NOTES: * Refer to Article 25 for design standards for TN District.
 ** Refer to Section 40.02.241 for identification of permitted residential uses by specific NC zoning district.
 *** Sec Division 40.25.100 for Village and Hamlet Standards.

Section 2. *New Castle County Code Chapter 40 (Unified Development Code or “UDC”), Article 3 (“Use Regulations”), Division 40.03.200 (“Limited and special uses”), Section 40.03.210 (“Buffering, location, bulk, and scale standards”), Table 40.03.210 (“Limited and Special Use Standards”), is hereby amended by the deletion of the text in brackets and with strikethroughs and the addition of the underlined text as set forth below:*

Sec. 40.03.210. Buffering, location, bulk, and scale standards.

Table 40.03.210 provides standards that increase the degree of...

Table 40.03.210 LIMITED AND SPECIAL USE STANDARDS						Table 40.03.210 LIMITED AND SPECIAL USE STANDARDS						
Part A – Buffer Standards						Part B – Locational or Dimensional Standards Part C – Additional Standards						
Land Use	Buffer Yards			Separation		Minimum				Maximum		Other Additional Standards
	Location	Increase Opacity or Width	Fence or Berm	Use Protected	Distance from Use to Protected Parcel	Spacing	Site Area	Road Access	Open Space	Lot Area	Height	
Agricultural												
....											
Other Uses												
Airports				Residential and schools	500 ft.		300 ac					Section 40.03.325 and 40.03.432
...						...						
<u>Exterior lighting for outdoor recreational uses</u>												<u>Section 40.31.430, 40.31.431, and 40.31.432</u>
.....											

Section 3. *New Castle County Code Chapter 40 (Unified Development Code or “UDC”), Article 22 (“Drainage, Utilities, Septic Systems, Parking, Loading, and Lighting”), Division 40.22.700 (“Exterior lighting standards”), Section 40.22.740 (“Exterior lighting for outdoor recreational uses”) is hereby amended by the deletion of the text in brackets and with strikethroughs and the addition of the underlined text as set forth below:*

Sec. 40.22.740. Exterior lighting for outdoor recreational uses.

Ball diamonds, playing fields, and tennis courts have unique requirements for nighttime visibility and generally have limited hours of operation. These uses may meet the following limited use standards for approval of lighting in excess of the exterior lighting standards of Table 40.04.111. A special use permit shall be required when the light structure or the area to be lit is within five hundred (500) feet of a residential property where a residential use is built or where a residential dwelling can be built.

- A. The site plan meets all other Code requirements and, to the maximum extent possible, lighting is located to avoid shining at residential uses.
- B. Exterior light sources do not exceed the maximum permitted post height of eighty (80) feet.
- C. The light source or luminaire shall be cutoff fixtures. The luminaire may have a cutoff angle that extends beyond the property boundaries if:
 - 1. A landscaped bufferyard is provided to prevent light and glare spillover to adjacent residential property. The Department shall be able to require denser bufferyards than those in Table 40.04.110 to achieve this objective.
 - 2. The maximum permitted illumination shall not exceed one-tenth (0.1) footcandle at the residential property line or the street curb, whichever is less.

Section 4. Consistent with Comprehensive Development Plan. New Castle County Council finds that the provisions of this Ordinance are consistent with the spirit and intent of the New Castle County Comprehensive Development Plan.

Section 5. Inconsistent Ordinances and Resolutions Repealed. All ordinances or parts of ordinances and all resolutions or parts of resolutions that may be in conflict herewith are hereby repealed except to the extent they remain applicable to land use matters reviewed under previous Code provisions as provided in Chapter 40 of the *New Castle County Code*.

Section 6. Severability. The provisions of this Ordinance shall be severable. If any provision of this Ordinance is found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds that the valid provisions of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that County Council would have enacted the remaining valid provisions without the unconstitutional or void one, or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable of being executed in accordance with County Council's intent. If any provision of this Ordinance or any zoning map or portion thereof is found to be unconstitutional or void, all applicable former ordinances, resolutions, zoning maps or portions thereof shall become applicable and shall be considered as continuations thereof and not as new enactments regardless if severability is possible.

Section 7. Effective Date. This Ordinance shall become effective immediately upon passage by New Castle County and approval by the County Executive or as otherwise provided in 9 *Del. C.* § 1156.

Approved on:

Adopted by County Council of
New Castle County on:

County Executive

President of County Council
New Castle County

SYNOPSIS: The purpose of this text amendment is to recognize the potential adverse impacts when an outdoor recreational field or court is proposed for exterior nighttime lighting. The impact is greatest when the area is in close proximity to residential dwellings. This amendment will require a special use permit from the Board of Adjustment after a public hearing and may result in additional conditions and restrictions as part of the approval to protect adjacent property and neighborhoods.

FISCAL NOTE: This ordinance will have no discernable fiscal impact.