

**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

<b>Name of Municipality: New Castle County Land Use Department</b>	
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**Date of Most Recently Certified Comprehensive Plan: June 11, 2012**

**Application Type:**

**Comprehensive Plan Amendment: Not applicable**

**Ordinance: Ord. 12-094 Regarding the Establishment of an Open Space (OS) Zoning District. A Text Amendment to Chapter 40 (“UDC”) of the New Castle County Code.**

**Other:** \_\_\_\_\_

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

<b>Maps Prepared by: NA.</b>	
<b>Address:</b>	<b>Contact Person:</b>
	<b>Phone Number:</b>
	<b>Fax Number:</b>
	<b>E-mail Address:</b>

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**Please describe the submission:**

The purpose of this text amendment is to create the legislation that will eventually establish a new Open Space (OS) zoning district. The OS zoning district will identify both private and public open space (OS). When the district is delineated and later adopted by ordinance, it will be shown on the Official Zoning Maps of New Castle County. The amendment sets forth the purposes of the OS district and establishes the permitted and prohibited uses within the district along with the bulk and area standards that will apply to development within the district. It is not an overlay zoning district.

See attached Ordinance 12-094.

Introduced by: Mr. Reda, Mr. Tackett  
Date of introduction: September 4, 2012

**ORDINANCE NO. 12 – 094**

**TO REVISE CHAPTER 40 OF THE *NEW CASTLE COUNTY CODE*  
(ALSO KNOWN AS THE UNIFIED DEVELOPMENT CODE OR “UDC”)  
REGARDING THE ESTABLISHMENT OF AN OPEN SPACE ZONING DISTRICT**

**WHEREAS**, on December 31, 1997, New Castle County Council adopted and the County Executive approved, a comprehensive overhaul to the County’s original 1954 zoning and subdivision regulations with the addition of Chapter 40 (Unified Development Code or “UDC”) to the *New Castle County Code*, and;

**WHEREAS**, the UDC has undergone consistent evolution since such date to better reflect growth and development trends in New Castle County and to utilize more and advance the UDC regulations to include new and progressive planning and land use ideas and values, and;

**WHEREAS**, the composite effect of the County’s historical and current urban growth patterns has created a void in the ability of both County government and its citizens to clearly recognize and appreciate the significant amounts of public and private open space that exist today throughout the County for public use and which create a much needed rural character, and;

**WHEREAS**, it is desirable to establish a protected Open Space (OS) zoning district to show the extent of such protected lands and provide a clearer vision of the size and extent of these important land uses, and;

**WHEREAS**, the 2012 Comprehensive Plan Update for New Castle County recognizes the importance of open space and encourages the creation of such a zoning district to protect such property, and;

**WHEREAS**, the establishment of the Open Space (OS) zoning district, which will include all federal, state, and county parkland, and all private and other public open space dedicated through record plans will provide a clearer picture of open space and recreational land use in the County, and;

**WHEREAS**, this Ordinance is enabling legislation in nature and does not rezone any parcel within the unincorporated areas of New Castle County that currently is utilized as parkland or open space; such a rezoning would require parcel specific rezoning legislation; 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 2 (“Establishment of Zoning Districts”), Division 40.02.200 (“Statement of purpose and intent of districts”), is hereby amended by the addition of the underscored text as set forth below:

**Division 40.02.200. Statement of purpose and intent of districts,**

This Division specifies the purpose and intent of the zoning districts established by this Chapter. The major community character classes (protected, urban, suburban transition, suburban and special) are used to organize the districts. Uses within a community character class are more similar in character than uses in a different class. All districts share the purpose of implementing the Comprehensive Development Plan.

It is County Council's intent to encourage agricultural preservation in all New Castle County zoning districts.

Section 2. *New Castle County Code* Chapter 40 (Unified Development Code or “UDC”), Article 2 (“Establishment of Zoning Districts”), Division 40.02.200 (“Statement of purpose and intent of districts”), is hereby amended by the addition of Section 40.02.250 (“Protected districts”), Section 40.02.251 (“Open Space (OS) Zoning District”), and Section 40.02.252 (Agricultural (AG) Zoning District) as underscored and set forth below:

**Sec. 40.02.250. Protected districts.**

There is one (1) protected district within this land use character class. The Open Space (OS) zoning district is characterized by limited building and development and are intended to identify and protect the open and rural quality of the area. The district will show the full extent of the private and public open space (OS) in New Castle County.

**Sec. 40.02.251. Open Space (OS) District.**

A. This district is intended to protect and preserve public and private open space areas.

B. Design controls are intended to promote active and passive recreational opportunities. The design features of this district are created to provide a myriad of recreational opportunities within open space areas.

C. This district is intended to provide a better understanding of what is preserved as open areas and what can be permitted within open space.

**Sec. 40.02.252. Reserved.**

Section 3. *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”) is hereby amended by adding the material that is underscored and the deleting the material that is bracketed and with strikethroughs, as set forth below:

**Sec. 40.03.110. Use table.**

Table 40.03.110 lists the type of uses permitted in each district. Refer to Division 40.33.200 for definitions of the various use categories and their components...

Table 40.03.110A. GENERAL USE TABLE											Table 40.03.110B. GENERAL USE TABLE							Table 40.03.110C. GENERAL USE TABLE	
Zoning District ( <i>Protected, Urban and Suburban-Transition Character</i> ) Y=permitted, N=prohibited, L=limited review, S=special use review, A=accessory,											Zoning District ( <i>Suburban and Special Character</i> )							Additional Standards (all districts)	
Land Use		**** OS	* TN	ST	MM	ON	OR	CR	BP	I	CN	*** S	SE	** NC	HI	EX	SR	Parking	Limited & Special Use Standards
<b>Agricultural</b>											<b>Agricultural</b>							<b>Agricultural</b>	
Agriculture (includes uses pursuant to Delaware Law)		<u>Y</u>	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	na.	---
Clearing		<u>L</u>	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	na.	Section 40.03.301
Farmstead		<u>N</u>	N	N	N	N	N	N	N	N	N	Y	Y	N	N	N	Y	2.0/du.	---
Farm market		<u>L</u>	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	8 spaces	Section 40.03.328
Commercial stables		<u>N</u>	N	N	N	N	N	N	N	N	N	L	L	N	N	N	L	1 per 2 stalls	Section 40.03.302
<b>Residential</b>											<b>Residential</b>							<b>Residential</b>	
Single-family, detached		<u>N</u>	Y	Y	N	N	N	N	N	N	N	Y	Y	Y	N	N	Y	2.0/du.	[---] No more than 3 du's.
Open space subdivision, option 1		<u>N</u>	N	N	N	N	N	N	N	N	N	Y	Y	N	N	N	Y	3.0/du.	---
Open space subdivision, option 2		<u>N</u>	N	N	N	N	N	N	N	N	N	Y	N	N	N	N	N	2.0/du.	---
Single-family, attached		<u>N</u>	Y	Y	N	N	N	N	N	N	N	N	N	Y	N	N	N	2.25/du.	---
Open space planned		<u>N</u>	Y	Y	N	N	N	N	N	N	N	Y	N	N	N	N	N	2.25/du.	---
Apartments		<u>N</u>	Y	Y	N	N	N	N	N	N	N	N	N	L	N	N	N	2.25/du.	Section 40.03.303
Apartment conversions		<u>N</u>	L	L	N	N	N	N	N	N	N	L	N	L	N	N	N	2.0/du.	Section 40.03.304
Commercial apartments		<u>N</u>	L	N	N	N	N	N	L	N	N	L	N	N	N	N	N	2.0/du.	Section 40.03.305
Hamlet		<u>N</u>	N	N	N	N	N	N	N	N	N	L	N	N	N	N	N	Division 40.25.100	Division 40.25.100
Village		<u>N</u>	N	N	N	N	N	N	N	N	N	L	N	N	N	N	N	Division 40.25.100	Division 40.25.100
Group home		<u>N</u>	Y	Y	N	N	N	N	N	N	N	Y	Y	Y	N	N	Y	1.0/2 beds	---
Manufactured home park		<u>N</u>	N	N	L	N	N	N	N	N	N	N	N	L	N	N	N	2.25/du.	Section 40.03.306
Small single-family		<u>N</u>	L	L	N	N	N	L	N	N	L	L	N	L	N	N	N	2.0/du.	---

Table 40.03.110A. GENERAL USE TABLE											Table 40.03.110B. GENERAL USE TABLE							Table 40.03.110C. GENERAL USE TABLE	
Zoning District ( <u>Protected</u> , Urban and Suburban-Transition Character) Y=permitted, N=prohibited, L=limited review, S=special use review, A=accessory,											Zoning District (Suburban and Special Character)							Additional Standards (all districts)	
Land Use		**** OS	* TN	ST	MM	ON	OR	CR	BP	I	CN	*** S	SE	** NC	HI	EX	SR	Parking	Limited & Special Use Standards
<b>Home Uses</b>											<b>Home Uses</b>							<b>Home Uses</b>	
Day care, family/large family		<u>N</u>	A	A	A	N	N	N	N	N	N	A	A	A	N	N	A	Section 40.03.420	Section 40.03.420
Home occupation		<u>N</u>	A	A	A	N	N	A	N	N	A	A	A	A	N	N	A	Table 40.03.522	Section 40.03.420
Home business		<u>N</u>	N	N	N	N	N	N	N	N	N	L	L	N	N	N	L	Table 40.03.522	Table 40.03.210, Article 25 for design standards
Cottage industry		<u>N</u>	N	N	N	N	N	N	N	N	N	L	L	N	N	N	L	Table 40.03.522	Table 40.03.210, Article 25 for design standards
<b>Institutional</b>											<b>Institutional</b>							<b>Institutional</b>	
Assembly and worship		<u>N</u>	L	L	N	N	L	Y	L	L	L	L	L	L	N	N	L	Table 40.03.522	Section 40.03.307, Division 40.25.200
Schools		<u>N</u>	L	L	N	N	L	Y	L	L	L	L	L	L	N	N	L	Table 40.03.522	Section 40.03.307
Colleges		<u>N</u>	Y	Y	N	L	Y	Y	Y	Y	L	N	N	N	N	N	N	Table 40.03.522	Section 40.03.307
Institutional, regional		<u>N</u>	N	L	N	N	L	L	L	L	N	L	L	L	N	N	L	Table 40.03.522	Section 40.03.308
Institutional, neighborhood		<u>N</u>	L	L	L	L	L	L	L	L	L	L	L	L	N	N	L	Table 40.03.522	Section 40.03.309
Institutional, residential (Type I)		<u>N</u>	L	L	N	N	N	Y	N	N	L	L	L	L	N	N	Y	Table 40.03.522	Table 40.03.210
Institutional, residential (Type II)		<u>N</u>	L	L	N	N	N	L	N	N	L	L	L	L	N	N	L	Table 40.03.522	Table 40.03.210
Protective care		<u>N</u>	N	N	N	N	S	N	S	S	N	N	N	N	S	N	S	Table 40.03.522	Table 40.03.210, Section 40.03.310
Public service		<u>N</u>	L	L	L	Y	Y	Y	Y	Y	Y	L	L	L	Y	Y	L	Table 40.03.522	Section 40.03.311
Hospitals		<u>N</u>	N	N	N	N	Y	Y	Y	Y	N	N	N	L	N	N	N	1/bed	Table 40.03.210

Table 40.03.110A. GENERAL USE TABLE											Table 40.03.110B. GENERAL USE TABLE							Table 40.03.110C. GENERAL USE TABLE	
Zoning District ( <i>Protected, Urban and Suburban-Transition Character</i> ) Y=permitted, N=prohibited, L=limited review, S=special use review, A=accessory,											Zoning District ( <i>Suburban and Special Character</i> )							Additional Standards (all districts)	
Land Use		**** OS	* TN	ST	MM	ON	OR	CR	BP	I	CN	*** S	SE	** NC	HI	EX	SR	Parking	Limited & Special Use Standards
<b>Commercial</b>											<b>Commercial</b>							<b>Commercial</b>	
Adaptive reuse, historic building		<u>L</u>	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	Table 40.03.522	Section 40.15.240
Adult uses		<u>N</u>	N	N	N	N	N	S	N	N	N	N	N	N	N	N	N	1/100 GFA	Section 40.03.313
Agricultural support and other rural services		<u>N</u>	N	N	N	N	Y	Y	Y	Y	Y	S	S	S	Y	Y	S	Table 40.03.522	Section 40.03.314 and Section 40.03.336
Bed and breakfast		<u>N</u>	L	L	N	N	N	N	N	N	L	L	L	L	N	N	L	1 / room plus 2 / du	Section 40.03.315
Commercial lodging		<u>N</u>	N	N	N	N	L	Y	L	L	Y	N	N	N	N	N	N	Table 40.03.522	Table 40.03.210
Commercial retail and service		<u>N</u>	L	N	N	N	L	Y	L	L	Y	N	N	N	N	N	N	Table 40.03.522	Table 40.03.210, Division 40.25.200
Corporate guest house		<u>N</u>	N	L	N	N	Y	Y	Y	Y	N	L	L	L	N	N	L	Table 40.03.522	Table 40.03.210
Drive-in facility		<u>N</u>	L	N	N	L	L	L	L	L	L	N	N	N	L	N	N	Table 40.03.522	Table 40.03.210, Section 40.03.316
Heavy retail and service		<u>N</u>	N	N	N	N	N	Y	N	Y	N	N	N	N	S	N	N	Table 40.03.522	Section 40.31.430
Light automobile service		<u>N</u>	L	N	N	N	L	Y	L	Y	Y	N	N	N	N	N	N	Table 40.03.522	Section 40.03.317
Mixed use		<u>N</u>	L	N	N	L	L	L	N	N	L	N	N	N	N	N	N	Table 40.03.522	Section 40.03.318, Division 40.25.200
Restaurants		<u>N</u>	L	N	N	N	L	Y	L	L	Y	N	N	N	N	N	N	Table 40.03.522	Table 40.03.210, Division 40.25.200
Office		<u>N</u>	L	N	N	Y	Y	Y	Y	Y	Y	N	N	N	L	N	N	Table 40.03.522	Table 40.03.210, Section 40.03.321, Division 40.25.200
Shopping center		<u>N</u>	N	N	N	N	N	Y	N	N	Y	N	N	N	N	N	N	Table 40.03.522	---
Vehicular sales, rental and service		<u>N</u>	N	N	N	N	N	Y	N	N	N	N	N	N	N	N	N	Table 40.03.522	---

Table 40.03.110A. GENERAL USE TABLE											Table 40.03.110B. GENERAL USE TABLE							Table 40.03.110C. GENERAL USE TABLE	
Zoning District ( <i>Protected, Urban and Suburban-Transition Character</i> ) Y=permitted, N=prohibited, L=limited review, S=special use review, A=accessory,											Zoning District ( <i>Suburban and Special Character</i> )							Additional Standards (all districts)	
Land Use		**** OS	* TN	ST	MM	ON	OR	CR	BP	I	CN	*** S	SE	** NC	HI	EX	SR	Parking	Limited & Special Use Standards
<b>Recreation and Amusement</b>											<b>Recreation and Amusement</b>							<b>Recreation and Amusement</b>	
Campground		N	N	N	N	N	N	N	N	N	N	L	N	N	N	N	L	1/space + 3/50 spaces at office	Table 40.03.210
Recreation, high intensity		L	N	N	N	N	S	Y	S	S	L	N	N	N	N	L	N	Table 40.03.522	Table 40.03.210. In EX, see also Section 40.03.324
Recreation, low intensity		L	L	L	L	L	L	Y	L	L	Y	L	L	L	L	N	L	Table 40.03.522	Table 40.03.210
Resort		N	N	N	N	N	N	L	N	N	N	L	L	N	N	N	L	Table 40.03.522	Table 40.03.210, Section 40.03.322
<b>Industrial Uses</b>											<b>Industrial Uses</b>							<b>Industrial Uses</b>	
Compost operations		L	N	N	N	N	N	N	N	L	N	N	N	N	L	L	S	Table 40.03.522	Section 40.03.336
Extraction		N	N	N	N	N	N	N	N	N	N	N	N	N	N	L	N	Table 40.03.522	Section 40.03.324 and Table 40.03.210
Heavy industry		N	N	N	N	N	N	N	N	N	N	N	N	Y	N	N	N	Table 40.03.522	---
Light industry		N	N	N	N	N	L	N	Y	Y	N	N	N	N	Y	N	N	Table 40.03.522	Section 40.03.333
Recycling or storage		N	N	N	N	N	L	N	L	L	N	N	N	N	L	N	N	Table 40.03.522	Table 40.03.210
Utilities, maintenance facilities		N	N	N	N	N	Y	L	Y	Y	N	N	N	N	Y	N	N	Table 40.03.522	Section 40.03.312
Utilities, minor		L	L	L	L	L	L	L	L	L	L	L	L	L	Y	Y	L	Table 40.03.522	Section 40.03.334
Utilities, major		N	N	N	N	N	N	N	N	L	N	N	N	N	L	N	N	na.	Section 40.03.312

Table 40.03.110A. GENERAL USE TABLE											Table 40.03.110B. GENERAL USE TABLE							Table 40.03.110C. GENERAL USE TABLE	
Zoning District ( <u>Protected</u> , Urban and Suburban-Transition Character) Y=permitted, N=prohibited, L=limited review, S=special use review, A=accessory,											Zoning District (Suburban and Special Character)							Additional Standards (all districts)	
Land Use		**** OS	* TN	ST	MM	ON	OR	CR	BP	I	CN	*** S	SE	** NC	HI	EX	SR	Parking	Limited & Special Use Standards
<b>Other Uses</b>											<b>Other Uses</b>							<b>Other Uses</b>	
Airports		<u>N</u>	N	N	N	N	L	N	L	L	N	S	N	N	L	N	S	Special study, Section 40.03.524	Table 40.03.210, Section 40.03.325 and 40.03.432
Commercial communications towers		<u>L</u>	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	2 per tower	Section 40.03.326
Community recycling bins		<u>A</u>	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	---	Section 40.03.430
Exterior lighting for outdoor recreational uses		<u>S</u>	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	Table 40.03.522	Table 40.03.210 and Division 40.22.700
Park and ride facility		<u>L</u>	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	---	Table 40.03.210
<b>Temporary Uses</b>											<b>Temporary Uses</b>							<b>Temporary Uses</b>	
Temporary storage, office or classroom modulars or trailers		<u>L</u>	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	Table 40.03.522	Table 40.03.210
Concrete/asphalt batch plant		<u>N</u>	N	N	N	N	N	N	N	L	N	N	N	N	L	L	L	Table 40.03.522	Section 40.03.327
Contractor's office		<u>L</u>	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	1/200 sf.	---
Model homes/sale office		<u>L</u>	L	L	L	N	N	N	N	N	N	L	L	L	N	N	L	2/model	Section 40.03.335
Commercial temporary outdoor sales		<u>N</u>	L	N	N	N	N	L	N	N	L	N	N	N	N	N	N	None	Section 40.03.329
Public interest and special events		<u>L</u>	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	Table 40.03.522	Section 40.03.330
Temporary miscellaneous sales		<u>L</u>	L	N	N	N	N	L	N	N	L	N	N	N	N	N	N	Table 40.03.522	Table 40.03.210, Section 40.03.331
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. *** See Division 40.25.100 for Village and Hamlet Standards. **** See Division 40.10.200 for other uses permitted in required open space.																			

Section 4. *New Castle County Code* Chapter 40 (Unified Development Code or “UDC”), Article 4 (“District Intensity and Bulk Standards”), Division 40.04.100 (“District performance standards”), Section 40.04.110 (“District and bulk standards”), is hereby amended by adding the material that is underscored and the deleting the material that is bracketed and with strikethroughs as set forth below:

**Sec. 40.04.110. District and bulk standards.**

...

Table 40.04.110A. DISTRICT AND BULK STANDARDS								Table 40.04.110B. DISTRICT AND BULK STANDARDS								Table 40.04.110C. DISTRICT AND BULK STANDARDS	
District Standards								Lot, and Building Standards								Storage and Comments	
Zoning District & Development Type	Min. OSR / LSR	Density		Floor Area Ratio		Utilities (on-site, public)	Min. Site Area	Minimum							Maximum	Exterior Storage	Notes
		Max. Gross	Max Net	Max. Gross	Max. Net			Lot Area	Lot Width (feet)	Street Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Paving street yard/other yard (feet)	Unit Mix (%)	Building Height (feet)	Percent of Lot Area	
Open Space (OS)								Open Space (OS)								Open Space (OS)	
Open space	0.90	na.	na.	na.	na.	na.	na.	na.	na.	na.	na.	na.	na.	na.	na.	na.	
Other permitted uses	0.80	na.	na.	0.05	0.40	na.	20,000 sf.	10,000 sf.	100	25	25	25	na.	na.	40	na.	
Suburban Reserve (SR) .....																	
.....																	

Section 5. *New Castle County Code* Chapter 40 (Unified Development Code or “UDC”), Article 4 (“District Intensity and Bulk Standards”), Division 40.04.100 (“District performance standards”), Section 40.04.111 (“Landscape and illumination standards”), Table 40.04.111 (“Use and Lot 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. 40.04.111. Landscape and illumination standards.**

Bufferyard, landscaping standards and lighting standards are provided in Table 40.04.111.



Section 6. *New Castle County Code* Chapter 40 (Unified Development Code or “UDC”), Article 5 (“Site capacity and concurrency calculations”), Division 40.05.400 (“Site resource capacity”), Section 40.05.420 (“Calculation for total protected land”) is hereby amended by the deletion of the text in brackets and with strikethroughs and the addition of the underscored text as set forth below:

**Sec. 40.05.420. Calculation for total protected land.**

Table 40.05.420 provides the procedure for calculating a site's total protected land. Step 1 determines the base site area. Steps 2-4 determine the land to be protected. All applicants, residential and nonresidential, must begin by completing this calculation. Where the site is in more than one (1) zoning class, or where the site is to be divided into residential and nonresidential uses, separate calculations are required. Any area excluded from the base site area shall not be included in the resource calculation. With approval from the Department, contiguous land of like kind may be purchased or restricted by a conservation easement to increase development potential. When calculating site capacity for uses permitted within the open space district, do not subtract the number of acres dedicated as open space.

Section 7. *New Castle County Code* Chapter 40 (Unified Development Code or “UDC”), Article 6 (“Sign Regulations”), Division 40.06.000 (“Applicability”) is hereby amended by the deletion of the text in brackets and with strikethroughs and the addition of the underscored text as set forth below:

**Division 40.06.000. Applicability.**

A. With regard to Section 40.06.060 Schedule of Sign Restrictions, the following rules shall govern:

1. Open Space (OS), Neighborhood Conservation (NC), Suburban Reserve (SR), Suburban Estate (SE), Suburban (S), Suburban Transition (ST), and Traditional Neighborhood (TN) districts shall all be considered residential districts.
2. Commercial Neighborhood (CN) ....

Section 8. *New Castle County Code* Chapter 40 (Unified Development Code or “UDC”), Article 10 (“Environmental Standards”), Division 40.10.200 (“Open space regulations”), Section 40.10.210 (“Uses in required open space”) 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. 40.10.210. Uses in required open space.**

Table 40.10.210 lists uses that may be permitted in open space when required elsewhere in this Chapter. The uses listed are narrower subsets of the use categories listed in Table 40.03.110. In so doing, a closer match of the permitted uses to the resources' tolerance is provided. Any use not listed shall be considered prohibited. All uses listed in Table 40.10.210 as permitted, limited, special, or uses requiring an environmental impact assessment report under the Natural Resource

Area Open Space and the Community Area Open Space shall be permitted under the same circumstances within the Open Space (OS) zoning district.

Section 9. **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 10. **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 11. **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 12. **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  
of New Castle County

**SYNOPSIS:** The purpose of this text amendment is to create the legislation that will eventually establish a new Open Space (OS) zoning district. The OS zoning district will identify both private and public open space (OS). When the district is delineated and later adopted by ordinance, it will be shown on the Official Zoning Maps of New Castle County. The amendment sets forth the purposes of the OS district and establishes the permitted and prohibited uses within the district along with the bulk and area standards that will apply to development within the district.

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