



Appendix

Introduced by: William Tansey
Patty Powell
Robert Weiner
Date of Introduction: November 18, 2003

ORDINANCE NO. 03 - 107

TO REVISE CHAPTER 40 OF THE NEW CASTLE COUNTY CODE (ALSO KNOWN AS THE UNIFIED DEVELOPMENT CODE – UDC) REGARDING ARTICLE 2 (“ESTABLISHMENT OF ZONING DISTRICTS”), ARTICLE 26 (“MODIFICATIONS OF STANDARDS”), ARTICLE 30 (“COUNTY COUNCIL AND ADMINISTRATIVE BODIES”), ARTICLE 31 (“PROCEDURES AND ADMINISTRATION”) TO CREATE A HOMETOWN OVERLAY ZONING DISTRICT AND COMMUNITY PLANNING PROCEDURES

WHEREAS, New Castle County has determined that many unique and diverse communities exist that have previously established themselves apart from the common form of suburban development that characterizes much of the county, and;

WHEREAS, current land use and development code provisions do not adequately recognize this distinction or the needs of these communities to sustain and enhance their development patterns, and;

WHEREAS, modifications are needed to promote the viability and economic health of these communities as desirable places to live and facilitate infill and redevelopment within these communities, and;

WHEREAS, County Council has determined that the provisions of this ordinance substantially advance, and are reasonably and rationally related to, legitimate government interests (i.e., promoting the health, safety, morals, convenience, order, prosperity and/or welfare of the present and future inhabitants of this State).

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

Section 1. Chapter 40 of the *New Castle County Code* is hereby revised by the addition of the underlined text and the deletion of the text contained within brackets as set forth in “**Exhibit A**” attached hereto, and made a part hereof as if fully set forth herein.

Section 2. 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 3. Inconsistent Ordinances and Resolutions Repealed.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or parts of ordinances and all resolutions or parts of resolutions that may be in conflict herewith are hereby repealed except to the extent they remain applicable to land use matters reviewed under previous Code provisions as provided in Chapter 40 of the *New Castle County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 4. 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 5. Effective Date. This ordinance shall become effective immediately upon its adoption by County Council and approved by the County Executive.

Approved on:

Adopted by County Council of
New Castle County on:

County Executive

President of County Council
New Castle County

SYNOPSIS: *Although New Castle County is often characterized by recent suburban growth, many unique and diverse communities exist in the County. These communities have previously established themselves apart from our current growth trends. However, New Castle County has determined that current land use and development provisions cannot adequately recognize their distinction or the needs of these communities to sustain and enhance their traditional development patterns. This ordinance establishes an overlay zoning district that identifies these areas and provides an alternative planning mechanism that will allow for the modification of code provisions which threaten their perpetual existence. Public and community involvement is important to the success of these areas and is built into the process by requiring input not only during the planning process, but also during County review of projects within these areas.*

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

EXHIBIT A

Sec. 40.02.240. Special districts.

Four (4) [Three (3)] of the special districts are applied to existing development areas and two (2) of the special districts were created to allow a limited amount of Heavy Industry (HI) and Extraction (EX). The Neighborhood Conservation (NC) District applies to neighborhoods or planned area whose character is already set by existing uses and lotting, and which should be protected or conserved. The Diversified Planned Unit Development (DPUD) District is only for existing DPUD developments. The Historic (H) District is an overlay district to preserve the County's historic heritage. The Hometown (HT) Overlay district will apply to existing communities that were established before zoning regulations went into effect and whose development pattern is unique to that community.

Sec. 40.02.245. Hometown (HT) Overlay district.

Hometown Overlay districts are intended to promote and enhance existing developed neighborhoods, communities and villages that do not conform to the pattern of development that characterizes much of the County. They typically have evolved over a long time span and prior to County land use regulations. Therefore, land uses and lot development tend to be non-uniform. These communities are not easily categorized in terms of density, use, yards, setbacks, etc. and therefore warrant special consideration. All Hometown (HT) Overlay districts shall be considered designated infill areas.

Division 40.26.400. Modifications for development in designated Hometown (HT) Overlay districts.

Sec. 40.26.410. Purpose.

- A. New Castle County is comprised of many unique and diverse communities that have previously established themselves apart from the common form of suburban development that characterizes much of the County. Past and present land use and development provisions have not adequately recognized this distinction or the needs of these communities to sustain and enhance their development patterns. In particular, these communities are considered "traditional" and in most cases predate the automobile with relatively dense neighborhoods with a variety of nonresidential uses and ample sidewalks to travel from place to place. Current land use planning principles now tout this same form of development as "neotraditional" and "new urbansism" as an alternative to suburban sprawl that has consumed land and taxed infrastructure. The modifications within this division are intended to promote the viability and economic health of these communities as desirable places to live and facilitate infill and redevelopment.

Sec. 40.26.420. Overlay zone/criteria for designation.

- A. County Council may establish Hometown (HT) Overlay districts that encompass the boundaries of communities and neighborhoods that will be subject to modification of standards as set forth herein and by an approved Community

Plan. Hometown Overlay rezonings shall be processed in accordance with the tri-annual hearing process in Section 40.31.111.

- B. Adoption of a Hometown Overlay district shall amend the Comprehensive Development Plan to be consistent therewith.
- C. The description and identification of these communities shall be through civic initiative and public input to determine the unique qualities, landscapes, land use, development pattern, amenities, road network and transit facilities, community uses, public spaces and other assets that define and characterize that community. The delineation of a community shall not be comprised of only one land use type. Communities are composed of a variety of uses that include residential, commercial, employment, recreation and institutional uses. While not all communities have each of these categories, all communities do exhibit a variety of land uses that together, contribute to the identity and function of the community.
- D. All proposed land development applications reviewed by New Castle County shall comply with a Community Plan and/or Design Guidelines adopted for a community.

Sec. 40.26.430. Community plan.

- A. With adoption of the Hometown Overlay district, County Council shall also, by resolution, approve a Community Plan.
 - 1. At a minimum, the Plan shall include a purpose, goals, description of the land uses, community character, architectural or design themes, streetscape and landscape concepts, transportation objectives, considerations for building envelope, mixed use opportunities, parking/loading and accessory uses.
 - 2. The Community Plan must describe how development is intended to be compatible with the community character or in harmony with the existing community fabric. The Plan should not merely act to replicate architectural styles that would result in an unintended monotony and blandness or a contrived, artificial appearance. It should however, encourage maintaining the rhythm of the existing developed community by recognizing streetscape contexts involving building, scale, mass, door and window openings and spacing, building height, setbacks, materials, texture and relief of facades.
 - 3. The Community Plan shall identify those properties that warrant a different zoning designation. County Council shall consider these rezonings concurrently with the adoption of the overlay zone.

4. An illustrative plan and narrative report that addresses proposed dimensional, character, design and other standards to supplant or supplement other provisions within the Code. These standards and criteria may be within a separate "Design Guidelines" manual.
- B. The Community Plan shall result from public meetings to determine community goals and objectives (sometimes referred to as a visioning process). It is imperative that these public meetings, pursuant to the public notification process of Section 40.31.340 of this chapter, comprise broad based support with representation by diverse community interests and bona fide community groups.
- C. Amendment or revision to the Community Plan may be initiated by the Community, Design Review Advisory Committee or by the Department and approved through a resolution of County Council.

Sec. 40.26.440. Design review advisory committee.

A Design review advisory committee shall be established for each Hometown Overlay district pursuant to Article 30.

Sec. 40.26.450. Variation from UDC standards.

- A. All Code standards shall remain in effect within the designated community including zoning districts as depicted on the Zoning Map. However, the standards established by the Community Plan that may conflict or contradict those of the Code shall supersede those of the Code as identified and determined by the Department during plan review.
- B. Code requirements may be modified to increase density, reduce landscaping, buffers or open space area, reduce parking, decrease or increase building and paving setbacks, increase or decrease building heights and to alter sign standards to insure that the proposed development will conform to the goals and objectives of the Community Plan and/or Design Guidelines.
- C. Exceptions:
 1. All protected resources as identified in Article 10 shall be preserved.
 2. The Community Plan shall not replace more appropriate historic preservation measures found in Article 15 of this Chapter.
- D. The Department may initiate proactive rezoning of land within the overlay zone to facilitate proposed development that conforms to the Community Plan/Guidelines.

Sec. 40.26.460. Reviews.

- A. Any proposed development within a Hometown Overlay zone shall follow the procedures of Article 31 of this Chapter with the addition of a review by the Design Review Advisory Committee.
- B. Upon submission of a land use application, the Department shall notify the appropriate Design Review Advisory Committee of the application and schedule a public hearing within twenty (20) days. The Department shall be responsible for public notification in accordance with Section 40.31.340.
- C. The Department shall prepare a preliminary report for the Design Review Advisory Committee prior to the public hearing. The Department's preliminary report shall include a discussion as to the appropriateness of the application in relation to the Community Plan and Design Guidelines.
- D. A public review of the application shall be held by the Design Review Advisory Committee and the Department. The applicant shall be present to provide a brief description of the project and answer questions by the committee and those in attendance. Based upon its public review, the Design Review Advisory Committee shall provide a written recommendation to the Department within ten (10) days of the public hearing.
- E. The Design Review Advisory Committee's written recommendation shall advise the Department of the project's conformance with the goals, objectives and standards of the Community plan and/or design guidelines. The committee may make suggestions or recommendations for desired revisions to further enhance the project or to correct deficiencies. The Advisory Committee shall not unreasonably delay or table its evaluation of the project.
- F. Upon receipt of the Design Review Advisory Committee's recommendation, the Department shall issue a final report. In doing so, the Department shall give due consideration of the Advisory Committee recommendation in determining conformance with the adopted design guidelines. Dimensional standards shall be noted and depicted on the plan approved by the Department. Architectural details, elevations and other design related elements shall be shown on a landscape plan or on a separate plan. As these elements are an integral part of the design review, this shall also be submitted at the Exploratory Sketch phase of review. The Department will subsequently respond to the applicant as part of its review in accordance with New Castle County Code.
- G. The Department may refuse acceptance of plans that are in substantial noncompliance with the Code or Community Plan and may require subsequent reviews by the Advisory Committee upon submission of revised plans.

Sec. 40.30.450. Design review advisory committee.

A Design Review Advisory Committee shall be established for each Hometown Overlay District. The Department shall be the professional department for the committee.

A. Purposes and duties of the each committee shall be:

1. The committee shall review plans for land development applications for compliance with the Community Plan and Design Guidelines and make recommendations to the Department.
2. The committee shall review the community standards and make recommendations for revisions and update to the Community Plan and Design Guidelines.
3. Any other purpose provided in Article 26.

B. The committee shall adopt bylaws and rules in accordance with Article 30 of this chapter. Each committee shall provide the following Procedures and Rules in its bylaws:

1. All meetings and hearings shall be open to the public.
2. A majority of the committee's members shall constitute a quorum necessary to take action and transact business. All actions shall require a simple majority of the quorum.
3. In the event that any member is no longer a resident of the County; is convicted of a felony or an offense involving moral turpitude; violates rules of the board, fails to attend any three (3) consecutive, regularly scheduled meetings except where such absence is deemed by the chairman to be due to illness, incapacity, or a family crises; or, has three (3) unexcused absences in one (1) year that member shall forfeit his/her membership on such committee. "Regularly scheduled meeting" shall mean a meeting at which a committee member is expected to be present. The chairman of each committee shall forward a letter to the County Executive stating that a vacancy exists on the board and the name of the member who held the forfeited position. The County Executive shall terminate the appointment of such person with the consent of the County Council.

C. Members. Community representatives shall make recommendations to the County Executive who shall appoint members subject to County Council consent. The County Executive shall appoint members subject to the following guidelines:

1. The minimum number of members shall be five (5) and the maximum number shall be nine (9).
2. The committee shall be comprised of residents of the community in which the Community Planning overlay district directly affects except that one (1) registered landscape architect and one (1) registered architect who resides outside of the community may be appointed to the committee.
3. Each committee shall contain at least two (2) members from each of the following groups: homeowner/residential and business interests.

SEC. 40.31.340 NOTICE OF PUBLIC HEARINGS

Except as required below, the Department shall be responsible for ensuring notice of a public hearing through newspapers, posted notice in public buildings as determined by the Department of Land Use, and mailed notice for meetings of the Board of Adjustment, Planning Board, [and the] Historic Review Board and all Design Review Advisory Committees.

A. Text amendments and County-initiated comprehensive rezonings.

B. Other applications

1. **Notice in newspaper.** The Department shall advertise all other applications (e.g., deed restriction changes; applicant rezonings; subdivision, area, use, and floodplain variance requests; beneficial use appeals; appeals of Departmental decisions; major land development plans (Technical Advisory Committee (TAC)); Historic Review Board applications; RPATAC applications (Resource Protection Area Technical Advisory Committee); Design Review Advisory Committee applications; and other Planning Board and Board of Adjustment applications) in the legal notice section of the Saturday issue of the News Journal published in Delaware and in community newspapers specifically listed in Appendix 6 of the Unified Development Code (UDC). The Department of Land Use shall maintain and amend, as may be necessary from time to time, a list of New Castle County newspapers of general circulation and community newspapers, contained in UDC Appendix 6, in which public hearings and applications are to be advertised. Publication in the News Journal shall be deemed to satisfy the legal notice requirements in this section. Notice shall appear at least fourteen (14) calendar days prior to the public hearing date and shall contain the following information.

- a. The type of application.

2. Notice to owner/applicant.

Introduced by: William J. Tansey *WJ*
Date of Introduction: 9/28/04

RESOLUTION NO. 04 - 189

TO ADOPT THE HOCKESSIN COMMUNITY REDEVELOPMENT PLAN AND MANUAL OF DESIGN GUIDELINES TO MODIFY CHAPTER 40 OF THE NEW CASTLE COUNTY CODE (“UNIFIED DEVELOPMENT CODE – UDC”) STANDARDS WITHIN THE HOCKESSIN HOMETOWN (HT) OVERLAY ZONING DISTRICT AND TO AMEND THE NEW CASTLE COUNTY COMPREHENSIVE DEVELOPMENT PLAN CONSISTENT THEREWITH.

WHEREAS, the 1997 New Castle County Comprehensive Plan Update identified that the existing patterns of development and community design within older communities was unable to be perpetuated by current zoning standards; and

WHEREAS, both the 1997 and 2002 New Castle County Comprehensive Development Plan Updates recommended that these traditional settlements need to be protected and enhanced; and

WHEREAS, in 2002 the New Castle County Executive initiated a community planning program within the Land Use Department to work with communities on local planning initiatives; and

WHEREAS, the Hometown Overlay Text Amendment (Ord. 03-107) was adopted in March 2004 to further support the County Executive’s community planning initiative by providing enabling legislation for the creation of community redevelopment plans and design guidelines to modify existing development standards to better fit each individual community and to also encourage redevelopment by eliminating the need for variance applications when reusing existing properties; and

WHEREAS, Hockessin has been selected as one of the first communities in the County’s community planning program; and

WHEREAS, the Hockessin Community Redevelopment Plan and Manual of Design Guidelines have been drafted in accordance with the vision, goals, objectives and strategies outlined by the community during the community planning process; and,

WHEREAS, Ordinance 04-105 is companion legislation to this Resolution and will revise the Official Zoning Maps of New Castle County and establish the Hockessin Hometown Zoning Overlay; and,

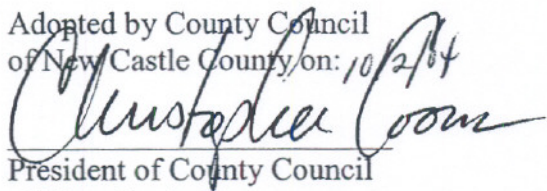
WHEREAS, both the Department of Land Use and the New Castle County Planning Board have recommended conditional approval of the Hockessin Hometown Zoning Overlay (Ord. 04-105) and the Hockessin Village Community Redevelopment Plan and Manual of Design Guidelines at the August 17, 2004 Planning Board Business Meeting.

NOW, THEREFORE, BE IT RESOLVED by the County Council in and for New Castle County that the County Council of New Castle County hereby approves the Hockessin Village Community Redevelopment Plan and Manual of Design Guidelines, and amends the New Castle County 2002 Comprehensive Plan Update therewith; and,

BE IT FURTHER RESOLVED by the New Castle County Council that the conditions listed below and as part of the August 17, 2004 Department of Land Use/Planning Board Recommendation Report be part of the this approval:

- 1) Clarify that the Community Redevelopment Plan and Manual of Design Guidelines will only be applied to properties with an active Land Use Application before the Department of Land Use. Existing structures and uses will not be made to comply with the provisions of the plan and design guidelines unless a land use application is filed
- 2) Clarify that land use applications within the overlay district will be reviewed by the Hockessin Village Design Review Advisory Committee and final decision making authority shall rest with the New Castle County Department of Land Use.
- 3) Include the enabling Hometown Overlay Ordinance 03-107 and Planning Board Recommendation as appendices for reference purposes.
- 4) Correct identified grammatical, spelling and formatting changes following County Council adoption.

Adopted by County Council
of New Castle County on: 10/2/04


President of County Council
of New Castle County

SYNOPSIS: This Resolution establishes a Community Redevelopment Plan and Manual of Design Guidelines for the Hockessin Hometown (HT) Overlay Zoning District. Development and redevelopment within the overlay district will be regulated by the Hockessin Community Redevelopment Plan and Manual of Design Guidelines.

The proposed overlay district is located in Mill Creek Hundred, along the Lancaster Pike and Old Lancaster Pike corridors from the Valley Road intersection to just east of the Schoolhouse Road intersection. It consists of 153± acres with various residential, office, commercial and industrial base zoning districts.

FISCAL IMPACT: This Resolution will have no immediate discernable fiscal impact on the County, but if properties within the Hockessin Hometown Overlay District are developed and/or redeveloped in accordance with the Hockessin Community Redevelopment Plan and Manual of Design Guidelines, there may be one or more indirect fiscal effects on New Castle County Government, including but not limited to an increase in the assessed value of the property with a resultant increase in taxes collectible thereon, and an increased demand for County services.

Introduced by: Mr. Tansey
Date Introduced: 7/13/04

ORDINANCE NO. 04 - 105

REVISE ZONING MAP: MILL CREEK HUNDRED, LANCASTER PIKE AND OLD LANCASTER PIKE CORRIDOR FROM THE VALLEY ROAD INTERSECTION TO JUST EAST OF THE SCHOOLHOUSE ROAD INTERSECTION, 153± ACRES OF VARIOUS RESIDENTIAL, OFFICE, COMMERCIAL AND INDUSTRIAL BASE ZONING DISTRICTS TO INCLUDE THE HOCKESSIN HOMETOWN (HT) OVERLAY ZONING DISTRICT; AND TO AMEND THE COMPREHENSIVE PLAN CONSISTENT THEREWITH.

(Pursuant to UDC Division 40.26.400 (“Modifications for Development in Designated Hometown (HT) Overlay Districts”), the proposed **Hockessin Hometown Zoning Overlay** will require that all development in the overlay district be regulated by the Hockessin Community Redevelopment Plan and Design Guidelines Manual. 04-0723-Z)

THE COUNTY OF NEW CASTLE HEREBY ORDAINS:

Section 1. The Zoning Map of Mill Creek Hundred, as amended, is hereby further amended by changing the zoning classification of the land shown on attached Exhibits “A” and “L” dated June 14, 2004, as set forth therein.

Section 2. The General Comprehensive Development Plan for New Castle County, as shown amended, is hereby further amended, by changing the land use designation shown on attached Exhibit “E” dated June 14, 2004, as set forth therein, so as to make such land consistent with the amendment of the zoning map, as per Section 1 above.

Section 3. This Ordinance shall become effective immediately upon its adoption.

Adopted by County Council
of New Castle County on:

President of County Council
of New Castle County

Approved on:

County Executive
New Castle County

SYNOPSIS: Same as Title.

FISCAL IMPACT: This rezoning ordinance will have no immediate discernable fiscal impact on the County, but if the parcel(s) rezoned is (are) developed in accordance with the new rezoning, there may be one or more indirect fiscal effects on New Castle County government, including, but not limited to, an increase in the assessed value of the property with a resultant increase in taxes collectible thereon, and an increased demand for county services.