AN ORDINANCE TO AMEND CHAPTER 115, ZONING, ARTICLE XI, PART ONE, RELATING TO PERMITED USES AND TO CLOSE THE EXISTING C-1 DISTRICT; PART TWO, SECTION 3, TO CREATE A NEW CR-1 DISTRICT; PART THREE, ARTICLE X, TO AMEND THE B-1 DISTRICT RELATING TO CONDITIONAL USES; AND PART FOUR, ARTICLE XX TO AMEND THE HEIGHT, AREA AND BULK REQUIREMENTS.

PART ONE
In ARTICLE XI, C-1 General Commercial District

SECTION 1. Add to § 115-77 "Permitted Uses" to be inserted after "Hotels" and before "Lawn Mower", the following:

Indoor amusement places [or] *and* theaters, except open-air drive-in theaters. *Indoor a*musement places include bowling alleys, dance halls, subject to applicable county regulations, skating rinks, swimming pools, miniature golf, billiard or pool parlors, indoor model racing tracks and similar activities *conducted entirely within a closed structure.*

SECTION 2. Amend § 115-79 "Conditional Uses" to read as follows:

Outdoor Amusement places [or theaters, except] *and* open-air drive-in theaters. *Outdoor amusement places include but are not limited to batting cages, skating rinks, waterslides, miniature golf, model racing tracks and similar recreational activities.* [Amusement places include bowling alleys, dance halls, subject to applicable county regulations, skating rinks, swimming pools, miniature golf, billiard or pool parlors, indoor model racing tracks and similar activities.] Mobile or fixed-type cranes or lifting devices, not designed, not approved for, not manufactured for or not intended to carry, transport or in any fashion move individual(s) or person(s), shall be prohibited and shall not be used for amusement purposes. **[Added 8-11-1992 by Ord. No. 849; amended 3-30-1993 by Ord. No. 887]**

SECTION 3. Add to § 115-83 "Reference to additional regulations" a new paragraph:

§ 115-83.1. Closed district

As of the date of adoption of this amendment, the C-1 General Commercial District shall be considered a closed district and shall not be applied to any additional lands in Sussex County. The district and its various provisions and regulations shall continue to exist as they apply to a C-1 District legally established under the procedures of this chapter.

PART TWO
New District Created

SECTION 4. Add a new zoning district at the end of Article XI to read as follows:

CR-1 Commercial Residential District

§ 115-83.1. Purpose.

The purpose of this district is to provide sufficient space in appropriate locations for a wide variety of commercial and miscellaneous service activities generally serving a wide area and located particularly along certain existing major thoroughfares where a general mixture of commercial and service activity now exists, but which uses are not characterized by extensive warehousing, frequent heavy trucking activity, open storage of materials or the nuisance factors of dust, odor and noise associated with manufacturing. Residential uses are permitted provided that they meet all the requirements stated elsewhere in this district.

§ 115-83.2. Permitted uses.

A. A building or land shall be used only for the following purposes:

(1) Animal hospitals or kennels with any open pens at least 200 feet from any residential district and 50 feet from any property line

(2) Indoor amusement places [or] and theaters, except open-air drive-in theaters. Indoor amusement places include bowling alleys, dance halls, subject to applicable county regulations, skating rinks, swimming pools, miniature golf, billiard or pool parlors, indoor model racing tracks and similar activities conducted entirely within a closed structure.

(3) Any use permitted in an AR District and the B-1 District

(4) Automobile or truck sales, service and repair, body or fender repair, but not auto salvage or junk, and any major repairs shall be inside a completely enclosed building. All displays shall be a minimum of twenty-five feet from front property line

(5) Bakeries

(6) Boat and boat trailer sales and storage. Boat displays of more than five feet in height shall be a minimum of 25 feet from the front property line

(7) Bottling works, dyeing and cleaning works or laundry, plumbing and heating shops, painting shops, upholstering shops, cabinet and furniture manufacture, sheet metal shops, tire sales and service (including vulcanizing and recapping but no manufacturing), appliance repairs and general service and repair establishments, similar in character to those listed in this item, provided that no outside storage of material is permitted, except as provided in this section

(8) Business and commercial radio and television stations and studios or recording studios [, but not towers more than 150 feet in height, except as provided in Article XXVII]

(9) Car washes or automobile laundries, automatic or otherwise

(10) Commercial greenhouses, wholesale or retail, and nurseries for growing of plants, trees and shrubs, including a building for sale of products produced on the premises

(11) Farm implement sales, service, rental and repair, but not salvage or junk, and provided that major repair or storage of materials, damaged or unusable implements or vehicles shall be inside a completely enclosed building. Displays of materials and equipment of more than five feet in height shall be a minimum of 25 feet from the front property line

(12) Garages, parking or storage

(13) Hotels, motels or motor lodges

(14) Lawn mower, yard and garden equipment, rental, sales and services

(15) Lumber and building materials stores

(16) Material storage yards in connection with a permitted use where storage is incidental to the approved occupancy of the building, provided that all products and materials used or stored are in a completely enclosed building or enclosed by a masonry wall or solid fence, not less than six feet in height. Storage of all materials and equipment shall not exceed the height of the wall. Storage of cars and trucks used in connection with the permitted trade or business is permitted, including storage of heavy equipment, such as road-building or excavating equipment, contractor shop, storage yard and equipment rental

(17) Monument sales establishments with incidental processing to order, but not including the shaping of headstones

(18) Printing, publishing and engraving establishments

(19) Schools for industrial training, trade or business

(20) Tourist homes or rooming house

(21) Trailer or mobile home sales and storage, parked a minimum of 40 feet from the front property line

(22) Used car and truck sales and storage, parked a minimum of 25 feet from the front property line

(23) Warehousing within a completely enclosed building, provided that such use is not objectionable by reason of odor, dust, noise or similar factors

B. The total [gross building] floor area of any building or group of buildings shall be less than seventy-five thousand square feet.

§ 115-83.3. 1 Large-scale Uses.

A. It is recognized that there may be large-scale commercial or retail uses planned in the CR-1 Commercial Residential District, generally serving a regional area. Such uses are defined as those where the total [gross building] floor area of any building or group of buildings shall be equal to or exceed 75,000 square feet. Such uses shall be adjacent to a major arterial roadway, as defined in § 99-5 of the Subdivision Ordinance, Chapter 99 of the Code of Sussex County, and be located where adequate infrastructure is existing, planned or funded and shall be completed prior to the issuance of a certificate of compliance. Such uses are not characterized by extensive warehousing, frequent heavy trucking activity, open storage of materials or the nuisance factors of dust, odor and noise associated with manufacturing. Such uses must comply with the provisions contained within this section

B. Height, area and bulk requirements.

(1) Minimum lot sizes. Minimum lot sizes shall be as follows:

Use	*Area (Acres)*	*Width (feet)*	*Depth (feet)*
All Uses	*3*	*150*	*100*

(2) Minimum yard requirements. Minimum yard requirements shall be as follows:

Use	*Depth of Front Yard (feet)*	*Width of Side Yard (feet)*	*Depth of Rear Yard (feet)*
All	*60**	*20*	*30*

**NOTE: See also minimum buffers and setbacks contained in § 115-194. 1E.*

(3) Maximum height requirements. Maximum height requirements shall be as follows:

All Uses	*42 feet*

C. Access standards from roadways. Access points and left turning movements along roadways shall be minimized. Access and circulation to roadways shall comply with the following standards:

(1) Access from roadways shall be kept to a minimum and shall encourage the use of shared driveways where feasible and shall be subject to the approval of the Delaware Department of Transportation.

(2) Access drives and service roads shall be designed to minimize queuing of entering or exiting vehicles.

(3) Access driveways shall accommodate pedestrian traffic through the use of depressed curbs

D. Additional requirements.

(1) The following improvements shall be shown on the site plan:

(a) Transit accommodations shall be provided at the discretion of the Planning and Zoning Commission and DelDOT.

(b) Pedestrian movement shall be accommodated throughout the site to provide safe connections to transit stops, parking areas and sidewalks.

(c) Cross access easements and interconnections shall be provided to adjoining sites for vehicular and pedestrian traffic.

(2) Off-street parking space requirements shall be increased by 20% over those contained in § 115-162.

(3) A public hearing by the Board of Adjustment shall be conducted prior to the approval of the expansion by 25% or more of the total floor area of any existing non- residential structure containing at least 75,000 square feet of total floor area.

§ 115-83.4. Permitted accessory uses.

Permitted accessory uses are as follows:

A. Any accessory use permitted in an AR District.

B. Storage of office supplies or merchandise normally carried in stock in connection with a permitted office, business or commercial use, subject to applicable district regulations.

§ 115-83.5. Conditional uses.

The following uses may be permitted as conditional uses when approved in accordance with the provisions of Article XXIV of this chapter:

(1) Airports and landing fields or seaplane bases, provided that they shall comply with the recommendations of the Federal Aviation Administration

(2) Mobile or fixed-type cranes or lifting devices, not designed, not approved for, not manufactured for or not intended to carry, transport or in any fashion move individual(s) or person(s), shall be prohibited and shall not be used for amusement purposes. [Added 8-11-1992 by Ord. No. 849; amended 3-30-1993 by Ord. No. 887]

(3) Aquariums, commercial

(4) Beaches, commercial

(5) Bus terminals

(6) Cemeteries, including a crematorium if located at least 200 feet from the boundaries of the cemetery

(7) Circus or carnival grounds, amusement park or midways, permanent or for a temporary time period exceeding three days. The Director may, without requiring a conditional use application, grant approval of a circus or carnival ground, amusement park or midway for a maximum of three days for a nonprofit organization, upon receipt of an application. [Amended 5-1-1990 by Ord. No. 680; 11-10-1992 by Ord. No. 863]

(8) Drive-in theaters

(9) Exposition centers or fairgrounds

(10) Heliports or helistops

(11) Hospitals and sanitariums

(12) Institutions, educational or philanthropic, including museums, art galleries and libraries

(13) Multifamily dwelling structures, subject to the provisions of Articles XX through XXV, § 115-219 and Table III (included at the end of this chapter)

(14) Public or governmental buildings and uses, including schools, parks, parkways, playgrounds and public boat landings

(15) Public utilities or public service uses, buildings, generating or treatment plants, pumping or regulator stations, substations and transmission lines utilizing multilegged structures

(16) Racetracks, any type, including horses, stock cars or drag strip

(17) Recreation facilities, privately or commercially operated, such as a fishing or boating lake, picnic grounds or dude ranch, and accessory facilities, including sale of food, beverages, bait, incidentals, supplies and equipment

(18) Residential, business, commercial or industrial uses when the purposes of this chapter are more fully met by issuing a conditional use permit

(19) Sports arenas or stadiums, commercial athletic fields or baseball parks

(20) Swimming or tennis clubs, private, nonprofit or commercially operated

(21) Outdoor amusement places including but not limited to batting cages, skating rinks, waterslides, miniature golf, model racing tracks and similar recreational activities

§ 115-83.6. Special use exceptions.

Special use exceptions may be permitted by the Board of Adjustment and in accordance with the provisions of Article XXVII of this chapter and may include:

A. Temporary and conditional permits for a period not to exceed five years, such period to be determined by the Board for the following uses:

(1) Archery ranges

(2) Asphalt batching plants or concrete batching plants

(3) Commercial dog kennels

(4) Driving ranges[14]

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14 Editor's Note: The former entry reading "Nonaccessory tents for special purposes;" which immediately followed this entry, was repealed 11-10-1992 by Ord. No. 863. See now the entry beginning with "Tents."

(5) Outdoor display or promotional activities at shopping centers or elsewhere

(6) Pony rings

(7) Raising for sale of birds, bees, rabbits and other small animals, fish and other creatures

(8) Riding academies, public stables or private stables

(9) Rifle or pistol ranges, trap or skeet shooting

(10) Sawmills for cutting timber grown on the premises

(11) Temporary buildings for use as a sales or rental office for an approved real estate development or subdivision

(12) Tents for special purposes for a period exceeding three days. The Director may, without requiring an application for a special use exception, grant approval for a tent for a special purpose (revival, reception, tent sale as an accessory to a business or commercial use, or other similar activities). If approved by the Director, a tent for special purposes may be utilized on a parcel no more than three times in a calendar year. [Added 11-10-1992 by Ord. No. 863]

(13) Use of a mobile home as a single-family dwelling in any district to meet an emergency or hardship situation, such permit not to exceed two years

(14) Use of a mobile-home-type structure for any business, commercial or industrial use

B. Exceptions to parking and loading requirements as follows:

(1) Off-street parking areas, adjacent to or at a reasonable distance from the premises on which parking areas are required by the parking regulations of Article XXII, where practical difficulties, including the acquisition of property, or undue hardships are encountered in locating such parking areas on the premises and where the purpose of these regulations to relieve congestion in the streets would best be served by permitting such parking off the premises.

(2) Waiver or reduction of the parking and loading requirements in any district whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities.

(3) Waiver or reduction of loading space requirements where adequate community loading facilities are provided.

(4) Waiver or reduction of loading space requirements for uses which contain less than 10,000 square feet of floor area where construction of existing buildings, problems of access or size of lot make impractical the provisions of required loading space.

C. Other special use exceptions as follows:

(1) Alteration, extension or replacement of a nonconforming mobile home, subject to the provisions of § 115-196

(2) Cemeteries for pets

(3) Convalescent homes, nursing homes or homes for the aged

(4) Day nurseries or child-care centers[15]

(5) More than one mobile home may be permitted on a farm of 10 acres or more pursuant to § 115-21A(5), provided that all mobile homes or dwellings on the property are the primary place of residence for persons employed on the premises or immediate members of the family owning or operating the farm, and provided that the granting of this exception will not adversely affect the values or uses of adjacent properties. [Amended 3-25-1997 by Ord. No. 1131]

(6) Off-premises signs, subject to the provisions of § 115-81A(2) [Added 12-14-1993 by Ord. No. 945]

(7) Public telephone booths in residential areas

(8) Windmills and wind-powered generators

(9) Business and commercial communications towers and radio or television broadcasting station towers as provided for in § 115-194.2

D. Structures of mixed use, commercial and residential, subject to the provisions of Articles IV through XX and § 115-219.

§ 115-83.7. Permitted signs. [Amended 10-3-1989 by Ord. No. 619]

A. Permitted signs are as follows:

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15 Editor's Note: The former entry reading "Frog or fish farms," which immediately followed this entry, was repealed 11-26-1991 by Ord. No. 806.

(1) Signs as permitted and/or regulated in the B-1 District under § 115-73 or Articles IV through XX.

(2) [Amended 12-14-1993 by Ord. No. 945] Off-premises signs, after obtaining a special use exception, pursuant to § 115-80C, not exceeding 600 square feet total, and provided that:

(a) All off-premises signs not exceeding 200 square feet shall have a minimum front yard setback of 25 feet and a minimum side yard setback of 20 feet and shall not be erected within 300 feet of a dwelling, church, school or public lands or within 300 feet of another sign regulated by this subsection.

(b) All off-premises signs exceeding 200 square feet shall have a minimum front yard setback of 25 feet and a minimum side yard setback of 50 feet and shall not be erected within 300 feet of a dwelling, church, school or public lands or within 300 feet of another sign regulated by this subsection.

(c) A single off-premises sign structure shall support no more than two signs. No off-premises sign structure shall display more than one three-hundred-square-foot-maximum sign on any side or facing. Total square footage of the sign area shall not exceed 600 square feet.

(d) See § 115-160C for signs exceeding 32 square feet.

B. No off-premises sign structure shall exceed 25 feet in height from ground level.

C. Permitted sign locations are marquee, projecting, wall and/or ground.

§ 115-83.8. Height, area and bulk requirements.

A. Minimum lot sizes. Minimum lot sizes shall be as follows:

Use	*Area** (square feet)*	*Width* (feet)*	*Depth (feet)*
Single-Family dwelling	*10,000*	*75*	*100*
Other	*10,000*	*75*	*100*

**NOTE: A lot fronting on a numbered road shown on the General Highway Map for Sussex County of 1964, as revised, shall have a minimum lot width of 150 feet. [Added 11-7-1989 by Ord. No. 632]*

***NOTE: Any lot which is not connected to a central sewer system, as defined by § 115-194A, or which is located within a planning area as defined by a sewer planning study approved by the Sussex County Council, shall have a minimum area of 3/4 acre. [Added 7-15-1997 by Ord. No. 1157]*

B. Minimum yard requirements. Minimum yard requirements shall be as follows, except that, in addition, the requirements relating to minimum buffers and setbacks contained in § 115-194.1E of this Code shall apply to all uses other than single-family dwellings and multifamily structures:

Use	*Depth of Front Yard (feet)*	*Width of Side Yard (feet)*	*Depth of Rear Yard (feet)*
Single-family dwelling	*40 (30)**	*10*	*10*
Other	*60***	*5**	*5**
Multifamily-type structure	*(See Table III, included at the end of this chapter.)*		

**NOTE: See also the table of district regulations at the end of this chapter.*
***NOTE: See also § 115-194.1*

C. [Amended 10-31-1995 by Ord. No. 1062] Maximum height requirements. Maximum height requirements shall be as follows:

Use	*Feet*
Single-family dwelling	*42*
Other	*42*

§ 115-83.8. Reference to additional regulations.

The regulations contained in this article are supplemented or modified by regulations contained in other articles of this chapter, especially the following:

Article I, § 115-4, Definitions and word usage
Article XXI, Signs
Article XXII, Off-Street Parking
Article XXIII, Off-Street Loading
Article XXIV, Conditional Uses

Article XXV, Supplementary Regulations
Article XXVII, Board of Adjustment

PART THREE
In ARTICLE X, B-1 Neighborhood Business District

SECTION 5. Amending § 115-71 "Conditional Uses" relating to multifamily dwellings, as follows:

Multifamily dwelling structures, subject to the provisions of Articles IV through XX, § 115-219 and [Table II] *Table III* (included at the end of this chapter)

PART FOUR
In ARTICLE XX, Tables of Height, Area and Bulk Requirements

SECTION 6. Amending § 115-156 "Requirements" item "B", as follows:

B. The height, area and bulk requirements for multifamily structures when permitted in MR, GR, UR, UB, [B-1], M and C-1 Districts shall be as set forth in Table 2[.] *and in the B-1 and CR-1 District shall be as set forth in Table III.*

PART FIVE
New Tables of Height, Area and Bulk Requirements

SECTION 7. Add the following New Table at the end of Chapter 115:

Table III
Table of Height, Area and Bulk Requirements for Multifamily Structures When Permitted in B-1 and CR-1 Districts[1]

Sussex County
(See Table I for detached single-family dwellings.)

Stories	*Maximum Height (feet)[2]*	*Lot Area (square feet per dwelling unit)*	*2 Side Yards[3,4] (feet) (each)*	*Depth Front Yard (feet)[5,6]*	*Depth of Rear Yard (feet)[3,4,5]*
--[7]	*42[7]*	*2178*	*10*	*[40] 60*	*10*

NOTES:

[1] *See § 115-156B.*

[2] *For lots fronting Delaware Bay and the Atlantic Ocean, see § 115-189E.*

[3] *No rear or side yard shall be required for that rear or side yard of a lot which adjoins a waterway, if approved by the Commission.*

[4] *See § 115-188 for regulations pertaining to multifamily dwellings.*

[5] *For buildings located on lots adjacent to waterways, golf courses and similar special situations, the front of such lots may be determined by the Commission. In the event that a Commission ruling makes a rear yard adjacent to the street line, an additional depth of rear yard may be required by the Commission and an additional setback of accessory buildings from the street line may be required.*

[6] *A lot fronting on a numbered road shown on the General Highway Map for Sussex County, as revised January 1979, shall have a front setback of not less than [forty (40)] sixty (60) feet, measured from the front property line.*

[7] *[Amended 10-31-1995 by Ord. No. 1062]*

SYNOPSIS. Part One of this amendment distinguishes certain indoor amusements places as permitted uses and outdoor amusements as conditional uses. Also, the existing C-1 District is closed, thereby grandfathering existing zones. Part Two creates an entirely new zoning district modeled directly after the now closed C-1 district. However, the new district would allow residential uses as a Conditional Use and at a maximum density of twenty (20) units per gross acre. The new district also includes several text changes addressing issues raised by the Council or staff. Part Three limits any new B-1 Conditional Use for multifamily to the maximum density of twenty (20) units per gross acre. Part Four amends the "Bulk, area and height" requirements to recognize "as approved" density in the B-1 and new CR-1 districts. Part Five adds Table III that establishes the gross density of twenty (20) units per acre.