

ORDINANCE NO. 2744

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 (AGRICULTURAL RESIDENTIAL DISTRICT) FOR A PROFESSIONAL GUNSMITHING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 0.74 ACRES, MORE OR LESS

WHEREAS, on the 8th day of June 2020, a conditional use application, denominated Conditional Use No. 2230 was filed on behalf of Ralph A Kemmerlin Sr.; and

WHEREAS, on the 27th day of August 2020, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 10th day of September 2020, said Planning and Zoning Commission recommended that Conditional Use No. 2230 be approved with conditions; and

WHEREAS, on the 29th day of September 2020, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2230 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Cedar Creek Hundred, Sussex County, Delaware, and lying on the south side of the intersection of Elks Lodge Rd (S.C.R 211) and Hammond Dr approximately 0.74 mile southeast of Marshall St (S.C.R. 225) and being more particularly described in the attached legal description prepared by Walter G. Feindt, said parcel containing 0.74 acres, more or less.

This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.

This Ordinance was adopted subject to the following conditions:

- a. The use shall be a professional gunsmithing business, with firearm sales associated with the use. Gunsmithing shall remain the primary business.**
- b. The Applicant must comply with all Federal and State licenses and regulations for the use.**
- c. As stated by the Applicant, no firearms shall be discharged on the site.**
- d. As stated by the Applicant, the use shall occur within the Applicant's existing home on the site. No gunsmithing activities shall occur outdoors.**
- e. One unlighted sign, no larger than 4 feet by 4 feet in size, shall be permitted.**
- f. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2744 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 29TH DAY OF SEPTEMBER 2020.

**ROBIN A. GRIFFITH
CLERK OF THE COUNCIL**

The Council found that the Conditional Use was appropriate legislative action based on the following Findings of Fact:

- A. This is the application of Ralph A. Kemmerlin, Sr. for a Conditional Use in an AR-1 Agricultural Residential District for a professional gunsmithing business to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 0.74 acres, more or less. The property is lying on the south side of the intersection of Elks Lodge Road (S.C.R 211) and Hammond Dr. approximately 0.74 mile southeast of Marshall Street (S.C.R. 225) (911 Address: 19306 Elks Lodge Road, Milford) (Tax Parcel: 330-11.18-41.00).**
- B. Based on testimony before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that the Applicant, Ralph Kemmerlin, Sr., was present on behalf of the application; that the Applicant has extensive experience in law enforcement; that he is a member of the International Law Enforcement of Educators and Trainers Association, American Gunsmithing Institute and American Gunsmithing Club; that a gunsmith helps a citizen understand the design of the weapon, how the weapon functions and is able to repair weapons when they malfunction; that there is very little interaction with the public except for drop off or pick up of the weapon; that there are no complaints from neighbors; that there may be some gun sales, but gunsmithing is the primary objective of the Conditional Use; that the hours of operation are Monday through Friday 4:00 p.m. – 8:00 p.m. and Saturday 8:00 a.m. – 8:00 p.m. with no Sunday hours; that a small sign is being requested; that the use will have no impact on traffic; that customers would be seen on an appointment basis only; that all gunsmithing activities will take place indoors; that there will be no discharging of firearms on the property, and that all testing is completed at a local gun range.**
- C. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 8) and Conditions (a – m), Council found that:**

- 1. The use is for a retail gunsmithing business located within the Applicant's existing residence.**
- 2. The Applicant has stated that he is a member of several professional organizations regarding firearm education, training and gunsmithing. He also has extensive experience in law enforcement.**
- 3. The use is small in nature and is very nearly a home occupation which would be a permitted use on this property.**
- 4. The Applicant has stated that there will be very little interaction with the public except for appointments made for drop-off or pick-up of a firearm that is left at the business for servicing.**
- 5. The Applicant has stated that there will be some gun sales from the premises, but gunsmithing will be the primary business that will occur.**
- 6. The use will not adversely affect neighboring properties or roadways.**
- 7. The Applicant has stated that there will not be a firing range located on the premises and firearms will not be discharged on the premises.**
- 8. The use provides a needed service for residents of Sussex County who own firearms. As a result, the use has a public or semi-public character.**
- 9. No parties appeared in opposition to the application, and one neighbor appeared in support of it.**
- 10. Based on the record and recommendation of the Planning and Zoning Commission and the record created before the Sussex County Council, the Conditional Use is approved subject to six (6) conditions (a – f), which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**