

ORDINANCE NO. 2396

AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE XXVIII, §§ 216D. AND F. OF THE CODE OF SUSSEX COUNTY TO GRANT THE COUNTY COUNCIL AND PLANNING AND ZONING COMMISSION DISCRETION TO RECONSIDER ZONING APPLICATIONS WHERE APPLICANT HAS FAILED TO APPEAR OR FAILED TO TIMELY WITHDRAW FOR REASONS BEYOND HIS CONTROL

WHEREAS, Chapter 115, Article XXVIII, § 216 of the Code of Sussex County governs the procedure for amendments, supplements and changes to zoning ordinances; and

WHEREAS, Chapter 115, Article XXVIII, § 216F. currently mandates that, “a petition requesting an amendment, supplement or change substantially similar shall not be reconsidered sooner than one year after the previous failure to appear or failure to withdraw”; and

WHEREAS, Sussex County desires to amend Chapter 115, Article XXVIII, § 216 to provide that, in the event an applicant fails to appear or fails to withdraw its application for reasons beyond applicant’s control, if the failure to appear occurred before the Planning and Zoning Commission, or if the failure to appear occurred before the Sussex County Council, the Planning and Zoning Commission or the Sussex County Council, as applicable, shall have discretion to reconsider the application upon an affirmative vote of the body following applicant’s submission of a Petition for Reconsideration within fifteen (15) days of the scheduled public hearing containing facts sufficient to demonstrate the failure to appear was beyond applicant’s control and, upon affirmative vote to reconsider the application, to reschedule the public hearing; however, the County Council shall not act upon any matter in which the applicant failed to appear before the Planning and Zoning Commission.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. The Code of Sussex County, Chapter 115, Article XXVIII, § 216D., Changes and amendments, is hereby amended by deleting the language in brackets and inserting the italicized and underlined language as follows:

D. Reconsideration, one-year limitation. Whenever a petition requesting an amendment, supplement or change has been denied by the County Council, such petition or one substantially similar shall not be reconsidered sooner than one year after the previous denial[.]; *provided, however, that if a petitioner, applicant or appellant fails to appear, or appear by agent at the scheduled hearing for reasons beyond his control, applicant may submit a Petition for Reconsideration as set forth in the County Council’s Rules of Procedure. The Petition shall be submitted within fifteen (15) days and contain facts sufficient to demonstrate the failure to appear was beyond applicant’s control. After discussion, if the failure to appear occurred before the Planning and Zoning Commission, the Planning and Zoning Commission shall vote to approve or deny the request for reconsideration or, if the failure to appear occurred before the County Council, the Council shall vote to approve or deny the request for reconsideration; provided, however, that the County Council shall not act upon any matter in which the applicant failed to appear before the Planning and Zoning Commission. If a majority of members of the Planning and Zoning Commission or the County Council, as applicable, vote to approve reconsideration of the application, the public hearing will be rescheduled.*

Section 2. The Code of Sussex County, Chapter 115, Article XXVIII, § 216F., Changes and amendments, is hereby amended by deleting the language in brackets and inserting the italicized and underlined language as follows:

F. Failure to appear. If a petitioner, applicant or appellant fails to appear, or appear by agent, or fails to withdraw his application as provided for in Subsection E hereof, a petition requesting an amendment, supplement or change substantially similar shall not be reconsidered sooner than one year after the previous failure to appear or failure to withdraw [.] *unless the applicant's failure to appear was beyond his control and applicant's Petition for Reconsideration is approved in accordance with Subsection D hereof.*

Section 2. Effective Date. This Ordinance shall become effective on May 5, 2015.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2396 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 5TH DAY OF MAY 2015.



ROBIN A. GRIFFITH
CLERK OF THE COUNCIL

Synopsis

This Ordinance amends Sussex County Code, Chapter 115, Article XXVIII, §§ 216D. and F. to provide that, in the event an applicant fails to appear or fails to withdraw its application in accordance with the Code for reasons beyond applicant's control, if the failure to appear occurred before the Planning and Zoning Commission or, if the failure to appear occurred before the Sussex County Council, the Planning and Zoning Commission or the Sussex County Council, as applicable, shall have discretion to reconsider the application upon an affirmative vote of the body following applicant's submission of a Petition for Reconsideration within fifteen (15) days of the scheduled public hearing containing facts sufficient to demonstrate the failure to appear was beyond applicant's control. However, the County Council shall not act upon any matter in which the applicant failed to appear before the Planning and Zoning Commission. Upon affirmative vote to reconsider the application, the public hearing shall be rescheduled.