

ORDINANCE NO. 1826

AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY WHICH CHANGES THE EXISTING LANGUAGE CONCERNING JOINT USE AND OFF SITE FACILITIES AND INSERTS NEW LANGUAGE TO PERMIT THE SHARING OF REQUIRED PARKING SERVING MULTIPLE USES WITHIN THE SAME PROJECT AND UNDER THE SAME OWNERSHIP

THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. The Code of Sussex County, Chapter 115, Article XXII, Section 115- 165 is hereby amended by deleting the following:

- [B. Up to 50% of the parking spaces required for (a) theaters, public auditoriums, bowling alleys, dance halls and nightclubs and up to 100% of the parking spaces required for a church auditorium may be provided and used jointly by (b) banks, offices, retail stores, repair shops, service establishments and similar uses not normally open, used or operated during the same hours as those uses listed in (a), and up to 100% of parking spaces required for schools may be provided and used jointly by a church auditorium; provided, however, that written agreement thereto is properly executed and recorded as specified below.
- C. In any case where the required parking spaces are collectively or jointly provided and used, such parking space shall be established by a recorded covenant or agreement as parking space to be used in conjunction with the principal use and shall be reserved as such through an encumbrance on the title of the property to be designated as required parking space, such encumbrance to be valid for the total period the use or uses for which the parking is needed are in existence. A certificate of recording shall be furnished to the Director.]

Section 2. The Code of Sussex County, Chapter 115, Article XXII, Section 115-165 is hereby amended by adding the following:

B. Shared Parking: The Planning and Zoning Commission may authorize a reduction in the number of required parking spaces for multiple use developments or for uses that are located near one another with a maximum distance from the farthest parking space (or in the case of a Parking Garage, the Pedestrian Entrance to the garage) of 600 feet to the Public Entrances or a lighted, semi-weather proofed covered walkway leading to the Public Entrances for Commercial Uses and with a maximum distance of 600 feet (or in the case of a Parking Garage, the Pedestrian Entrance to the garage) to the Residential Entrances that are being considered in the shared uses and, which have different peak parking demands and operating hours. Shared parking shall be subject to the following standards:

1. Location: All uses that participate in a single shared parking plan shall be located on the same lot or on lots that share a common boundary. The shared parking lot shall be developed and used as though the uses on the lots were a single unit.

2. Shared Parking Study: A shared parking study Signed and Sealed by a Delaware Licensed Professional Engineer in a form acceptable to the Planning Director shall be submitted which clearly establishes those uses that will utilize the shared spaces at different times of the day, week, month and year, including seasonal or mode adjustment factors. The study shall:

- a. Be based on the most current Urban Land Institute's shared parking study methodology or other generally accepted methodology;*
- b. Address the size and type of activities, the composition of occupants, the rate of turnover for proposed shared spaces and the anticipated peak parking and traffic loads;*

- c. *Provide for a reduction by not more than 50 percent of the combined parking required for each use;*
- d. *Provide for no reduction in the number of spaces reserved for persons with disabilities;*
- e. *Provide a plan to convert the reserved area to parking area if is ever required; and*
- f. *Be reviewed and approved by the Planning Director and the Planning and Zoning Commission.*

3. *Agreement for Shared Parking Plan: A shared parking plan shall be enforced through written agreement. An attested copy of the agreement between the owners of record shall be submitted to the Planning Director who shall forward a copy to the County Attorney for review and approval. Proof of recordation of the agreement shall be presented to the Planning Director prior to issuance of a certificate of occupancy. The agreement shall:*

- a. *List the names and ownership interest of all parties to the agreement and contain the signatures of those parties;*
- b. *Provide a legal description of the land;*
- c. *Include a site plan showing the area of the parking parcel and the open space reserved area which would provide for future parking and any required Storm Water Management facilities;*
- d. *Describe the area of the parking parcel and designate and reserve it for shared parking unencumbered by any conditions which would interfere with its use;*
- e. *Agree and expressly declare the intent for the covenant to run with the land and bind all parties and all successors in interest to the covenant;*
- f. *Assure the continued availability of the spaces for joint use and provide assurance that all spaces will be usable without charge to all participating uses;*
- g. *Describe the obligations of each party, including the maintenance responsibility to retain and develop reserved open space for additional parking spaces if the need arises;*
- h. *Incorporate the shared parking study by reference; and*
- i. *Describe the method by which the covenant shall, if necessary, be revised.*

4. *Change In Use: Should any of the shared parking uses be changed, or should the Planning Director find that any of the conditions described in the approved shared parking study or agreement no longer exist or if the Planning Director and Planning and Zoning Commission determine that insufficient parking is an issue, the owner shall have the option of submitting a revised shared parking study and an amended shared parking agreement in accordance with the standards of this subsection or of providing the number of spaces required for each use as if computed separately. If the Planning Director determines that the revised shared parking study or agreement does not satisfy the off-street parking needs of the proposed uses, the shared parking request shall be denied, and no certificates of occupancy shall be issued until the full number of off-street parking spaces are provided.*

5. *Revocation of Permits: Failure to comply with the shared parking provisions of this subsection shall constitute a violation of this Code and shall specifically be cause for revocation of a certificate of occupancy.*

**I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND
CORRECT COPY OF ORDINANCE NO. 1826 ADOPTED BY THE SUSSEX
COUNTY COUNCIL ON THE 14TH DAY OF FEBRUARY 2006.**

A handwritten signature in black ink, appearing to read "Re Griffith", with a stylized flourish at the end.

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