

ORDINANCE NO. 1842

AN ORDINANCE TO AMEND CHAPTER 115 SECTION 25 OF THE CODE OF SUSSEX COUNTY ALLOWING FOR AN INCREASE OF DENSITY IN AR-1 DISTRICTS WITHIN COMPREHENSIVE PLAN GROWTH AREAS, PROVIDING FOR SPECIFIC CIRCUMSTANCES, FEES AND/OR CONDITIONS FOR OBTAINING SUCH AN INCREASE IN DENSITY AND PROVIDING AN INCENTIVE FOR THE PRESERVATION OF OPEN SPACE IN SUSSEX COUNTY

WHEREAS, pursuant to the provisions of Title 9, Chapter 68 and 69, Delaware Code, the Sussex County government has the power and the authority to regulate the use of land and to adopt a Comprehensive Plan; and

WHEREAS, pursuant to Chapter 115 of the Code of Sussex County, as amended, the Sussex County government has undertaken to regulate the use of land; and

WHEREAS, Sussex County has an adopted Comprehensive Plan that identifies specific development districts within defined Growth Areas; and

WHEREAS, the intent of the Plan is to “encourage higher residential densities in the Town Centers and Developing Areas, with densities reducing as development moves further away from Town Centers”; and

WHEREAS, the municipalities and Sussex County have, in general, planned to expand sewer services capable of supporting four dwelling units per acre within the defined Growth Areas; and

WHEREAS, a further intent of the Plan is to encourage the preservation open space/active and passive recreation areas within Sussex County; and

WHEREAS, the intent of the Sussex County Council is to balance the need to protect land equity with the need to provide affordable housing; and

WHEREAS, it has been determined in order to promote and protect the health, safety, convenience, orderly growth and welfare of the inhabitants of Sussex County, and to assist in the proper development of land;

THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. The Code of Sussex County, Chapter 115, Article IV, Section 115-25B (3), is hereby amended as follows.

The number of dwelling units permitted shall be determined by dividing the gross area by 21,780 square feet. The area of land set aside for common open space or recreational use shall be included in determining the number of dwelling units permitted. *When a cluster development:*

- 1) lies within a TOWN CENTER, a DEVELOPING AREA, or an ENVIRONMENTALLY SENSITIVE DEVELOPING AREA as described within the Land Use Element and as shown on the Future Land Use Plan of the adopted Sussex County Comprehensive Plan, and***
- 2) the developer has proffered to Sussex County for the purpose of creating open space preservation/active and passive recreation areas a development fee per unit for every unit in excess of two units per acre, then the maximum number of dwelling units that may be permitted by the Planning and Zoning Commission shall be determined by dividing the gross area by 10,890 square feet. The development fee shall not be less than the minimum***

established by the Sussex County Council and shall be paid prior to recording any lot based upon the fee in effect at the time the application was filed.

Section 2. The Code of Sussex County, Chapter 115, Article IV, Section 115-25F (3), is hereby amended by adding the following:

(d) The cluster development lies within a TOWN CENTER, a DEVELOPING AREA or an ENVIRONMENTALLY SENSITIVE DEVELOPING AREA:

- (1) as described within the Land Use Element and as shown on the Future Land Use Plan of the adopted Sussex County Comprehensive Plan, and*
- (2) the proposed development complies with Section 115-25 B (2), and*
- (3) does not exceed four dwelling units per gross acre, and*
- (4) the developer has proffered to Sussex County for the purpose of creating open space for preservation and/or active and/or passive recreation areas, the development fee required by Section 115-25B(3). The Sussex County Council prior to the signing of a contract to purchase, shall approve all such land or conservation easement purchases which utilize monies paid to the County under the terms of this act. All such approvals by the Council shall be by a four-fifth majority vote.*
- (5) it is understood that the County shall control all monies and the Sussex County Land Trust will act as a recommending body and partner at the discretion of the County Council.*

Section 3. The Code of Sussex County, Chapter 62, Article III, Section 62-7 is hereby amended by adding the following:

I. Cluster Fee (as required by 115-25B(3) and 115-25F(3)). The Council will review the fees for a density bonus under the terms of this act on an annual basis and revise such fees as it deems necessary.

- (1) For the Town Centers and Developing Areas around Greenwood, Bridgeville, Seaford, Blades, Laurel, and Delmar \$15,000 per unit in excess of two dwelling units per acre.*
- (2) For the Town Centers and Developing Areas around Milford, Milton, Ellendale, Georgetown, Millsboro, Dagsboro, Frankford and Selbyville \$15,000 per unit in excess of two dwelling units per acre.*
- (3) For the Environmentally Sensitive Developing Area \$20,000 per unit in excess of two dwelling units per acre.*

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 1842 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 4TH DAY OF APRIL 2006.



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