

ORDINANCE NO. 2599

AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES IV, VI, X, XI, XIA, and XII BY AMENDING SECTIONS §§115-20, 115-22, 115-39, 115-69, 115-71, 115-77, 115-79, 115-83.2, 115-83.5, 115-85 and 115-87 TO AMEND AND CLARIFY CERTAIN SHORT-TERM “SPECIAL EVENTS” AS PERMITTED USES IN THE AR-1, GR, B-1, C-1, CR-1 and M DISTRICTS

WHEREAS, Sussex County Council recognizes that certain Special are a benefit to Sussex County, its residents and visitors and its economy; and

WHEREAS, Sussex County Council desires to provide clear direction within its Zoning Code as to the methods of obtaining approvals for Special Events; and

WHEREAS, it is not the intention to prohibit Special Events from occurring, only to clearly establish the method of: (1) obtaining permits for them with over-the-counter approvals for certain events that are short term and not recurring and (2) via the conditional use process for events that occur more regularly or have a greater impact on surrounding properties, roadways or other considerations; and

WHEREAS, several zoning districts (AR-1, GR, B-1, C-1, CR-1, and M) currently provide that Special Events require a conditional use approval, unless certain unspecified criteria are satisfied; and

WHEREAS, Sussex County Council desires to add further definition and clarity to what may be considered a permitted “special event” that does not require a conditional use approval, and giving the Director of the Office of Planning and Zoning direction on what to consider in approving a permitted Special Event; and

WHEREAS, Sussex County Council desires to clarify the Code by inserting permitted “Special Events” within the “Permitted Uses” section of the various zoning districts within the Zoning Code, while stating that other Special Events not approved as a Permitted Use administratively must still require a conditional use approval; and

WHEREAS, these amendments will promote the health, safety and welfare of Sussex County, its residents, visitors and businesses; and

WHEREAS, additions to the Code of Sussex County are indicated with language that is both *underlined and italicized* and deletions to the Code of Sussex County are indicated with [brackets].

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

**Section 1.** The Code of Sussex County, Chapter 115, Article IV, §115-20 is hereby amended by inserting a new subparagraph A.(13) immediately after subparagraph A.(12) as follows:

**§115-20 Permitted uses.**

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

(13) Special events held outdoors or within a temporary structure for a purpose different from the permitted use and usual occupancy of a premises or site that are administratively approved by the Director or his or her designee, when the event: will not impair the purpose and intent of the zoning ordinance; is not so recurring in nature as to constitute a permanent use not otherwise permitted in the district; and will not significantly affect the surrounding properties. Events that are consistent with the permitted use and usual occupancy of a site or that occur on land owned by the United States of America, the State of Delaware, Sussex County, Municipalities and Educational Institutions are permitted. "Special events" include circuses, carnivals, midways, promotional and tent sales events, fairs, festivals, concerts, rodeos, shows, races/walks or any other event or mass gathering.

No more than three (3) special events shall be approved for the same property or premises during a calendar year. Each special event shall be counted as one (1) calendar day, not including reasonable set up and removal time when the event is not otherwise underway.

In determining whether to administratively approve a special event, the Director or his or her designee shall consider the following:

- (a) the estimated number of attendees;
- (b) the size of the parcel where the special event is to be located;
- (c) the parking requirements of the special event;
- (d) roads and traffic patterns providing access to the special event;
- (e) prior events conducted by the applicant;
- (f) noise, light, odor, and dust generated by the special event;
- (g) proposed hours of operation and number of consecutive days; and
- (h) such other considerations that may be applicable to the requested event.

The Director or his or her designee may impose conditions upon an administrative approval.

All special events, regardless of size, location, use or duration, shall be subject to the requirements of the Sussex County Special Event & Public Safety Services Policies and Procedures. Failure to abide by the Sussex County Special Event & Public Safety Services Policies and Procedures may result in the termination of the special event's administrative approval.

Special events that do not meet these requirements or which are not administratively approved shall require a conditional use.

**Section 2.** The Code of Sussex County, Chapter 115, Article IV, §115-22 is hereby amended as follows:

**§115-22 Conditional uses.**

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

...

Special Events such as circuses or carnival grounds, amusement parks or midways, festivals, concerts, race/walks or any other special event or gathering being held outdoors or within a temporary structure or at a site and for a purpose different from the designated use and usual occupancy of the premises and located on unincorporated lands within Sussex County, permanently or for a temporary time period exceeding three days. [Special events as defined herein, with a duration not exceeding three days, are not subject to the conditional use process. Upon receipt of an application, the Director or his/her designee may grant approval of a special event not exceeding three days.] Special Events not approved by the Director as a permitted use under §115-20 shall require a conditional use permit. All special events regardless of duration, shall be subject to the requirements of the Sussex County Special Event Policy.

**Section 3.** The Code of Sussex County, Chapter 115, Article VI, §115-39 is hereby amended as follows:

### **§115-39 Conditional uses.**

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

...

Special Events such as circuses or carnival grounds, amusement parks or midways, festivals, concerts, race/walks or any other special event or gathering being held outdoors or within a temporary structure or at a site and for a purpose different from the designated use and usual occupancy of the premises and located on unincorporated lands within Sussex County, permanently or for a temporary time period exceeding three days. [Special events as defined herein, with a duration not exceeding three days, are not subject to the conditional use process. Upon receipt of an application, the Director or his/her designee may grant approval of a special event not exceeding three days.] Special Events not approved by the Director as a permitted use under §115-37 shall require a conditional use permit. All special events regardless of duration, shall be subject to the requirements of the Sussex County Special Event Policy.

**Section 4.** The Code of Sussex County, Chapter 115, Article X, §115-69 is hereby amended by inserting a new subparagraph A.(27) immediately after subparagraph A.(26) as follows:

### **§115-69 Permitted uses.**

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

(27) Special events held outdoors or within a temporary structure for a purpose different from the permitted use and usual occupancy of a premises or site that are administratively approved by the Director or his or her designee, when the event: will not impair the purpose and intent of the zoning ordinance; is not so recurring in nature as to constitute a permanent use not otherwise permitted in the district; and will not significantly affect the surrounding properties. Events that are consistent with the permitted use and usual occupancy of a site or that occur on land owned by the United States of America, the State of Delaware, Sussex County, Municipalities and Educational Institutions are permitted. "Special events" include circuses, carnivals, midways, promotional and tent sales events, fairs, festivals, concerts, rodeos, shows, races/walks or any other event or mass gathering.

No more than three (3) special events shall be approved for the same property or premises during a calendar year. Each special event shall be counted as one (1)

calendar day, not including reasonable set up and removal time when the event is not otherwise underway.

In determining whether to administratively approve a special event, the Director or his or her designee shall consider the following:

- (a) the estimated number of attendees;
- (b) the size of the parcel where the special event is to be located;
- (c) the parking requirements of the special event;
- (d) roads and traffic patterns providing access to the special event;
- (e) prior events conducted by the applicant;
- (f) noise, light, odor, and dust generated by the special event;
- (g) proposed hours of operation and number of consecutive days; and
- (h) such other considerations that may be applicable to the requested event.

The Director or his or her designee may impose conditions upon an administrative approval.

All special events, regardless of size, location, use or duration, shall be subject to the requirements of the Sussex County Special Event & Public Safety Services Policies and Procedures. Failure to abide by the Sussex County Special Event & Public Safety Services Policies and Procedures may result in the termination of the special event's administrative approval.

Special events that do not meet these requirements or which are not administratively approved shall require a conditional use.

**Section 5.** The Code of Sussex County, Chapter 115, Article X, §115-71 is hereby amended as follows:

**§115-71 Conditional uses.**

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

...

Special Events such as circuses or carnival grounds, amusement parks or midways, festivals, concerts, race/walks or any other special event or gathering being held outdoors or within a temporary structure or at a site and for a purpose different from

the designated use and usual occupancy of the premises and located on unincorporated lands within Sussex County, permanently or for a temporary time period exceeding three days. [Special events as defined herein, with a duration not exceeding three days, are not subject to the conditional use process. Upon receipt of an application, the Director or his/her designee may grant approval of a special event not exceeding three days.] Special Events not approved by the Director as a permitted use under §115-20 shall require a conditional use permit. All special events regardless of duration, shall be subject to the requirements of the Sussex County Special Event Policy.

...

**Section 6.** The Code of Sussex County, Chapter 115, Article XI, §115-77 is hereby amended by inserting a new subparagraph as follows:

**§115-77 Permitted uses.**

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

...

Schools for industrial training, trade or business

Special events held outdoors or within a temporary structure for a purpose different from the permitted use and usual occupancy of a premises or site that are administratively approved by the Director or his or her designee, when the event: will not impair the purpose and intent of the zoning ordinance; is not so recurring in nature as to constitute a permanent use not otherwise permitted in the district; and will not significantly affect the surrounding properties. Events that are consistent with the permitted use and usual occupancy of a site or that occur on land owned by the United States of America, the State of Delaware, Sussex County, Municipalities and Educational Institutions are permitted. "Special events" include circuses, carnivals, midways, promotional and tent sales events, fairs, festivals, concerts, rodeos, shows, races/walks or any other event or mass gathering.

No more than three (3) special events shall be approved for the same property or premises during a calendar year. Each special event shall be counted as one (1) calendar day, not including reasonable set up and removal time when the event is not otherwise underway.

In determining whether to administratively approve a special event, the Director or his or her designee shall consider the following:

- (a) the estimated number of attendees;
- (b) the size of the parcel where the special event is to be located;
- (c) the parking requirements of the special event;
- (d) roads and traffic patterns providing access to the special event;
- (e) prior events conducted by the applicant;
- (f) noise, light, odor, and dust generated by the special event;
- (g) proposed hours of operation and number of consecutive days; and
- (h) such other considerations that may be applicable to the requested event.

The Director or his or her designee may impose conditions upon an administrative approval.

All special events, regardless of size, location, use or duration, shall be subject to the requirements of the Sussex County Special Event & Public Safety Services Policies and Procedures. Failure to abide by the Sussex County Special Event & Public Safety Services Policies and Procedures may result in the termination of the special event's administrative approval.

Special events that do not meet these requirements or which are not administratively approved shall require a conditional use.

Tourist homes or rooming house

.....

**Section 7.** The Code of Sussex County, Chapter 115, Article XI, §115-79 is hereby amended as follows:

**§115-79 Conditional uses.**

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

...

Special Events such as circuses or carnival grounds, amusement parks or midways, festivals, concerts, race/walks or any other special event or gathering being held

outdoors or within a temporary structure or at a site and for a purpose different from the designated use and usual occupancy of the premises and located on unincorporated lands within Sussex County, permanently or for a temporary time period exceeding three days. [Special events as defined herein, with a duration not exceeding three days, are not subject to the conditional use process. Upon receipt of an application, the Director or his/her designee may grant approval of a special event not exceeding three days.] Special Events not approved by the Director as a permitted use under §115-20 shall require a conditional use permit. All special events regardless of duration, shall be subject to the requirements of the Sussex County Special Event Policy.

...

**Section 8.** The Code of Sussex County, Chapter 115, Article XIA, §115-83.2 is hereby amended as follows:

**§115-83.2 Permitted uses.**

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

...

Schools for industrial training, trade or business

Special events held outdoors or within a temporary structure for a purpose different from the permitted use and usual occupancy of a premises or site that are administratively approved by the Director or his or her designee, when the event: will not impair the purpose and intent of the zoning ordinance; is not so recurring in nature as to constitute a permanent use not otherwise permitted in the district; and will not significantly affect the surrounding properties. Events that are consistent with the permitted use and usual occupancy of a site or that occur on land owned by the United States of America, the State of Delaware, Sussex County, Municipalities and Educational Institutions are permitted. "Special events" include circuses, carnivals, midways, promotional and tent sales events, fairs, festivals, concerts, rodeos, shows, races/walks or any other event or mass gathering.

No more than three (3) special events shall be approved for the same property or premises during a calendar year. Each special event shall be counted as one (1) calendar day, not including reasonable set up and removal time when the event is not otherwise underway.

In determining whether to administratively approve a special event, the Director or his or her designee shall consider the following:

- (a) the estimated number of attendees;
- (b) the size of the parcel where the special event is to be located;
- (c) the parking requirements of the special event;
- (d) roads and traffic patterns providing access to the special event;
- (e) prior events conducted by the applicant;
- (f) noise, light, odor, and dust generated by the special event;
- (g) proposed hours of operation and number of consecutive days; and
- (h) such other considerations that may be applicable to the requested event.

The Director or his or her designee may impose conditions upon an administrative approval.

All special events, regardless of size, location, use or duration, shall be subject to the requirements of the Sussex County Special Event & Public Safety Services Policies and Procedures. Failure to abide by the Sussex County Special Event & Public Safety Services Policies and Procedures may result in the termination of the special event's administrative approval.

Special events that do not meet these requirements or which are not administratively approved shall require a conditional use.

Tourist homes or rooming house

....

**Section 9.** The Code of Sussex County, Chapter 115, Article XIA, §115-83.5 is hereby amended as follows:

**§115-83.5 Conditional uses.**

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

...

Special Events such as circuses or carnival grounds, amusement parks or midways, festivals, concerts, race/walks or any other special event or gathering being held

outdoors or within a temporary structure or at a site and for a purpose different from the designated use and usual occupancy of the premises and located on unincorporated lands within Sussex County, permanently or for a temporary time period exceeding three days. [Special events as defined herein, with a duration not exceeding three days, are not subject to the conditional use process. Upon receipt of an application, the Director or his/her designee may grant approval of a special event not exceeding three days.] Special Events not approved by the Director as a permitted use under §115-20 shall require a conditional use permit. All special events regardless of duration, shall be subject to the requirements of the Sussex County Special Event Policy.

...

**Section 10.** The Code of Sussex County, Chapter 115, Article XII, §115-85 is hereby amended by as follows:

**§115-85 Permitted uses.**

A. A building or land or water area shall only be used for the following purposes, in all cases subject to site plan review by the Planning and Zoning Commission in accord with procedures of §115-219 for docks, piers, bulkheads, breakwaters or other over-water structures, except private over-water piers and boathouses accessory to a dwelling:

...

Retail sale or rental of boating, fishing, hunting, diving and bathing supplies and equipment or clothing and fish bait

Special events held outdoors or within a temporary structure for a purpose different from the permitted use and usual occupancy of a premises or site that are administratively approved by the Director or his or her designee, when the event: will not impair the purpose and intent of the zoning ordinance; is not so recurring in nature as to constitute a permanent use not otherwise permitted in the district; and will not significantly affect the surrounding properties. Events that are consistent with the permitted use and usual occupancy of a site or that occur on land owned by the United States of America, the State of Delaware, Sussex County, Municipalities and Educational Institutions are permitted. "Special events" include circuses, carnivals, midways, promotional and tent sales events, fairs, festivals, concerts, rodeos, shows, races/walks or any other event or mass gathering.

No more than three (3) special events shall be approved for the same property or premises during a calendar year. Each special event shall be counted as one (1) calendar day, not including reasonable set up and removal time when the event is not otherwise underway.

In determining whether to administratively approve a special event, the Director or his or her designee shall consider the following:

- (a) the estimated number of attendees;
- (b) the size of the parcel where the special event is to be located;
- (c) the parking requirements of the special event;
- (d) roads and traffic patterns providing access to the special event;
- (e) prior events conducted by the applicant;
- (f) noise, light, odor, and dust generated by the special event;
- (g) proposed hours of operation and number of consecutive days; and
- (h) such other considerations that may be applicable to the requested event.

The Director or his or her designee may impose conditions upon an administrative approval.

All special events, regardless of size, location, use or duration, shall be subject to the requirements of the Sussex County Special Event & Public Safety Services Policies and Procedures. Failure to abide by the Sussex County Special Event & Public Safety Services Policies and Procedures may result in the termination of the special event's administrative approval.

Special events that do not meet these requirements or which are not administratively approved shall require a conditional use.

Telephone stations or booths, including drive-in or talking-from-car stations, and telephone central offices, provided that all storage of materials, all repair facilities and all house or repair crews are within a completely enclosed area.

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**Section 11.** The Code of Sussex County, Chapter 115, Article XII, §115-87 is hereby amended as follows:

**§115-87 Conditional uses.**

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

...

Special Events such as circuses or carnival grounds, amusement parks or midways, festivals, concerts, race/walks or any other special event or gathering being held outdoors or within a temporary structure or at a site and for a purpose different from the designated use and usual occupancy of the premises and located on unincorporated lands within Sussex County, permanently or for a temporary time period exceeding three days. [Special events as defined herein, with a duration not exceeding three days, are not subject to the conditional use process. Upon receipt of an application, the Director or his/her designee may grant approval of a special event not exceeding three days.] Special Events not approved by the Director as a permitted use under §115-20 shall require a conditional use permit. All special events regardless of duration, shall be subject to the requirements of the Sussex County Special Event Policy.

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**Section 12.** Effective Date.

This Ordinance shall take effect immediately upon the adoption by Sussex County Council.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2599 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 18TH DAY OF SEPTEMBER 2018.

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ROBIN A. GRIFFITH  
CLERK OF THE COUNCIL