

ORDINANCE NO. 2644

AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES III AND XXVII, SECTIONS 115-15 AND 115-210 REGARDING A DETERMINATION BY THE SUSSEX COUNTY PLANNING & ZONING COMMISSION AS TO PERMITTED USES

WHEREAS, from time to time a use is proposed that is not listed as a “Permitted Use”, but is similar or nearly identical to a use that is specifically identified as a “Permitted Use” in a given zoning district; and

WHEREAS, due to a change in terminology describing the use, or the evolution of the type of use since “Permitted Uses” were first identified in the Zoning Code of Sussex County, or due to other factors a determination is necessary as to whether the proposed use should be considered a “Permitted Use” in a given Zoning District; and

WHEREAS, the Zoning Code of Sussex County needs to be consistent as to the method of determining whether a proposed use shall be in keeping with uses specifically identified as “permitted” in a given Zoning District; and

WHEREAS, by way of example, the Planning & Zoning Commission is charged with making this determination in the LI-2 Zoning District, but the Board of Adjustment is also given this authority elsewhere in the Zoning Code of Sussex County; and

WHEREAS, Because the Planning & Zoning Commission is charged with reviewing all changes in zone, conditional uses and commercial site plans, it is appropriate to provide that the Planning & Zoning Commission shall have the authority to make this determination.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. The Code of Sussex County, Chapter 115, Article III, §115-15 “Prohibited Uses” is hereby amended by adding the italicized and underlined language:

§115-15. Prohibited Uses.

For the purpose of this Chapter, permitted uses are listed for the various districts. Unless the contrary is clear from the context of the lists or other regulations of this chapter, uses not specifically listed are prohibited. *The Commission shall have the authority to determine whether a use shall be permitted because it is clear from the context of the lists or other regulations that it should be permitted due to its similarity to those uses that are listed as permitted.*

Section 2. The Code of Sussex County, Chapter 115, Article XXVII, §115-210 “Special Exceptions” is hereby amended by deleting the language in brackets and re-lettering the subsections that follow:

§115-210. Special Exceptions.

In order to provide for adjustments in the relative location of uses and buildings, to promote the usefulness of these regulations and to supply the necessary elasticity to their efficient operation, special use exceptions, limited as to locations described in this Article, and special yard and height, exceptions are permitted by the terms of these regulations. The following buildings and uses are permitted as special exceptions if the Board finds that, in its opinion, as a matter of fact, such exceptions will not substantially affect adversely the uses of adjacent and neighboring property.

A. Special Use Exceptions.

...

**(3) Other special use exceptions as follows, which are specified in each district:**

- (a) Private garages for more than four automobiles and with floor area of more than 900 square feet in a residential district.**
- (b) Cemeteries for pets.**
- (c) Commercial greenhouses, wholesale or retail.**
- (d) Convalescent homes, nursing homes or homes for the aged.**
- (e) Day nurseries or child-care centers.**
- (f) (Reserved)**
- (g) Nurseries for growing of plants, trees and shrubs, including a building for sale of products produced on the premises.**
- (h) In any HI-1 Heavy Industrial District, those heavy industrial uses upon which the Board is required to pass under Article XV.**
- [(i) A determination, in cases of uncertainty, of the district classification of any use not specifically named in these regulations; provided, however, that such use shall be in keeping with uses specifically permitted in the districts in which such use is to be classified.]**
- [(j)](i) Telephone central offices, in any AR, MR, GR, HR, UR, RPC and VRP Districts, provided that all storage of materials, all repair facilities and all housing of repair crews are within a completely enclosed building.**
- [(k)](j) Structures of mixed use, commercial and residential, in B-1 and UB Districts, subject to the provisions of Articles IV through XX and § 115-219.**
- [(l)](k) (Reserved)**
- [(m)](l) The alteration, extension or replacement of a nonconforming manufactured home, subject to the provisions of § 115-196.**
- [(n)](m) More than one manufactured home may be permitted on a farm of 10 acres or more pursuant to § 115-21A(5), provided that all manufactured homes or dwellings on the property are the primary place of residence for persons employed on the premises or immediate members of the family owning or operating the farm, and provided that the granting of this exception will not adversely affect the values or uses of adjacent properties.**
- [(o)](n) Tourist home (also referred to as "bed-and-breakfast inns") in any AR, MR, GR, UR and B-1 Districts.**
- [(p)]((o) In any C-1 General Commercial District, off-premises signs, not exceeding 600 square feet total, subject to the provisions of § 115-81A(2).**

**[(q)](p) A manufactured home, used as a single-family dwelling, and originally placed and permitted on a property of five acres or more prior to March 25, 1997, may be permitted on a property of less than five acres pursuant to Article IV, § 115-23C.**

**[(r)](q) A multisectional manufactured home as a detached single-family dwelling on individual lots of not less than 1/2 nor more than 3/4 acre, existing on the effective date of this ordinance and subject to the provisions of § 115-20A(1)(a) through (g) inclusive.**

**Section 3. Effective Date.**

**This ordinance shall take effect upon the date of adoption by Sussex County Council.**

**I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2644 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 16TH DAY OF APRIL 2019.**

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