

ORDINANCE NO. 2645

AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES IV, V, VI, VIII, IX, X, XI, XIA, AND XII, SECTIONS 115-22, 115-23, 115-31, 115-32, 115-39, 115-40, 115-55, 115-56, 115-63, 115-64, 115-71, 115-72, 115-77, 115-80, 115-83.2, 115-83.6, 115-87 AND 115-88

WHEREAS, the Zoning Code of Sussex County currently identifies “Convalescent homes, nursing homes or homes for the aged” as requiring a Special Use Exception approval from the Sussex County Board of Adjustment in several zoning districts; and

WHEREAS, “Convalescent homes, nursing homes or homes for the aged” are not defined terms in the Zoning Code of Sussex County; and

WHEREAS, the Zoning Code of Sussex County was recently amended to create and define more specific examples of these types of uses, including “Nursing and Similar Care Facilities”, which incorporates “Assisted Living Facilities”, “Extended Care Facilities”, “Graduate Care Facilities”, “Independent Care Facilities”, “Intermediate Care Facilities”, “Long Term Care Facilities” and other similar types of facilities within that definition; and

WHEREAS, Sussex County Council desires all such uses to be allowed either as a permitted use in a zoning district or as a conditional use following a hearing before both the Sussex County Planning and Zoning Commission and Sussex County Council; and

WHEREAS, these amendments affect the AR-1, MR, GR, UR, UB, B-1, C-1, CR-1 and M Districts where “Convalescent homes, nursing homes or homes for the aged” were previously listed as requiring a Special Use Exception.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. The Code of Sussex County, Chapter 115, Article IV, §115-22 “Conditional Uses” is hereby amended by inserting the following italicized and underlined language after “Manufactured home parks” and before “Parks or campgrounds for mobile campers, tents, camp trailers, touring vans and the like”:

§115-22. Conditional Uses.

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

...

Nursing and similar care facilities

...

Section 2. The Code of Sussex County, Chapter 115, Article IV, §115-23 “Special Use Exceptions” is hereby amended by deleting the language in brackets and renumbering the subsequent items:

§115-23. Special Use Exceptions.

Special use exceptions may be permitted by the Board of Adjustment in accordance with the provisions of Article XXVII of this chapter and may include:

...

C. Other special use exceptions as follows:

- (1) Private garages for more than four automobiles and with floor area of more than 900 square feet in a residential district.**
- (2) Cemeteries for pets.**

(3) Commercial greenhouses, wholesale or retail.

[(4) Convalescent homes, nursing homes or homes for the aged.]

(4) [(5)] Day nurseries or child-care centers.

(5) [(6)] Garage/studio apartments, provided that at least one parking space for the exclusive use of the tenant is included on the premises.

(6) [(7)] Nurseries for growing of plants, trees and shrubs, including a building for sale of products produced on the premises.

(7) [(8)] Public telephone booths in residential areas.

(8) [(9)] Telephone central offices, provided that all storage of materials, all repair facilities and all housing of repair crews are within a completely enclosed building.

Section 3. The Code of Sussex County, Chapter 115, Article V, §115-31 “Conditional Uses” is hereby amended by inserting the following italicized and underlined language after “Multifamily dwelling structures, subject to the provisions of Articles IV through XX...” and before “Private clubs”:

§115-31. Conditional Uses.

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

...

Nursing and similar care facilities

...

Section 4. The Code of Sussex County, Chapter 115, Article V, §115-32 “Special Use Exceptions” is hereby amended by deleting the language in brackets:

§115-32. Special Use Exceptions.

Special use exceptions may be permitted by the Board of Adjustment in accordance with the provisions of Article XXVII of this chapter and may include:

...

C. Other special use exceptions as follows:

...

[Convalescent homes, nursing homes or homes for the aged.]

...

Section 5. The Code of Sussex County, Chapter 115, Article VI, §115-39 “Conditional Uses” is hereby amended by inserting the following italicized and underlined language after “Multifamily dwelling structures, subject to the provisions of Articles IV through XX...” and before “Private clubs”:

§115-39. Conditional Uses.

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

...

Nursing and similar care facilities

...

Section 6. The Code of Sussex County, Chapter 115, Article VI, §115-40 “Special Use Exceptions” is hereby amended by deleting the language in brackets:

§115-40. Special Use Exceptions.

Special use exceptions may be permitted by the Board of Adjustment in accordance with the provisions of Article XXVII of this chapter and may include:

...

C. Other special use exceptions as follows:

...

[Convalescent homes, nursing homes or homes for the aged.]

...

Section 7. The Code of Sussex County, Chapter 115, Article VIII, §115-55 “Conditional Uses” is hereby amended by inserting the following italicized and underlined language after “Multifamily dwelling structures, subject to the provisions of §115-219” and before “Private clubs”:

§115-55. Conditional Uses.

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

...

Nursing and similar care facilities

...

Section 8. The Code of Sussex County, Chapter 115, Article VIII, §115-56 “Special Use Exceptions” is hereby amended by deleting the language in brackets:

§115-56. Special Use Exceptions.

Special use exceptions may be permitted by the Board of Adjustment in accordance with the provisions of Article XXVII of this chapter and may include:

...

C. Other special use exceptions as follows:

...

[Convalescent homes, nursing homes or homes for the aged.]

...

Section 9. The Code of Sussex County, Chapter 115, Article IX, §115-63 “Conditional Uses” is hereby amended by inserting a new subsection F. therein:

§115-63. Conditional Uses.

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

...

F. Nursing and similar care facilities.

Section 10. The Code of Sussex County, Chapter 115, Article IX, §115-64 “Special Use Exceptions” is hereby amended by deleting the language in brackets:

§115-64. Special Use Exceptions.

Special use exceptions may be permitted by the Board of Adjustment in accordance with the provisions of Article XXVII of this chapter and may include:

...

C. Other special use exceptions as follows:

...

[Convalescent homes, nursing homes or homes for the aged.]

...

Section 11. The Code of Sussex County, Chapter 115, Article X, §115-71 “Conditional Uses” is hereby amended by inserting the following italicized and underlined language after “Multifamily dwelling structures, subject to the provisions of Articles IV through XX...” and before “Public or governmental buildings and uses, including parks, parkways playgrounds and public boat landings”:

§115-71. Conditional Uses.

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

...

Nursing and similar care facilities

...

Section 12. The Code of Sussex County, Chapter 115, Article X, §115-72 “Special Use Exceptions” is hereby amended by deleting the language in brackets:

§115-72. Special Use Exceptions.

Special use exceptions may be permitted by the Board of Adjustment in accordance with the provisions of Article XXVII of this chapter and may include:

...

C. Other special use exceptions as follows:

...

[Convalescent homes, nursing homes or homes for the aged.]

...

Section 13. The Code of Sussex County, Chapter 115, Article XI, §115-77 “Permitted Uses” is hereby amended by inserting the following italicized and underlined language after “Multifamily dwelling dwellings and structures of mixed commercial and residential use, subject to the mixed use provisions of Articles XXII, XXIII ” and before “Printing, publishing and engraving establishments”:

§115-77. Permitted Uses.

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

...

Nursing and similar care facilities

...

Section 14. The Code of Sussex County, Chapter 115, Article XI, §115-80 “Special Use Exceptions” is hereby amended by deleting the language in brackets:

§115-80. Special Use Exceptions.

Special use exceptions may be permitted by the Board of Adjustment in accordance with the provisions of Article XXVII of this chapter and may include:

...

C. Other special use exceptions as follows:

...

[Convalescent homes, nursing homes or homes for the aged.]

...

Section 15. The Code of Sussex County, Chapter 115, Article XIA, §115-83.2 “Permitted Uses” is hereby amended by inserting the following italicized and underlined language after “Monument sales establishments with incidental processing to order, but not including the shaping of headstones” and before “Printing, publishing and engraving establishments”:

§115-83.2. Permitted Uses.

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

...

Nursing and similar care facilities

...

Section 16. The Code of Sussex County, Chapter 115, Article XIA, §115-83.6 “Special Use Exceptions” is hereby amended by deleting the language in brackets:

§115-83.6. Special Use Exceptions.

Special use exceptions may be permitted by the Board of Adjustment in accordance with the provisions of Article XXVII of this chapter and may include:

...

C. Other special use exceptions as follows:

...

[Convalescent homes, nursing homes or homes for the aged.]

...

Section 17. The Code of Sussex County, Chapter 115, Article XII, §115-87 “Conditional Uses” is hereby amended by inserting the following italicized and underlined language after “Marine or oceanographic laboratories or experimental stations” and before “Parks or campgrounds for mobile campers, tents, camp trailers, touring vans and the like”:

§115-87. Conditional Uses.

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

...

Nursing and similar care facilities

...

Section 18. The Code of Sussex County, Chapter 115, Article XII, §115-88 “Special Use Exceptions” is hereby amended by deleting the language in brackets:

§115-88. Special Use Exceptions.

Special use exceptions may be permitted by the Board of Adjustment in accordance with the provisions of Article XXVII of this chapter and may include:

...

C. Other special use exceptions as follows:

...

[Convalescent homes, nursing homes or homes for the aged.]

...

Section 19. Effective Date.

This ordinance shall take effect upon the date of adoption by Sussex County Council, but shall not apply to any completed applications previously made to the Sussex County Board of Adjustment for a Special Use Exception for “Convalescent homes, nursing homes or homes for the aged” as of the date of adoption.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2645 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 16TH DAY OF APRIL 2019.

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