

ORDINANCE NO. 2682

(AS AMENDED)

AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES IV, XXV, XXVI, AND XXVII BY AMENDING SECTIONS 115-20, 115-23, 115-187, 115-196 AND 115-210 REGARDING MANUFACTURED HOMES AND MANUFACTURED HOUSING

WHEREAS, The Sussex County Planning & Zoning Department, in its regulation of manufactured housing, has determined that there are certain areas of the Zoning Code of Sussex County that can be improved for the benefit of both Sussex County and the public; and

WHEREAS, The Sussex County Planning & Zoning Department recognizes that manufactured home-type structures are often used for construction trailers or marketing offices for a limited duration while a residential or commercial project is underway and the current approval process for these types of structures is unnecessarily burdensome and time consuming; and

WHEREAS, The Sussex County Planning & Zoning Department recognizes that regulations governing the replacement of manufactured housing units should be improved to permit these structures to be more readily replaced if certain criteria are satisfied; and

WHEREAS, The Sussex County Planning & Zoning Department recommends other amendments to the Zoning Code to address inconsistencies or unduly burdensome requirements regarding manufactured homes and similar structures.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDNAINS:

Section 1. The Code of Sussex County, Chapter 115, Article IV, §115-20 “Permitted Uses” is hereby amended by deleting the language in brackets and inserting the italicized and underlined language:

§115-20. Permitted Uses.

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

- (1) Detached single-family dwellings on individual lots. A manufactured home may be used as a detached single-family dwelling on an individual lot [of $\frac{3}{4}$ of an acre or more], provided that it conforms to the following restrictions:
 - (a) The lot is not within a major subdivision created prior to the effective date of this section [or is not specifically prohibited by recorded covenants].
 - (b) There is a minimum width along any exterior front, side [and] or rear elevation of 24 linear feet, exclusive of any garage area or other attached accessory structures.

- (c) It is permanently mounted on a solid foundation or pier foundation system and anchored and, in each case, in accordance with the manufacturer's installation instructions.
- (d) All wheels, axles, transportation lights and removable towing apparatus, if any, shall be removed from the manufactured home when it is placed on the foundation in accordance with Subsection A(1)[(b)](c) above.
- (e) All utilities shall be permanently connected in accordance with applicable Sussex County Code provisions.
- (f) The siding of all manufactured homes shall be continuous so as to enclose any joining of two or more sections.
- (g) It complies with all pertinent provisions of the Housing Code of Sussex County and the Fire and Health Codes of the State of Delaware.
- (h) All multi-sectional manufactured homes, initially placed pursuant to the provisions of this section, shall be not more than [five] ten (10) years old. All replacement multi-sectional manufactured homes shall not be of an older model than the manufactured home being replaced and shall conform to this section. Any other manufactured home which, at the effective date of this section, does not conform to the requirements of this section, may be replaced with a manufactured home which is not of an older or smaller model than the manufactured home being replaced. A single section manufactured home may be replaced by a single section manufactured home; a single section manufactured home may be replaced by a multi-sectional manufactured home; a multi-sectional manufactured home may be replaced by a multi-sectional manufactured home; a multi-sectional manufactured home shall not be replaced by a single section manufactured home. [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 as a Special Use Exception on a property of less than five acres pursuant to Article IV, § 115-23C(16) and Article XXVII, § 115-210A(3)(q).]
- (i) In addition to the requirements herein, a manufactured home shall comply in all respects with the design and technical requirements of § [115-187](#).

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 inserting the italicized and underlined language:

§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:

- A. Temporary and conditional permits for a period not to exceed five years, such period to be determined by the Board, for the following uses:

Archery ranges
 Asphalt batching plants or concrete batching plants
 Commercial dog kennels
 Miniature golf courses or driving ranges
 Outdoor display or promotional activities at shopping centers or elsewhere
 Pony rings
 Raising for sale of birds, bees, rabbits and other small animals, fish and other creatures
 Riding academies
 Rifle or pistol ranges, trap or skeet shooting
 Sawmills for cutting timber grown on the premises
 Temporary buildings for use as a sales or rental office for an approval real estate development or subdivision
 Tents for special purposes for a period exceeding three days. The Director may, without requiring an application for a special use exception, grant approval for a tent for a special purpose (revival, reception, tent sale as an accessory to a business or commercial use, or other similar activities). If approved by the Director, a tent for special purposes may be utilized on a parcel no more than three times in a calendar year.
 Use of a manufactured home as a single-family dwelling in any district to meet an emergency or hardship situation, such permit not to exceed two years. The Director may, without requiring an application for a special use exception, grant an extension for an emergency or hardship situation previously approved by the County Board of Adjustment upon receipt of an affidavit from a doctor stating that the emergency or hardship situation still exists. Such extension may be granted annually as long as the emergency or hardship still exists.
 Use of a manufactured-home-type structure for any business, commercial or industrial use

B. Exceptions to parking and loading requirements as follows:

- (1) Off-street parking areas, adjacent to or at a reasonable distance from the premises on which parking areas are required by the parking regulations of Article XXII, where practical difficulties, including the acquisition of property, or undue hardships are encountered in locating such parking areas on the premises and where the purpose of these regulations to relieve congestion in the streets would best be served by permitting such parking off the premises.
- (2) Waiver or reduction of the parking and loading requirements in any district whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities.
- (3) Waiver or reduction of loading space requirements where adequate community loading facilities are provided.
- (4) Waiver or reduction of loading space requirements for uses which contain less than 10,000 square feet of floor area where construction of existing buildings, problems of access or size of lot make impractical the provision of required loading space.

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) Day nurseries or child-care centers.
- (5) Garage/studio apartments, provided that at least one parking space for the exclusive use of the tenant is included on the premises
- (6) Nurseries for growing of plants, trees and shrubs, including a building for sale of products produced on the premises.
- (7) Public telephone booths in residential areas.
- (8) Telephone central offices, provided that all storage of materials, all repair facilities and all housing of repair crews are within a completely enclosed building.
- (9) (Reserved)
- (10) The alteration, extension or replacement of a nonconforming manufactured home, subject to the provisions of § 115-196.
- (11) 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.
- (12) Farm ponds on less than five acres, subject to § 115-219.[4]
- (13) Tourist homes (also referred to as bed-and-breakfast inns").
- [(14) 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 XXVII, § 115-210A(3)(q).
- (15) A multisectional manufactured home as a detached single-family dwelling on individual lots of not less than 1/2 nor more than three-fourths acre existing on the effective date of this ordinance and subject to the provisions of § 115-20A(1)(a) through (g) inclusive.]
- [(16)] (14) Commercial communications towers and antennas.
- [(17) A multisectional manufactured home used as a single-family dwelling may be permitted on a property of less than 3/4 acre, pursuant to Article IV, § 115-20A(1)(a) through (g) and (i).]

Section 3. The Code of Sussex County, Chapter 115, Article XXV, §115-187 “Manufactured Homes” is hereby amended by deleting the language in brackets and inserting the italicized and underlined language:

§115-187. Manufactured Homes.

The following regulations shall apply to every manufactured home, [except construction and office trailers] except for manufactured home type structures approved for use as construction and/or office trailers:

- A. It shall be designated exclusively for single-family occupancy if used as a dwelling.

- B. The space between the unit and grade level shall be fully enclosed with a perimeter enclosure wall. A perimeter enclosure wall shall consist of either masonry material, vinyl, metal or wood product, shall be installed in accordance with the manufacturer's installation instructions [shall be approved by the Director as durable and suitable for exterior exposure]. The perimeter enclosure wall shall be of a type that will not support combustion. A perimeter enclosure wall shall have a minimum of one opening providing access to any water supply or wastewater connections under the home. Such openings shall be a minimum of 18 inches in any dimension and not less than 3 square feet in area. The access panel shall be fastened in such a manner that a special tool to open or remove said panel is not required.
- C. It shall have a gross floor area, excluding any additions not a part of the original manufactured unit, not less than 450 square feet.
- D. It shall comply in all other respects with the requirements [including area and bulk requirements] for dwellings in the district in which it is located.

Section 4. The Code of Sussex County, Chapter 115, Article XXVI, §115-196 “Manufactured Homes” is hereby amended by deleting the language in brackets and inserting the italicized and underlined language:

§115-196. Manufactured Homes.

Except as provided in § 115-20A(1)(h), manufactured homes in lawful use as single-family dwellings at the effective date of this chapter shall be subject to the following:

- A. *When a manufactured home is replaced, the manufactured home being replaced shall not be an older or smaller model than the manufactured home being replaced. A single section manufactured home may be replaced by a single section manufactured home; a single section manufactured home may be replaced by a multi-sectional manufactured home; a multi-sectional manufactured home may be replaced by a multi-sectional manufactured home; a multi-sectional manufactured home shall not be replaced by a single section manufactured home.* [A manufactured home granted a special use permit prior to the enactment of this chapter, subject to limitations of time, occupancy or location, shall remain subject to such limitations.
- B. A manufactured home not subject to a special use permit shall be considered a conforming use in AR and GR Districts.
- C. A manufactured home not subject to a special use permit shall be considered a nonconforming use in all districts other than AR and GR Districts. The alteration, extension or replacement of a nonconforming manufactured home shall require approval of the Board of Adjustment, after public hearing.
- D.]B. When a nonconforming manufactured home, existing either on a nonconforming lot or with nonconforming yards, is replaced, it shall be located on the lot in such a way so that, to the greatest extent possible, it conforms to all appropriate yard requirements.

Section 5. The Code of Sussex County, Chapter 115, Article XXVII, §115-210 “Special Exceptions” is hereby amended by deleting the language in brackets and inserting the italicized and underlined language:

§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:

- (1) Temporary and conditional permits for a period not to exceed five years, such period to be determined by the Board, for the following uses, which are specified in each district:

Archery ranges

Asphalt batching plants or concrete batching plants

Commercial dog kennels

Miniature golf courses or driving ranges

Nonaccessory tents for special purposes

Outdoor display or promotional activities at shopping centers or elsewhere

Pony rings

Raising for sale of birds, bees, rabbits and other small animals, fish and other creatures

Riding academies, public stables or private stables

Rifle or pistol ranges, trap or skeet shooting

Sawmills for cutting timber grown on the premises

Temporary buildings for use as a sales or rental office for an approved real estate development or subdivision

Use of a manufactured home as a single-family dwelling in any district to meet an emergency or hardship situation, such permit not to exceed two years. The Director may, without requiring an application for a special use exception, grant an extension for an emergency or hardship situation previously approved by the County Board of Adjustment upon receipt of an affidavit from a doctor stating that the emergency or hardship situation still exists. Such extension may be granted annually as long as the emergency or hardship still exists.

Use of a manufactured-home-type structure for any business, commercial or industrial use.

- (2) Exceptions to parking and loading requirements as follows:

- (a) Off-street parking areas, adjacent to or at a reasonable distance from the premises on which parking areas are required by the parking regulations of Article XXII, where practical difficulties, including the acquisition of property, or undue hardships are encountered in locating such parking areas on the premises and where the purpose of these regulations to relieve congestion in the streets would best be served by permitting such parking off the premises.

- (b) Waiver or reduction of the parking and loading requirements in any district whenever the character or use of the buildings is such as to make unnecessary the full provision of parking or loading facilities.
 - (c) Waiver or reduction of loading space requirements where adequate community loading facilities are provided.
 - (d) Waiver or reduction of loading space requirements for uses which contain less than 10,000 square feet of floor area where construction of existing buildings, problems of access or size of lot make impractical the provision of required loading space.
 - (e) Waiver of or reduction in interior drive width.
- (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) 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) 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) (Reserved).
 - (m) The alteration, extension or replacement of a nonconforming manufactured home, subject to the provisions of § 115-196.
 - (n) 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) Tourist home (also referred to as "bed-and-breakfast inns") in any AR, MR, GR, UR and B-1 Districts.
 - (p) 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) 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) 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 6. Effective Date.

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

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2682 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 8TH DAY OF OCTOBER 2019.

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