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Memorandum

TO: Sussex County Council
The Honorable Michael H. Vincent, President
The Honorable George B. Cole, Vice President
The Honorable Robert B. Arlett
The Honorable Irwin G. Burton III
The Honorable Samuel R. Wilson Jr.

FROM: Todd F. Lawson
County Administrator

RE: **“SPECIAL EVENTS ORDINANCE UPDATE”**

DATE: September 29, 2017

During Tuesday’s meeting, the Council is scheduled to discuss and possibly introduce an Ordinance related to the “special events” language within Chapter 115 of the County Code.

A copy of the draft ordinance update is attached. This draft was developed based on the feedback and direction Council provided staff with a focus on clarifying the current Code due to its vague and undefined terms. The draft also attempts to put forth a balanced approach that creates a straight forward review and approval process for events that meet the “special events” definition.

For background, as you know, currently certain sections within Chapter 115 of County Code allow “special events”. A copy of the language is listed below:

The following uses may be permitted as conditional uses 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, races/walks or any other special event or mass 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. All special events, regardless of duration, shall be subject to the requirements of the Sussex County Special Event Policy.

Over the years, several events have been approved using this Code language, including Punkin Chunkin, car shows, children's festivals, rodeos, etc. The special event language was intended to permit temporary events with a short duration, of which requiring a conditional use approval for a short event could seem over burdensome.

Due to interpretation issues involving the special events language, it was determined a review of the County Code to better define a special event was required.

On Tuesday, staff will provide an overview of the draft language and address any questions you may have.

Please let me know if you have any questions or concerns.

TFL/nc

Attachment

ORDINANCE NO. ____

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 Events 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 unspecific 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 provide 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 shall 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 such as circuses, carnivals, midways, promotional and tent sales events; fairs, festivals, concerts, rodeos, shows, races/walks or any other event or mass gathering being held outdoors or within a temporary structure or at a site and for a purpose different from the permitted use and usual occupancy of the premises or site. Such special events may be administratively approved by the Director or his or her designee, when, in his or her judgment, the proposal will not impair the purpose and intent of the zoning ordinance, and when the use is not so recurring in nature as to constitute a permanent use not otherwise permitted in the district, and when the use will not significantly affect the surrounding properties.

In determining whether to administratively approve the special event, the Director or his or her designee shall take into account considerations including (but not limited to) the following: the estimated number of attendees; the size of the parcel where the special event is to be located; the parking requirements of the special event; roads and traffic patterns providing access to the special event; prior events conducted by the applicant; noise, light, odor, and dust generated by the special event; proposed hours of operation and number of consecutive days; and 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, including (but not limited to) hours of the event and maximum attendance. No more than three (3) special events shall be approved for the same property or premises during a calendar year. Each calendar day of a special event shall be counted as a separate special event, not including reasonable time required for set up and removal when the event is not otherwise underway.

All special events, regardless of size, use or duration, shall be subject to the requirements of the Sussex County Special Event Policy. Special events that do not meet these requirements or which are not administratively approved shall require a conditional use. Special events that are small in size and do not affect surrounding properties shall not require administrative approval.

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 such as circuses, carnivals, midways, promotional and tent sales events; fairs, festivals, concerts, rodeos, shows, races/walks or any other event or mass gathering being held outdoors or within a temporary structure or at a site and for a purpose different from the permitted use and usual occupancy of the premises or site. Such special events may be administratively approved by the Director or his or her designee, when, in his or her judgment, the proposal will not impair the purpose and intent of the zoning ordinance, and when the use is not so recurring in nature as to constitute a permanent use not otherwise permitted in the district, and when the use will not significantly affect the surrounding properties.

In determining whether to administratively approve the special event, the Director or his or her designee shall take into account considerations including (but not limited to) the following: the estimated number of attendees; the size of the parcel where the special event is to be located; the parking requirements of the special event; roads and traffic patterns providing access to the special event; prior events conducted by the applicant; noise, light, odor, and dust generated by the special event; proposed hours of operation and number of consecutive days; and 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, including (but not limited to) hours of the event and maximum attendance. No more than three (3) special events shall be approved for the same property or premises during a calendar year. Each calendar day of a special event shall be counted as a separate special event, not including reasonable time required for set up and removal when the event is not otherwise underway.

All special events, regardless of size, use or duration, shall be subject to the requirements of the Sussex County Special Event Policy. Special events that do not meet these requirements or which are not administratively approved shall require a

conditional use. Special events that are small in size and do not affect surrounding properties shall not require administrative approval.

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 A.(27) 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 such as circuses, carnivals, midways, promotional and tent sales events; fairs, festivals, concerts, rodeos, shows, races/walks or any other event or

mass gathering being held outdoors or within a temporary structure or at a site and for a purpose different from the permitted use and usual occupancy of the premises or site. Such special events may be administratively approved by the Director or his or her designee, when, in his or her judgment, the proposal will not impair the purpose and intent of the zoning ordinance, and when the use is not so recurring in nature as to constitute a permanent use not otherwise permitted in the district, and when the use will not significantly affect the surrounding properties.

In determining whether to administratively approve the special event, the Director or his or her designee shall take into account considerations including (but not limited to) the following: the estimated number of attendees; the size of the parcel where the special event is to be located; the parking requirements of the special event; roads and traffic patterns providing access to the special event; prior events conducted by the applicant; noise, light, odor, and dust generated by the special event; proposed hours of operation and number of consecutive days; and 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, including (but not limited to) hours of the event and maximum attendance. No more than three (3) special events shall be approved for the same property or premises during a calendar year. Each calendar day of a special event shall be counted as a separate special event, not including reasonable time required for set up and removal when the event is not otherwise underway.

All special events, regardless of size, use or duration, shall be subject to the requirements of the Sussex County Special Event Policy. Special events that do not meet these requirements or which are not administratively approved shall require a conditional use. Special events that are small in size and do not affect surrounding properties shall not require administrative approval.

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 such as circuses, carnivals, midways, promotional and tent sales events; fairs, festivals, concerts, rodeos, shows, races/walks or any other event or mass gathering being held outdoors or within a temporary structure or at a site and for a purpose different from the permitted use and usual occupancy of the premises or site. Such special events may be administratively approved by the Director or his or her designee, when, in his or her judgment, the proposal will not impair the purpose and intent of the zoning ordinance, and when the use is not so recurring in nature as to constitute a permanent use not otherwise permitted in the district, and when the use will not significantly affect the surrounding properties.

In determining whether to administratively approve the special event, the Director or his or her designee shall take into account considerations including (but not limited to) the following: the estimated number of attendees; the size of the parcel

where the special event is to be located; the parking requirements of the special event; roads and traffic patterns providing access to the special event; prior events conducted by the applicant; noise, light, odor, and dust generated by the special event; proposed hours of operation and number of consecutive days; and 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, including (but not limited to) hours of the event and maximum attendance. No more than three (3) special events shall be approved for the same property or premises during a calendar year. Each calendar day of a special event shall be counted as a separate special event, not including reasonable time required for set up and removal when the event is not otherwise underway.

All special events, regardless of size, use or duration, shall be subject to the requirements of the Sussex County Special Event Policy. Special events that do not meet these requirements or which are not administratively approved shall require a conditional use. Special events that are small in size and do not affect surrounding properties shall not require administrative approval.

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 such as circuses, carnivals, midways, promotional and tent sales events; fairs, festivals, concerts, rodeos, shows, races/walks or any other event or mass gathering being held outdoors or within a temporary structure or at a site and for a purpose different from the permitted use and usual occupancy of the premises or site. Such special events may be administratively approved by the Director or his or her designee, when, in his or her judgment, the proposal will not impair the purpose and intent of the zoning ordinance, and when the use is not so recurring in nature as to constitute a permanent use not otherwise permitted in the district, and when the use will not significantly affect the surrounding properties.

In determining whether to administratively approve the special event, the Director or his or her designee shall take into account considerations including (but not limited to) the following: the estimated number of attendees; the size of the parcel where the special event is to be located; the parking requirements of the special event; roads and traffic patterns providing access to the special event; prior events conducted by the applicant; noise, light, odor, and dust generated by the special event; proposed hours of operation and number of consecutive days; and 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, including (but not limited to) hours of the event and maximum attendance. No more than three (3) special events shall be approved for the same property or premises during a calendar year. Each calendar day of a special event shall be counted as a separate special event, not including reasonable time required for set up and removal when the event is not otherwise underway.

All special events, regardless of size, use or duration, shall be subject to the requirements of the Sussex County Special Event Policy. Special events that do not meet these requirements or which are not administratively approved shall require a conditional use. Special events that are small in size and do not affect surrounding properties shall not require administrative approval.

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.

...

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.

. . .

Section 12. Effective Date.

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

SUMMARY

“Special Events” are currently within the Conditional Use sections of several of the various zoning districts; however, in certain circumstances the Code provides that they can be permitted without a Conditional Use. This ordinance moves the “permitted” Special Events to the “Permitted Uses” section of the districts. Then, if the proposal does not fall under the permitted use or is not approved as such, it will require a Conditional Use. This amendment also gives the Director greater discretion, clarity and guidance in determining whether to approve a special event request or require a Conditional Use application.