

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 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 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].

34 NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

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

38 **§115-20 Permitted uses.**

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

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

49
50 In determining whether to administratively approve the special event, the Director
51 or his or her designee shall take into account considerations including (but not
52 limited to) the following: the estimated number of attendees; the size of the parcel
53 where the special event is to be located; the parking requirements of the special
54 event; roads and traffic patterns providing access to the special event; prior events
55 conducted by the applicant; noise, light, odor, and dust generated by the special
56 event; proposed hours of operation and number of consecutive days; and such other
57 considerations that may be applicable to the requested event. The Director or his
58 or her designee may impose conditions upon an administrative approval, including
59 (but not limited to) hours of the event and maximum attendance. No more than three
60 (3) special events shall be approved for the same property or premises during a
61 calendar year. Each calendar day of a special event shall be counted as a separate
62 special event, not including reasonable time required for set up and removal when
63 the event is not otherwise underway.

64
65 All special events, regardless of size, use or duration, shall be subject to the
66 requirements of the Sussex County Special Event Policy. Special events that do not
67 meet these requirements or which are not administratively approved shall require a
68 conditional use. Special events that are small in size and do not affect surrounding
69 properties shall not require administrative approval.

70

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

73 **§115-22 Conditional uses.**

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

76 . . .

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

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

91 **§115-39 Conditional uses.**

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

94 . . .

95 Special Events such as circuses or carnival grounds, amusement parks or
96 midways, festivals, concerts, race/walks or any other special event or gathering
97 being held outdoors or within a temporary structure or at a site and for a purpose
98 different from the designated use and usual occupancy of the premises and located
99 on unincorporated lands within Sussex County, permanently or for a temporary time
100 period exceeding three days. [Special events as defined herein, with a duration not
101 exceeding three days, are not subject to the conditional use process. Upon receipt
102 of an application, the Director or his/her designee may grant approval of a special
103 event not exceeding three days.] Special Events not approved by the Director as a

104 permitted use under §115-37 shall require a conditional use permit. All special
105 events regardless of duration, shall be subject to the requirements of the Sussex
106 County Special Event Policy.

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

110 §115-69 **Permitted uses.**

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

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

121
122 In determining whether to administratively approve the special event, the Director
123 or his or her designee shall take into account considerations including (but not
124 limited to) the following: the estimated number of attendees; the size of the parcel
125 where the special event is to be located; the parking requirements of the special
126 event; roads and traffic patterns providing access to the special event; prior events
127 conducted by the applicant; noise, light, odor, and dust generated by the special
128 event; proposed hours of operation and number of consecutive days; and such other
129 considerations that may be applicable to the requested event. The Director or his
130 or her designee may impose conditions upon an administrative approval, including
131 (but not limited to) hours of the event and maximum attendance. No more than three
132 (3) special events shall be approved for the same property or premises during a
133 calendar year. Each calendar day of a special event shall be counted as a separate
134 special event, not including reasonable time required for set up and removal when
135 the event is not otherwise underway.

136
137 All special events, regardless of size, use or duration, shall be subject to the
138 requirements of the Sussex County Special Event Policy. Special events that do not
139 meet these requirements or which are not administratively approved shall require a

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

142
143 **Section 5.** The Code of Sussex County, Chapter 115, Article X, §115-71 is hereby
144 amended as follows:

145 **§115-71 Conditional uses.**

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

148 . . .

149 Special Events such as circuses or carnival grounds, amusement parks or midways,
150 festivals, concerts, race/walks or any other special event or gathering being held
151 outdoors or within a temporary structure or at a site and for a purpose different from
152 the designated use and usual occupancy of the premises and located on
153 unincorporated lands within Sussex County, permanently or for a temporary time
154 period exceeding three days. [Special events as defined herein, with a duration not
155 exceeding three days, are not subject to the conditional use process. Upon receipt
156 of an application, the Director or his/her designee may grant approval of a special
157 event not exceeding three days.] Special Events not approved by the Director as a
158 permitted use under §115-69 shall require a conditional use permit. All special
159 events regardless of duration, shall be subject to the requirements of the Sussex
160 County Special Event Policy.

161 . . .

162
163 **Section 6.** The Code of Sussex County, Chapter 115, Article XI, §115-77 is hereby
164 amended by inserting a new subparagraph A.(27) as follows:

165 **§115-77 Permitted uses.**

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

167 . . .

168 Schools for industrial training, trade or business

169 Special events such as circuses, carnivals, midways, promotional and tent sales
170 events; fairs, festivals, concerts, rodeos, shows, races/walks or any other event or

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

178
179 In determining whether to administratively approve the special event, the Director
180 or his or her designee shall take into account considerations including (but not
181 limited to) the following: the estimated number of attendees; the size of the parcel
182 where the special event is to be located; the parking requirements of the special
183 event; roads and traffic patterns providing access to the special event; prior events
184 conducted by the applicant; noise, light, odor, and dust generated by the special
185 event; proposed hours of operation and number of consecutive days; and such other
186 considerations that may be applicable to the requested event. The Director or his
187 or her designee may impose conditions upon an administrative approval, including
188 (but not limited to) hours of the event and maximum attendance. No more than three
189 (3) special events shall be approved for the same property or premises during a
190 calendar year. Each calendar day of a special event shall be counted as a separate
191 special event, not including reasonable time required for set up and removal when
192 the event is not otherwise underway.

193
194 All special events, regardless of size, use or duration, shall be subject to the
195 requirements of the Sussex County Special Event Policy. Special events that do not
196 meet these requirements or which are not administratively approved shall require a
197 conditional use. Special events that are small in size and do not affect surrounding
198 properties shall not require administrative approval.

199
200 Tourist homes or rooming house

201
202

203
204 **Section 7.** The Code of Sussex County, Chapter 115, Article XI, §115-79 is hereby
205 amended as follows:

206 **§115-79 Conditional uses.**

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

209 . . .

210 Special Events such as circuses or carnival grounds, amusement parks or midways,
211 festivals, concerts, race/walks or any other special event or gathering being held
212 outdoors or within a temporary structure or at a site and for a purpose different from
213 the designated use and usual occupancy of the premises and located on
214 unincorporated lands within Sussex County, permanently or for a temporary time
215 period exceeding three days. [Special events as defined herein, with a duration not
216 exceeding three days, are not subject to the conditional use process. Upon receipt
217 of an application, the Director or his/her designee may grant approval of a special
218 event not exceeding three days.] Special Events not approved by the Director as a
219 permitted use under §115-77 shall require a conditional use permit. All special
220 events regardless of duration, shall be subject to the requirements of the Sussex
221 County Special Event Policy.

222 . . .

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

225 **§115-83.2 Permitted uses.**

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

227 . . .

228
229 Schools for industrial training, trade or business

230
231 Special events such as circuses, carnivals, midways, promotional and tent sales
232 events; fairs, festivals, concerts, rodeos, shows, races/walks or any other event or
233 mass gathering being held outdoors or within a temporary structure or at a site and
234 for a purpose different from the permitted use and usual occupancy of the premises
235 or site. Such special events may be administratively approved by the Director or his
236 or her designee, when, in his or her judgment, the proposal will not impair the
237 purpose and intent of the zoning ordinance, and when the use is not so recurring in
238 nature as to constitute a permanent use not otherwise permitted in the district, and
239 when the use will not significantly affect the surrounding properties.

240
241 In determining whether to administratively approve the special event, the Director
242 or his or her designee shall take into account considerations including (but not
243 limited to) the following: the estimated number of attendees; the size of the parcel

244 where the special event is to be located; the parking requirements of the special
245 event; roads and traffic patterns providing access to the special event; prior events
246 conducted by the applicant; noise, light, odor, and dust generated by the special
247 event; proposed hours of operation and number of consecutive days; and such other
248 considerations that may be applicable to the requested event. The Director or his
249 or her designee may impose conditions upon an administrative approval, including
250 (but not limited to) hours of the event and maximum attendance. No more than three
251 (3) special events shall be approved for the same property or premises during a
252 calendar year. Each calendar day of a special event shall be counted as a separate
253 special event, not including reasonable time required for set up and removal when
254 the event is not otherwise underway.

255
256 All special events, regardless of size, use or duration, shall be subject to the
257 requirements of the Sussex County Special Event Policy. Special events that do not
258 meet these requirements or which are not administratively approved shall require a
259 conditional use. Special events that are small in size and do not affect surrounding
260 properties shall not require administrative approval.

261 Tourist homes or rooming house

263

264
265 **Section 9.** The Code of Sussex County, Chapter 115, Article XIA, §115-83.5 is
266 hereby amended as follows:

267 **§115-83.5 Conditional uses.**

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

270 . . .

271 Special Events such as circuses or carnival grounds, amusement parks or midways,
272 festivals, concerts, race/walks or any other special event or gathering being held
273 outdoors or within a temporary structure or at a site and for a purpose different from
274 the designated use and usual occupancy of the premises and located on
275 unincorporated lands within Sussex County, permanently or for a temporary time
276 period exceeding three days. [Special events as defined herein, with a duration not
277 exceeding three days, are not subject to the conditional use process. Upon receipt
278 of an application, the Director or his/her designee may grant approval of a special

279 event not exceeding three days.] Special Events not approved by the Director as a
280 permitted use under §115-83.2 shall require a conditional use permit. All special
281 events regardless of duration, shall be subject to the requirements of the Sussex
282 County Special Event Policy.

283 . . .

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

286 **§115-85 Permitted uses.**

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

292 . . .

293
294 Retail sale or rental of boating, fishing, hunting, diving and bathing supplies and
295 equipment or clothing and fish bait

296
297 Special events such as circuses, carnivals, midways, promotional and tent sales
298 events; fairs, festivals, concerts, rodeos, shows, races/walks or any other event or
299 mass gathering being held outdoors or within a temporary structure or at a site and
300 for a purpose different from the permitted use and usual occupancy of the premises
301 or site. Such special events may be administratively approved by the Director or his
302 or her designee, when, in his or her judgment, the proposal will not impair the
303 purpose and intent of the zoning ordinance, and when the use is not so recurring in
304 nature as to constitute a permanent use not otherwise permitted in the district, and
305 when the use will not significantly affect the surrounding properties.

306
307 In determining whether to administratively approve the special event, the Director
308 or his or her designee shall take into account considerations including (but not
309 limited to) the following: the estimated number of attendees; the size of the parcel
310 where the special event is to be located; the parking requirements of the special
311 event; roads and traffic patterns providing access to the special event; prior events
312 conducted by the applicant; noise, light, odor, and dust generated by the special
313 event; proposed hours of operation and number of consecutive days; and such other
314 considerations that may be applicable to the requested event. The Director or his

315 or her designee may impose conditions upon an administrative approval, including
316 (but not limited to) hours of the event and maximum attendance. No more than three
317 (3) special events shall be approved for the same property or premises during a
318 calendar year. Each calendar day of a special event shall be counted as a separate
319 special event, not including reasonable time required for set up and removal when
320 the event is not otherwise underway.

321
322 All special events, regardless of size, use or duration, shall be subject to the
323 requirements of the Sussex County Special Event Policy. Special events that do not
324 meet these requirements or which are not administratively approved shall require a
325 conditional use. Special events that are small in size and do not affect surrounding
326 properties shall not require administrative approval.

327
328 Telephone stations or booths, including drive-in or talking-from-car stations, and
329 telephone central offices, provided that all storage of materials, all repair facilities
330 and all house or repair crews are within a completely enclosed area.

331
332

333
334 **Section 11.** The Code of Sussex County, Chapter 115, Article XII, §115-87 is
335 hereby amended as follows:

336 **§115-87 Conditional uses.**

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

339 . . .

340 Special Events such as circuses or carnival grounds, amusement parks or midways,
341 festivals, concerts, race/walks or any other special event or gathering being held
342 outdoors or within a temporary structure or at a site and for a purpose different from
343 the designated use and usual occupancy of the premises and located on
344 unincorporated lands within Sussex County, permanently or for a temporary time
345 period exceeding three days. [Special events as defined herein, with a duration not
346 exceeding three days, are not subject to the conditional use process. Upon receipt
347 of an application, the Director or his/her designee may grant approval of a special
348 event not exceeding three days.] Special Events not approved by the Director as a
349 permitted use under §115-85 shall require a conditional use permit. All special

350 events regardless of duration, shall be subject to the requirements of the Sussex
351 County Special Event Policy.

352 . . .

353 **Section 12.** Effective Date.

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

356 **SUMMARY**

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