

(Adopted _____)

ORDINANCE NO. ____

AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE XXV, SECTION 115-194.3 OF THE CODE OF SUSSEX COUNTY REGARDING THE COASTAL AREA.

WHEREAS, pursuant to the provisions of Title 9, Chapter 68 and 69, Delaware Code, the Sussex County government has the power and the authority to regulate the use of land and to adopt a Comprehensive Plan; and

WHEREAS, pursuant to Chapter 115 of the Code of Sussex County, as amended, the Sussex County government has undertaken to regulate the use of land; and

WHEREAS, the Sussex County Council adopted a Sussex County Comprehensive Plan Update on September 2, 2002, which established an “Environmentally Sensitive Developing Area” with “special environmental design and protection requirements”; and

WHEREAS, Sussex County Council adopted a Sussex County Comprehensive Plan that was certified by the Governor on March 19, 2019, and this Plan expanded what was formerly identified as the “Environmentally Sensitive Developing Area” and renamed that Area as the Coastal Area in the Future Land Use Map contained therein; and

WHEREAS, it is the intent of the Sussex County Council to balance the need to protect land equity with the need to reasonably protect the County’s environment and to protect and enhance the water quality of the County’s “Inland Bays”; and

WHEREAS, Goal 4.6 and Strategy 4.6.2 of the Sussex County Comprehensive Plan states that Sussex County should “Recognize the importance of the Inland Bays” and “Recognize the Inland Bays, their tributaries and other waterbodies as valuable open space areas of ecological importance”; and

WHEREAS, Goal 4.3 of the Sussex County Comprehensive Plan states that Sussex County should “Identify and designate future development areas in a manner that protects the County’s natural and cultural resources from the adverse impacts of development as outlined in the Conservation” Element of the Plan; and

WHEREAS, Goal 4.3 of the Sussex County Comprehensive Plan includes Objective 4.3.2 which states that Sussex County should “Promote new development that incorporates preserved usable open space and mitigates for the protection or replacement of environmental resources in subdivision design” and Strategy 4.3.2.3 and 4.3.2.4 which state that Sussex County should “Strengthen County development regulations to ensure that open space dedicated by developers contains contiguous open space” and “Revisit County Code to determine if

40 modifications are needed to open space requirements to promote less
41 fragmentation of open space”; and

42 WHEREAS, it has been determined that in order to promote and protect the health,
43 safety, convenience, orderly growth and welfare of the inhabitants of Sussex
44 County, and to assist in the proper development of land.

45 NOW, THEREFORE, THE COUNTY OF SUSSEX ORDAINS:

46

47 **Section 1.** The Code of Sussex County, Chapter 115, Article xxv §115-194.3
48 “Coastal Area” is hereby amended by deleting the language in brackets and adding
49 the italicized and underlined language:

50

51 **§ 115-194.3. Coastal Area.**

52

53 A. Delineation of the zoning district.

54

55 (1) The Coastal Area shall include all lands designated as the "Coastal Area" in the
56 adopted Sussex County Comprehensive Plan dated March 19, 2019, or as
57 subsequently amended.

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59 (2) Where the boundary of the Coastal Area is formed by a roadway, the overlay
60 zone shall be deemed to include the contiguous property on the far side of the
61 roadway, provided that depth of the Coastal Area on contiguous property shall not
62 exceed 600 feet.

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64 B. Application process.

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66 (1) All rezoning, subdivision, business and industrial site plans and conditional use
67 applications involving one or a combination of the following shall be subject to the
68 process and performance requirements as described hereinafter:

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70 (a) Any residential planned community application.

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72 (b) Any development containing 50 or more dwelling units.

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74 (c) Any development containing 75,000 square feet or more of floor area
75 used for commercial or industrial uses.

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77 (d) Any use or activity that requires a permit in the Coastal Zone.

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79 (2) The applicant shall submit an environmental assessment and public facility
80 evaluation report and sketch plan (report) to the Director of Planning and Zoning, a
81 copy of which will be forwarded to the Office of State Planning Coordination and
82 members of the Technical Advisory Committee for review and comment. The
83 sketch plan shall address the following issues for the property to be developed and,
84 where appropriate to the context, for the contiguous property. Information
85 submitted by the applicant shall at a minimum contain the following:

86
87 (a) Proposed drainage design and the effect on stormwater quality and
88 quantity leaving the site, including methods for reducing the amount of
89 phosphorous and nitrogen in the stormwater runoff and the control of any
90 other pollutants such as petroleum hydrocarbons or metals.

91
92 (b) Proposed method of providing potable and, where appropriate, irrigation
93 water and the effect on public or private water systems and groundwater,
94 including an estimate of average and peak demands.

95
96 (c) Proposed means of wastewater treatment and disposal with an analysis of
97 the effect on the quality of groundwater and surface waters, including
98 alternative locations for on-site septic systems.

99
100 (d) Analysis of the increase in traffic and the effect on the surrounding
101 roadway system.

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103 (e) The presence of any endangered or threatened species listed on federal or
104 state registers and proposed habitat protection areas.

105
106 (f) The preservation and protection from loss of any tidal or nontidal
107 wetlands on the site.

108
109 (g) Provisions for open space as defined in § 115-4.

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111 (h) A description of provisions for public and private infrastructure.

112
113 (i) Economic, recreational or other benefits.

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115 (j) The presence of any historic or cultural resources that are listed on the
116 National Register of Historic Places.

117

118 (k) [An affirmation that] *A description of how* the proposed application and
119 proposed mitigation measures are in conformance with the current Sussex
120 County Comprehensive Plan.

121
122 (l) Actions to be taken by the applicant to mitigate the detrimental impacts
123 identified relevant to Subsection B(2)(a) through (k) above and the manner
124 by which they are consistent with the Comprehensive Plan.

125
126 (3) The Director of Planning and Zoning shall prepare (with input from the County
127 Administrator) guidelines describing the application process and the form and
128 content of information to be submitted by the applicant and shall review all
129 applications, plans, assessments and other information submitted and prepare a
130 written report summarizing his findings and the comments of state agencies and
131 other County offices. The Planning and Zoning Commission shall make a
132 determination as to whether adequate information has been presented for the
133 project to proceed. A completed report shall be required prior to any preliminary
134 plan approval for a development subject to this section. Approval of the report does
135 not constitute final approval of the commenting agencies.

136
137 C. Permitted uses and densities.

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139 (1) Uses permitted in the Coastal Area will be those uses permitted in the
140 underlying zoning category as established by the Sussex County Zoning
141 Ordinance.

142
143 (2) Uses prohibited in the underlying zone are also prohibited in the overlay zone.

144
145 (3) The maximum density shall be the allowable density of the underlying zoning
146 district for developments using a central water and wastewater collection and
147 treatment system. "Central sewer system" means centralized treatment and disposal
148 facilities as defined in § 115-194A. Within [this Overlay District] *the Coastal Area*,
149 clustering of single-family detached lots to a minimum lot size of 7,500 square feet
150 is permitted in all residential zoning districts using a central water and sewer
151 system. For dwelling units using on-site individual wastewater disposal systems,
152 the allowable density shall be based upon a minimum lot size of 3/4 of an acre. The
153 applicant has the option of clustering the lots to a minimum lot size of 1/2 of an
154 acre where soil conditions are suitable as determined by DNREC, provided,
155 however, that the number of lots or dwelling units permitted shall not exceed the
156 number permitted in the underlying district. For purposes of this subsection, the
157 "allowable density" shall be determined by calculating the lot area and the area of

158 land set aside for common open space or recreational use but shall exclude any
159 area designated as a tidal tributary stream or tidal wetlands by § 115-193.

160

161 (4) For areas within the Conservation Zone, as currently defined in the Sussex
162 County Zoning Ordinance, the minimum lot size and dimension requirements in
163 the Conservation Zone shall apply.

164

165 (5) Residential developments utilizing the cluster option of Subsection C.3 above
166 within the AR-1 and AR-2 Residential Zoning Districts shall comply with the
167 design requirements set forth in §115-25F of the Sussex County Zoning Code.

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169 D. Exemptions from the Coastal Area. The following are exempted from the
170 requirement of this section:

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172 (1) Single-family residential lots of record as of the date of this section.

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174 (2) Existing developments and developments which have filed for approval as of
175 the date of this section.

176

177 E. Design consideration should be given by the applicant toward the establishment
178 of a greenways system which utilizes schools, parks, wildlife habitat areas, river
179 and stream corridors, wetlands, floodplains, historic sites, business parks, urban
180 sidewalks, abandoned rail lines, roads, beach areas and vacant land. Greenways
181 should provide benefits like safe pedestrian, bicycling and equestrian routes for
182 recreationists and commuters; and natural wildlife corridors and biological
183 reserves.]

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