

ORDINANCE NO. 1709

AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, ARTICLE IV "AR-1 AND AR-2 AGRICULTURAL RESIDENTIAL DISTRICTS", TO ALLOW CLUSTER DEVELOPMENT OF RESIDENTIAL STRUCTURES AND TO DEFINE CLUSTER DEVELOPMENT.

WHEREAS, the Sussex County Council adopted the Sussex County Comprehensive Plan update on December 10, 2002, and

Whereas, the goals of the Comprehensive Plan include encouraging *the use of design concepts which accommodate new and innovative lot configuration, result in efficient vehicular circulation and attractive parking*, [character] and promote community interaction [and cohesion] through a pedestrian-friendly development pattern and,

WHEREAS, the Comprehensive Plan Update proposes allowing cluster development to accomplish these goals,

~~[WHEREAS, the Comprehensive Plan Update generally anticipates that the AR-1 District would be the Zoning District that best accommodates cluster development in the Low Density Areas,]~~

NOW, THEREFORE THE COUNTY OF SUSSEX ORDAINS:

The Code of Sussex County is hereby revised to add the following amendments that would permit CLUSTER DEVELOPMENT as an option for use in the AR District.

**Section 1. Add the following to 115 – 4 Definitions:**

*Cluster Development - A development concept which encourages and permits variations in residential developments by allowing deviation in lot size, type of dwelling, lot coverage, and open space from that which is normally required as further described in the applicable residential districts.*

**Section 2. Revise as follows Section 115-25. Height, area and bulk requirements.**

~~[A. Minimum lot sizes. Minimum lot sizes shall be as follows:~~

<del>Area**</del>	<del>Width*</del>	<del>Depth</del>	
<del>District</del>	<del>(square feet)</del>	<del>(feet)</del>	<del>(feet)</del>
<del>AR-1</del>	<del>20,000</del>	<del>100</del>	<del>100</del>
<del>AR-2</del>	<del>15,000</del>	<del>100</del>	<del>100</del>

~~\*NOTE: A lot fronting on a numbered road shown on the General Highway Map for Sussex County of 1964, as revised, shall have a minimum lot width of 150 feet. [Added 11-7-1989 by Ord. No. 632]~~

~~\*\*NOTE: Any lot which is not connected to a central sewer system, as defined by 115-194A, or which is located within a planning area as defined by a sewer planning study approved by the Sussex County Council, shall have a minimum area of 3/4 acre. [Added 7-15-1997 by Ord. No. 1157]]~~

- A. *Minimum lot sizes for lots using a wastewater disposal system located entirely on that lot and generally defined as an on-site septic system.*

*(1) Standard Lot Option*

<i>District</i>	<i>Area (square feet)</i>	<i>Width* (feet)</i>	<i>Depth (feet)</i>
<i>AR-1</i>	<i>32,670</i>	<i>100</i>	<i>100</i>

*(2) Cluster Development Option. The minimum lot size may be reduced to one-half acre (21,780 sq. ft.) where soil conditions are suitable as approved by DNREC. The total number of lots allowed shall not exceed the number of lots that would be permitted under the Standard Lot Option. The number of dwelling units permitted shall be determined by dividing the **gross** area by 32,670 square feet. The area of land set aside for common open space or recreational use shall be included in determining the number of dwelling units permitted.*

- B. *Minimum lot sizes, dimensions and open space for lots using a central sewer system as defined by § 115-194A:*

*(1) [~~Minimum Lot Size~~] Standard Lot Option*

<i>District</i>	<i>Area** (square feet)</i>	<i>Width* (feet)</i>	<i>Depth (feet)</i>
<i>AR-1</i>	<i>20,000</i>	<i>100</i>	<i>100</i>

*(2) Cluster Development Option (subject to §115-25F)*

<i>Minimum Tract Size (acres)</i>	<i>Minimum Lot Size (square feet)</i>	<i>Required Open Space</i>
<i>10</i>	<i>7500</i>	<i>30%</i>

*The number of dwelling units permitted shall be determined by dividing the gross area by 21,780 square feet. The area of land set aside for common open space or recreational use shall be included in determining the number of dwelling units permitted.*

*\*Note: A lot fronting on a numbered road shown on the latest revision of the General Highway Map for Sussex County shall have a minimum width of 150 feet.*

*\*\*Note: For lots located in the Environmentally Sensitive Development District, the Development Districts or the Town Center Districts, the Overlay Ordinance for that District shall determine the minimum lot size.*

**Change “B” to “C”**

[~~B~~].C. *Minimum yard requirements. Minimum yard requirements shall be as follows:*

<b>District</b>	<b>Depth of Front Yard (feet)</b>	<b>Width of Side Yard* (feet)</b>	<b>Depth of Rear Yard (feet)</b>	<b>Minimum Lot Width (feet)</b>
<i>AR-1 and AR-2 (Cluster with central sewer)</i>	<i>25</i>	<i>10</i>	<i>10</i>	<i>60</i>
<i>AR- and AR-2 (All others)</i>	<i>40(30)**</i>	<i>15</i>	<i>20</i>	<i>100</i>

NOTES:

\* A lot having an area of less than 20,000 square feet or having a width of less than 100 feet, which lot was legally recorded prior to January 1, 1971, shall be subject to the minimum side yard requirements applicable to an MR District rather than to the minimum side yard requirements of this district.

\*\* See also the table of district regulations at the end of this chapter.

Change “C” to “D”

[E.] D. [Amended 10-31-1995 by Ord. No. 1062] Maximum height requirements. Maximum height requirements shall be as follows:

District	Feet
AR-1 and AR-2	42

*E. Design Requirements For Cluster Development*

- 1. All development shall be in accordance with the latest amendment to the Community Design standards.*
- 2. Housing types in the Low Density Area, as shown on the Sussex County Comprehensive Plan, are limited to single family detached dwellings and manufactured homes where permitted by ordinance.*
- 3. A forested buffer area with a minimum width of 30 feet shall be provided for lots abutting an agricultural area*
- 4. Dwellings [~~near the periphery~~] located within 50 feet of an existing residential development shall provide adequate transition in density or shall provide a 30 foot buffer meeting the standards below and maintained by a designated entity.*
  - a. A planting strip at least [~~15~~] 30 feet wide near the property line which shall include two canopy trees, four understory trees, and ten shrubs per 100 linear feet of buffer or*
  - b. A landscaped rolling berm at least four feet in height or*
  - c. A solid fence or wall a minimum of [~~five~~] six feet in height designed with durable materials, texture and colors compatible with adjacent residential development.*
- 5. No lots shall have direct access to any State maintained roads.*
- 6. All lots shall be configured to be contained completely outside of all wetlands.*
- 7. Any development using the B (2) option shall have central water and wastewater systems operated and maintained by companies [~~licensed~~] authorized by the State of Delaware to perform such services. Wastewater collection and treatment systems must be designed in accordance with the requirements of Sussex County Ordinances and conform to the requirements for a Central Sewer System as defined in § 115-194 A of the Sussex County Zoning Ordinance.*

*F. Review Procedures For Cluster Development*

- 1. The developer shall submit an application for a cluster [~~subdivision~~] development in accordance with Chapter 99, Sussex County Code and which shall include, at a minimum, a sketch plan showing the location and uses of all open spaces, the extent of existing wooded areas and wetlands and the location of any historical or cultural resources. The Director of Planning and Zoning may waive this requirement when the proposed development does not contain significant natural features or resources.*
- 2. The information submitted shall include a plan for the management of all open space.*
- 3. The Sussex County Planning and Zoning Commission shall determine that the following requirements are met before approving any cluster development.*

- a. *The cluster development sketch plan and the preliminary plan of the cluster subdivision provides for a total environment and design which are superior, in the reasonable judgment of the Planning Commission, to that which would be allowed under the regulations for the standard option.*
  - b. *The cluster development plan will preserve the natural environment and any historic or archeological resources.*
  - c. ~~*[Public facilities available to the development, including wastewater collection and treatment, potable water supply, schools, police and fire protection facilities and parks and recreation facilities are adequate to serve the development.]*~~  
*All of the items in Ordinance Number 1152 (see 99-9C) have been addressed and approval of the cluster option for the proposed development will not have an adverse effect on any of the items to be considered.*
4. *The Sussex County Planning and Zoning Commission [~~and the Sussex County Council~~] may add conditions to the approval of any cluster development to protect adjacent properties and the natural environment.*

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 1709 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 3RD DAY OF AUGUST 2004.

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ROBIN A. GRIFFITH  
CLERK OF THE COUNCIL