

ARTICLE IV
AR-1 and AR-2 Agricultural Residential Districts

§ 115-19. Purpose.

The purpose of these districts is to provide for a full range of agricultural activities and to protect agricultural lands, as one of the county's most valuable natural resources, from the depreciating effect of objectional, hazardous and unsightly uses. They should also protect established agricultural operations and activities. These districts are also intended for protection of watersheds, water resources, forest areas and scenic values and, at the same time, to provide for low-density single-family residential development, together with such churches, recreational facilities and accessory uses as may be necessary or are normally compatible with residential surroundings. The AR regulations seek to prevent untimely scattering of more-dense urban uses, which should be confined to areas planned for efficient extension of public services.

§ 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, provided that it conforms to the following restrictions: **[Amended 7-8-1997 by Ord. No. 1153; 5-18-1999 by Ord. No. 1308; 10-12-2010 by Ord. No. 2152; 10-8-2019 by Ord. No. 2682]**
 - (a) The lot is not within a major subdivision created prior to the effective date of this section.
 - (b) There is a minimum width along any exterior front, side 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)(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 multisectional manufactured homes, initially placed pursuant to the provisions of this section, shall be not more than 10 years old. All replacement multisectional 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 multisectional manufactured home; a multisectional manufactured home may be replaced by a multisectional manufactured home; a multisectional manufactured home shall not be replaced by a single section manufactured home.
 - (i) In addition to the requirements herein, a manufactured home shall comply in all respects with the design and technical requirements of § 115-187.
- (2) On a property of less than five acres, any farm, truck garden, orchard or nursery uses.
 - (3) Temporary removable stands for not over six months' use per year, for seasonal sales of products raised on the premises and products raised on other lands in Sussex County owned or leased by the owner of the premises on which the stand is located, and no business office or store is to be permanently maintained on the premises, except as provided in § 115-22 regarding stores or shops for sale of farm products, farm supplies, groceries, beverages, drugs, food and similar stores and shops. **[Amended 11-30-2004 by Ord. No. 1729]**
 - (4) Churches, rectories, parish houses, convents and monasteries, temples and synagogues.

- (5) Golf courses, not lighted for night play and not including miniature golf courses, putting greens, driving ranges and similar activities operated as a business, but including a building for a golf pro shop, locker room and snack bar as an accessory use to a permitted golf course, provided that no such building is located closer than 100 feet to adjoining property lines. Practice greens and tees may accompany a standard nine-hole or eighteen-hole golf course occupying at least 75 acres.
- (6) Public parks, public and private forests, wildlife reservations and similar conservation projects.
- (7) Recreational uses such as tennis courts, swimming pools and other similar activities operated exclusively for the use of private membership and not for commercial purposes, provided that no such use, structure or accessory use is located closer than 50 feet to any adjoining property line, unless such property line fronts a public street or waterway with rights-of-way not less than 25 feet, in which instance the required setback need not exceed 25 feet, and provided further that all such facilities must be located on a site having a minimum of two acres.
- (8) Stable structures or feed lots, private, or keeping and feeding of horses, ponies, cattle, sheep, goats, hogs or poultry for personal enjoyment and not as a business, provided that any building for keeping of animals shall be located at least 50 feet from any lot lines and 100 feet from any dwelling not on the premises.
- (9) Greenhouses, commercial, provided that the lot area shall be five acres or more.
- (10) Swimming pools, game courts, picnic grounds, boat basins, lakes or similar activities in a development or subdivision when such facilities are situated on a separate lot or parcel within said development or subdivision for use of the residents and their guests and not commercially operated, may be on less than two acres. Such facilities will be subject to a site plan review, and setbacks will be determined by the Commission.
- (11) Transmission lines and their supporting elements.
- (12) Open space as defined in § 115-4. **[Added 12-16-2008 by Ord. No. 2022¹]**

(13) Special events. **[Added 9-18-2018 by Ord. No. 2599]**

- (a) Special events held outdoors or within a temporary structure for a purpose different from the permitted use and usual occupancy of a premises or site that are administratively approved by the Director or his or her designee, when the event: will not impair the purpose and intent of the Zoning Ordinance; is not so recurring in nature as to constitute a permanent use not otherwise permitted in the district; and will not significantly affect the surrounding properties. Events that are consistent with the permitted use and usual occupancy of a site or that occur on land owned by the United States of America, the State of Delaware, Sussex County, municipalities and educational institutions are permitted. "Special events" include circuses, carnivals, midways, promotional and tent sales events, fairs, festivals, concerts, rodeos, shows, races/walks or any other event or mass gathering.
- (b) No more than three special events shall be approved for the same property or premises during a calendar year. Each special event shall be counted as one calendar day, not including reasonable set up and removal time when the event is not otherwise underway.
- (c) In determining whether to administratively approve a special event, the Director or his or her designee shall consider the following:
- [1] The estimated number of attendees;
 - [2] The size of the parcel where the special event is to be located;
 - [3] The parking requirements of the special event;
 - [4] Roads and traffic patterns providing access to the special event;
 - [5] Prior events conducted by the applicant;
 - [6] Noise, light, odor, and dust generated by the special event;

1. Editor's Note: This ordinance also provided that it shall apply to applications filed after 1-1-2009.

[7] Proposed hours of operation and number of consecutive days; and

[8] Such other considerations that may be applicable to the requested event.

(d) The Director or his or her designee may impose conditions upon an administrative approval.

(e) All special events, regardless of size, location, use or duration, shall be subject to the requirements of the Sussex County Special Event and Public Safety Services Policies and Procedures. Failure to abide by the Sussex County Special Event and Public Safety Services Policies and Procedures may result in the termination of the special event's administrative approval.

(f) Special events that do not meet these requirements or which are not administratively approved shall require a conditional use.

(14) Use of a manufactured home as a single-family dwelling to meet an emergency or hardship situation that is administratively approved by the Director or his or her designee and subject to the following: **[Added 10-22-2019 by Ord. No. 2684]**

(a) The applicant must provide an affidavit from a doctor confirming the existence of the emergency or hardship situation.

(b) There shall be a fee of \$50 to request the administrative approval which shall be credited towards a Board of Adjustment application fee should consideration by the Board become necessary.

(c) The applicant shall submit a survey signed and sealed by a surveyor licensed in the State of Delaware to the Director showing the location of the proposed manufactured home.

(d) The Director shall give written notice to adjacent property owners of the requested manufactured home and accept written statements within 10 working days from the date of mailing. If any objection is received, the Director shall refer the application to the Board of Adjustment for a special use exception.

- (e) The Director shall consider factors, including whether the manufactured home will have a substantially adverse effect on neighboring properties.
 - (f) Within 30 working days after the request is submitted, the Director or his or her designee may approve the manufactured home or advise the applicant that an application must be submitted to the Board of Adjustment for a special use exception.
 - (g) Such an approval shall not exceed two years. The Director may grant an extension for an emergency or hardship situation upon receipt of a subsequent affidavit from a doctor stating that the emergency or hardship situation still exists. Such an extension may be granted annually as long as the emergency or hardship still exists.
- (15) Garage/studio apartment with at least one parking space for the exclusive use of the tenant included on the premises that is administratively approved by the Director or his or her designee, and subject to the following: **[Added 10-22-2019 by Ord. No. 2684]**
- (a) There shall be a fee of \$50 to request the administrative approval which shall be credited towards a Board of Adjustment application fee should consideration by the Board become necessary.
 - (b) The applicant shall submit a survey signed and sealed by a surveyor licensed in the State of Delaware to the Director showing the location of the garage/studio apartment.
 - (c) The Director shall give written notice to adjacent property owners of the requested garage/studio apartment and accept written statements within 10 working days from the date of mailing. If any objection is received, the Director shall refer the application to the Board of Adjustment for a special use exception.
 - (d) The Director shall consider factors including whether the garage/studio apartment will have a substantially adverse effect on neighboring properties.
 - (e) Within 30 working days after the request is submitted, the Director or his or her designee may approve the garage/studio apartment or advise the applicant that an

application must be submitted to the Board of Adjustment for a special use exception.

- (16) Use of a manufactured-home-type structure for any business, commercial or industrial use that is administratively approved by the Director or his or her designee, and subject to the following: **[Added 10-22-2019 by Ord. No. 2684]**
- (a) There shall be a fee of \$50 to request the administrative approval which shall be credited towards a Board of Adjustment application fee should consideration by the Board become necessary.
 - (b) The applicant shall submit a survey signed and sealed by a surveyor licensed in the State of Delaware to the Director showing the location of the manufactured-home-type structure.
 - (c) The Director shall give written notice to adjacent property owners of the requested manufactured-home-type structure and accept written statements within 10 working days from the date of mailing. If any objection is received, the Director shall refer the application to the Board of Adjustment for a special use exception.
 - (d) The Director shall consider factors including whether the manufactured-home-type structure will have a substantially adverse effect on neighboring properties.
 - (e) Within 30 working days after the request is submitted, the Director or his or her designee may approve the manufactured-home-type structure or advise the applicant that an application must be submitted to the Board of Adjustment for a special use exception.
- B. On a farm of five acres or more, a building or land may be used for the following additional purposes:
- (1) Agriculture, including horticultural, hydroponic, chemical or general farming, truck gardens, cultivating of field crops, orchards, groves or nurseries for growing or propagation of plants, trees and shrubs, forest use (tree farming), including use of heavy cultivating machinery, spray planes or irrigating machinery, dairy farming, keeping or raising for sale of large or small animals, reptiles, fish, birds or poultry and including structures for processing and sale of products raised on the

premises, provided that: **[Amended 11-26-1991 by Ord. No. 806; 6-15-1993 by Ord. No. 894]**

- (a) Any commercial grain drier shall be located at least 300 feet from any boundary of the premises on which such use is located, and any noncommercial drier shall be located at least 100 feet from any boundary.
 - (b) Any feed lot or structure used for the commercial feeding and housing of cattle, sheep and hogs or structure for storage of animal manure or animal waste composting shall be located at least 100 feet from all boundary lines of the premises on which such use is located and shall be 200 feet from any UR, MR, HR, UB or B-1 District boundary and 200 feet from any dwelling not on the premises. **[Amended 2-1-1994 by Ord. No. 953]**
 - (c) Structures for commercial poultry raising, structures for storage of poultry manure and structures for poultry product composting shall be located at least 50 feet from all boundary lines and shall be 200 feet from any UR, MR, HR, UB or B-1 District boundary and 200 feet from any dwelling not on the premises. **[Amended 2-1-1994 by Ord. No. 953]**
 - (d) Commercial slaughtering and processing of large animals such as horses, cows, pigs, sheep or goats shall not be conducted on the premises.
 - (e) Structures for commercial aquaculture, fish and frog farming, structures for storage of fish or frog waste and structures for fish or frog product composting shall be located at least 50 feet from all boundary lines and shall be 200 feet from any UR, MR, HR, UB or B-1 District boundary and 200 feet from any dwelling not on the premises. Farm ponds utilized for aquaculture, fish or frog farming shall be located at least 50 feet from all boundary lines and shall be 200 feet from any UR, MR, HR, UB or B-1 District boundary and 200 feet from any dwelling not on the premises. **[Amended 2-2-1999 by Ord. No. 1287]**
- (2) Dog kennels, commercial, provided that any open pens, runs, cages or kennels shall be located at least 200 feet from any lot lines.
 - (3) Grain storage structures.

- (4) Hospitals or clinics for large or small animals, provided that all buildings, structures, pens or open kennels shall be located at least 200 feet from any lot lines.
- (5) Stables, public, provided that any building for keeping of animals shall be located at least 200 feet from any lot lines.

§ 115-21. Permitted accessory uses.

A. Permitted accessory uses on a farm of five acres or more are as follows:

- (1) Accessory structures for sale or processing of farm products raised on the premises.
- (2) Accessory open or enclosed storage of farm materials, products or equipment.
- (3) Accessory farm buildings, including but not limited to barns, cribs, stable sheds, tool rooms, shops, bins, tanks and silos.
- (4) Dwellings for persons permanently employed on the premises.
- (5) With respect to a farm of 10 acres or more, one manufactured home for residential purposes for persons employed on the premises or immediate members of the family owning or operating the farm, in addition to the main dwelling structure on the premises. One additional manufactured home may be permitted on a farm of 50 acres or more for residential purposes for persons employed on the premises or immediate members of the family owning or operating the farm. Additional manufactured homes may be permitted on a farm of 10 acres or more as a special use exception for residential purposes for persons employed on the premises or immediate members of the family owning or operating the farm, pursuant to § 115-210A(3)(n). **[Amended 3-5-1991 by Ord. No. 750; 3-25-1997 by Ord. No. 1131; 10-12-2010 by Ord. No. 2152]**
- (6) All accessory farm buildings shall have the same setbacks as those which are required for a dwelling, except as stated elsewhere in this chapter.
- (7) A wind turbine which meets § 115-194.4 as a permitted use. **[Amended 9-13-2011 by Ord. No. 2213]**
- (8) Farm ponds, subject to § 115-219.

B. Other permitted accessory uses are as follows: **[Amended 10-8-2019 by Ord. No. 2683]**

Accessory off-street parking and loading spaces

Boat docks and boathouses

Domestic storage in the main building or in an accessory building

Garages, private

Guest houses

Home barbecue grills

Home occupations in a main building or accessory building

Keeping of small animals, insects, reptiles, fish or birds, but only for personal enjoyment or household use and not as a business

Playhouses, without plumbing, limited in floor area to 150 square feet and headroom limited to five feet

Servants' quarters

Storage of a boat trailer or camp trailer or a boat, but not in a front yard, provided that it is not used for living purposes while so parked or stored

Swimming pools and game courts, lighted or unlighted, for the use of the occupants or their guests

Temporary buildings, including manufactured home-type structures, the use of which is incidental to construction operations or sale of lots during development being conducted on the same or adjoining tract or subdivision and which shall be removed upon completion or abandonment of such construction or upon the expiration of a period of two years of the time of erection of such temporary buildings, whichever is sooner. If construction operations or the initial sale of lots remain actively underway, the Director may grant extensions to this time period

§ 115-22. Conditional uses.

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

Agricultural related industry, provided that such use is visually and acoustically screened from adjacent highways and property in such a manner that a reasonable passerby is not attracted to or aware of the establishment **[Added 1-27-2004 by Ord. No. 1658]**

Airports and landing fields or seaplane bases, provided that they shall comply with the recommendations of the Federal Aviation Administration

Aquariums, commercial

Beaches, commercial

Biotech campus **[Added 1-27-2004 by Ord. No. 1659]**

Biotech industry not located within a biotech campus provided that such use is visually and acoustically screened from adjacent highways and property in such a manner that a reasonable passerby is not attracted to or aware of the establishment. **[Added 1-27-2004 by Ord. No. 1659]**

Cemeteries, including a crematorium if located at least 200 feet from the boundaries of the cemetery

Excavation or backfilling of borrow pits, extraction, processing and removal of sand, gravel or stone, stripping of topsoil (but not including stripping of sod) and other major excavations other than for construction of swimming pools and foundations for buildings and other than those approved in connection with a street, subdivision or planned residential development. (See § 115-172B.)

Exposition centers or fairgrounds

Heliports or helistops

Hospitals and sanitariums, but not animal hospitals

Institutions, educational or philanthropic, including museums, art galleries and libraries

Land application of sludge, treated sludge or any product containing these materials. For purposes of this section, "sludge" means the accumulated semiliquid suspension, settled solids or dried residue of these solids that is deposited from liquid waste in a wastewater treatment plant or surface or ground waters treated in a water treatment plant, whether or not these solids have undergone treatment. "Septage" is included herein as sludge. "Land application" means the placement of sludge, treated sludge or any other product containing these materials within two feet below the surface of land used to support vegetative growth. **[Added 5-8-1990 by Ord. No. 681]**

Livestock auction markets in an AR District

Marinas or yacht clubs

Multifamily dwelling structures and/or townhouses and/or town homes, subject to the provisions of this chapter when: **[Added 7-31-2007 by Ord. No. 1920]**

- A. Said multifamily dwelling structures and/or townhouses and/or town homes, the owners of which would share and own in common the surrounding grounds (which may also be referred to herein collectively as "units"), lie within a Town Center, a Developing Area, or a Coastal Area as described within the Land Use Element and as shown on the Future Land Use Plan of the adopted Sussex County Comprehensive Plan; and **[Amended 5-21-2019 by Ord. No. 2656]**
- B. The developer has proffered to Sussex County for the purpose of creating open space for preservation and/or active and/or passive recreation areas a development fee per unit, as described in Chapter 62, § 62-7, for every unit in excess of two units per gross acre that is included in the application; and
- C. The Sussex County Council prior to the signing of a contract to purchase or lease open space for preservation and/or active and/or passive recreation areas shall approve all such land or conservation easement purchases which utilize monies paid to the County under the terms of this amendment. All such approvals by the Council shall be by a four-fifths majority vote and shall include a determination that the land and/or conservation easement to be acquired is located in the same watershed area as the land where the bonus density will be located; and
- D. It is understood that Sussex County shall control all monies paid to it under this amendment and that the Sussex County Land Trust may act as a recommending body and/or partner at the discretion of the Sussex County Council; and
- E. The maximum number of multifamily dwelling structures and/or townhouses and/or town homes, as defined in Subsection A above, included in the application, shall not exceed four dwelling units per gross acre, including land set aside for common open space and/or recreational uses; and
- F. The minimum percentage of the total site which shall be set aside as common open space shall be 40% of the total land area included in the application; and
- G. There shall be a vegetated buffer of not less than 75 feet, subject to the following conditions:

- (1) The vegetated buffer shall be located adjacent to a numbered road shown on the General Highway Map for Sussex County and may include the required setback area from the road and shall be kept free of vehicle parking areas, buildings and structures; and
 - (2) The vegetated buffer shall include a mix of deciduous shade trees and evergreen trees, a majority of which shall be of common local species; and
 - (3) The deciduous shade trees shall include trees reasonably capable of attaining a minimum trunk diameter of two inches measured 3.5 feet above the ground within five years of being planted; and
 - (4) The evergreen trees shall include trees reasonably capable of attaining a minimum height of 10 feet above the ground within five years of being planted; and
 - (5) The goal of the landscape plan for the buffer area shall be include trees of the type indicated herein that will be planted in a natural manner, as they might appear in nature, as opposed to being planted in row fashion which will filter views from the road in such a manner that the dwelling units appear more green and less dense than if no landscaping had been required; and
 - (6) A further goal of the landscape plan would be to avoid placing plantings in an area adjacent to the entrance to the development in such a manner as to restrict the view of motorists entering or exiting from the development or restricting sight lines for motorists in such a manner as to create a potential safety hazard; and
 - (7) The landscape plan for the buffer area shall be designed and signed by a Delaware licensed landscape architect and approved by the Planning and Zoning Commission and County Council; and
- H. Council and/or the County Administrator may consider and authorize an expedited review of a conditional use application filed under this section; and
- I. Multifamily dwelling structures and/or townhouses and/or town homes shall not be considered as a conditional use under any other provision of this section which existed prior to the date of this amendment; and

J. The density bonus fee for each multifamily and/or townhouse and/or town home dwelling unit in excess of two units per gross acre shall be determined by reference to and the use and application of the per-unit density bonus fees adopted as part of Ordinance 1842 and applicable to cluster developments and appearing in Chapter 62, Article III, § 62-7, as the same may hereafter be modified by Council, from time to time. Council will review the fees for a density bonus under the terms of this amendment on an annual basis and revise such fees as it deems necessary by an appropriate amendment.

Manufactured home parks **[Amended 10-12-2010 by Ord. No. 2152]**

Nursing and similar care facilities **[Added 4-16-2019 by Ord. No. 2645]**

Parks or campgrounds for mobile campers, tents, camp trailers, touring vans and the like

Private clubs

Public or governmental buildings and uses, including schools, parks, parkways, playgrounds and public boat landings

Public utilities or public service uses, buildings, generating or treatment plants, pumping or regulator stations or substations, but not telephone central offices

Racetracks, any type, including horses, stock cars or drag strip

Recreation facilities, privately or commercially operated, such as a fishing or boating lake, picnic grounds or dude ranch, and accessory facilities, including sale of food, beverages, bait, incidentals, supplies and equipment

Residential, business, commercial or industrial uses when the purposes of this chapter are more fully met by issuing a conditional use permit **[Added 4-6-2004 by Ord. No. 1677²]**

2. Editor's Note: This entry was previously repealed 1-27-2004 by Ord. No. 1658.

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 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. **[Amended 5-1-1990 by Ord. No. 680; 11-10-1992 by Ord. No. 863; 8-20-2013 by Ord. No. 2316; 9-18-2018 by Ord. No. 2599]**

Sports arenas or stadiums, commercial athletic fields or baseball parks

Stores or shops for the sale of farm products, farm supplies, groceries, beverages, drugs and food and similar stores and shops

Structures for commercial poultry raising on farms of less than five acres

Swimming or tennis clubs, private, nonprofit or commercially operated

§ 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: **[Amended 11-10-1992 by Ord. No. 863; 10-12-1999 by Ord. No. 1346; 10-12-2010 by Ord. No. 2152; 10-22-2019 by Ord. No. 2684]**

Archery ranges

Asphalt batching plants or concrete batching plants

Commercial dog kennels

Miniature golf courses or driving ranges³

Outdoor display or promotional activities at shopping centers or elsewhere

3. **Editor's Note: The former entry reading "Nonaccessory tents for special purposes," which immediately followed this entry, was repealed 11-10-1992 by Ord. No. 863. See now the entry beginning with "Tents."**

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 when not approved administratively by the Director or his or her designee, 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 when not approved administratively by the Director or his or her designee

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) ⁴Day nurseries or child-care centers.
- (5) Garage/studio apartments, when not approved administratively by the Director or his or her designee, provided that at least one parking space for the exclusive use of the tenant is included on the premises.⁵ **[Added 3-18-2008 by Ord. No. 1959; amended 10-22-2019 by Ord. No. 2684]**
- (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)⁶

4. **Editor's Note: Former Subsection C(4), Convalescent homes, nursing homes or homes for the aged, was repealed 4-16-2019 by Ord. No. 2645. Ordinance No. 2645 also redesignated former Subsection C(5) through (14) as Subsection C(4) through (13), respectively.**

5. **Editor's Note: Former Subsection C(6), which listed frog or fish farms, was repealed 11-26-1991 by Ord. No. 806.**

6. **Editor's Note: Former Subsection C(10), pertaining to mobile home use in AR District, was repealed 3-25-1997 by Ord. No. 1131.**

- (10) The alteration, extension or replacement of a nonconforming manufactured home, subject to the provisions of § 115-196. **[Amended 10-12-2010 by Ord. No. 2152]**
- (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. **[Amended 3-25-1997 by Ord. No. 1131; 10-12-2010 by Ord. No. 2152]**
- (12) Farm ponds on less than five acres, subject to § 115-219.⁷
- (13) Tourist homes (also referred to as bed-and-breakfast inns"). **[Added 5-16-1989 by Ord. No. 585]**
- (14)⁸ Commercial communications towers and antennas. **[Added 4-24-2001 by Ord. No. 1445]**

§ 115-24. Permitted signs. [Amended 10-3-1989 by Ord. No. 619; 9-11-1990 by Ord. No. 719; 12-2-2008 by Ord. No. 2008]

See Article XXI, § 115-159.1, for signs permitted in the AR-1 and AR-2 Districts and other regulations relating to signs.

§ 115-25. Height, area and bulk requirements. [Amended 11-7-1989 by Ord. No. 632; 10-31-1995 by Ord. No. 1062; 7-15-1997 by Ord. No. 1157; 8-3-2004 by Ord. No. 1709]

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:

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

7. Editor's Note: Former Subsection C(13), regarding windmills and wind-powered generators, was repealed 9-13-2011 by Ord. No. 2213. This ordinance also provided for the renumbering of the remainder of this Subsection C.

8. Editor's Note: Former Subsection C(14), (15), and (17), regarding manufactured homes, as amended, were repealed 10-8-2019 by Ord. No. 2682. This ordinance also renumbered former Subsection C(16) as Subsection C(14).

NOTES:

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.

- (2) Cluster development option. The minimum lot size may be reduced to one-half acre (21,780 square feet) 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. "Gross area" shall include the lot area and the area of land set aside for common open space or recreational use but shall exclude any area designated as a tidal tributary stream or tidal wetlands by § 115-193. However, if the proposed cluster development lies within a Low-Density Area as described within the Land Use Element and as shown on the Future Land Use Plan of the adopted Sussex County Comprehensive Plan, the total number of lots permitted shall be determined by first reducing the gross area by 25%. **[Amended 1-31-2006 by Ord. No. 1822; 12-4-2018 by Ord. No. 2618]**

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

- (1) Standard lot option:

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

- (2) Cluster development option (subject to § 115-25F): **[Amended 5-21-2019 by Ord. No. 2656]**

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

NOTES:

* 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.

** For lots located in the Coastal Area, the Development Districts or the Town Center Districts, the overlay ordinance for that district shall determine the minimum lot size.

- (3) The number of dwelling units permitted shall be determined by dividing the gross area by 21,780 square feet. When a cluster development lies within a Town Center, a Developing Area, or an Environmentally Sensitive Developing Area as described within the Land Use Element and as shown on the Future Land Use Plan of the adopted Sussex County Comprehensive Plan, and the developer has proffered to Sussex County for the purpose of creating open space preservation/active and passive recreation areas a development fee per unit for every unit in excess of two units per acre, then the maximum number of dwelling units that may be permitted by the Planning and Zoning Commission shall be determined by dividing the gross area by 10,890 square feet. The development fee shall not be less than the minimum established by the Sussex County Council and shall be paid prior to recording any lot based upon the fee in effect at the time the application was filed. "Gross area" shall include the lot area and the area of land set aside for common open space or recreational use but shall exclude any area designated as a tidal tributary stream or tidal wetlands by § 115-193. **[Amended 1-31-2006 by Ord. No. 1822; 4-2-2006 by Ord. No. 1842; 12-4-2018 by Ord. No. 2618]**
- C. Minimum yard requirements. Minimum yard requirements shall be as follows:

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

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.

- D. 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 located within 50 feet of an existing residential development shall provide adequate transition in density or shall provide a thirty-foot buffer meeting the standards below and maintained by a designated entity.

- (a) A planting strip at least 30 feet wide near the property line which shall include two canopy trees, four understory trees and 10 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 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 option in Subsection B(2) shall have central water and wastewater systems operated and maintained by companies 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 § 115-194A of the Sussex County Zoning Ordinance.
- F. Review procedures for cluster development.
- (1) The developer shall submit an application for a cluster development in accordance with Chapter 99, Subdivision of Land, of the 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 Planning and Zoning Commission shall determine that the following requirements are met before approving any preliminary plan and such application shall be reviewed on an expedited basis. **[Amended 1-31-2006 by Ord. No. 1822; amended 4-2-2006 by Ord. No. 1842; 12-16-2008 by Ord. No. 2024⁹; 12-4-2018 by Ord. No. 2618; 6-11-2019 by Ord. No. 2658]**

- (a) The cluster development sketch plan and the preliminary plan of the cluster subdivision provides for a total environment and design which are superior, and the reasonable judgment of the Planning Commission, to that which would be allowed under the regulations for the standard option. For the purposes of this subsection a proposed cluster subdivision which provides for a total environment and design which are superior to that allowed under the standard option subdivision is one which, in the reasonable judgment of the Planning Commission meets all of the following criteria:

[1] Homes shall be clustered on the environmentally suitable portions of the tract, specifically those portions of the tract least encumbered by sensitive environmental features, including but not limited to wetlands, mature woodlands, waterways and other water bodies. This does not inhibit the development of wooded parcels.

[2] (Reserved)

[3] Required open space shall comply with the following criteria:

[a] All required open space must meet the official definition of acceptable open space contained in § 115-4.

[b] Required open space must be designed to be beneficial to the residents or users of the open space. It shall not be constituted of fragmented lands with little open space value. Accordingly, 30% of all required open space shall be located on one contiguous tract of land, except that such open space may be separated by water bodies and a maximum of one street.

[c] If one of the following physical conditions exists adjacent to the proposed cluster development tract, at least 30% of all required open space must be adjacent to:

[i] An existing or officially planned public park, land preserved by easement, or land

preserved as open space and in municipal, County, state, or federal ownership.

- [ii] Existing wetlands, waterways, wildlife corridors, or other ecology-sensitive land.
 - [iii] Existing farmland and/or woodlands.
 - [iv] If more than one of these physical features exist on adjacent properties, then one of these features will be identified and utilized to satisfy this requirement.
 - [v] If the open space is proposed to be dedicated to a municipality, a County, state, or federal agency or a homeowners' association, an agreement shall be provided, in advance, stipulating that such entity agrees in advance to accept that dedication and maintain that land for public recreation or as a nature preserve.
 - [vi] Open space in a cluster development shall include a pedestrian trail system accessible to residents. This trail system shall connect to an adjacent trail, adjacent neighborhood, adjacent commercial area, or adjacent public open space, if any such areas exist adjacent to the proposed cluster development. Construction materials for the proposed trail shall be identified, and a typical construction detail for the proposed trail shall be shown. Trail construction materials shall be pervious in nature.
- [4] A minimum of 25 feet of permanent setback must be maintained around the outer boundaries of all wetlands, except for tidal waters, tidal tributary streams and tidal wetlands and from the ordinary high water line of perennial nontidal rivers and nontidal streams as provided for in § 115-193B under Ordinance No. 774 where a fifty-foot permanent setback is required. No buildings or paving shall be placed within these setbacks.
- [5] Stormwater management shall be designed to promote groundwater recharge and protect

groundwater quality. Natural drainage flows shall be maintained to the greatest extent possible. Drainage from rooftops shall be directed to vegetated areas or allow green technology. Stormwater detention and retention facilities should be designed to resemble natural ponds as referenced by DNREC in the National Resource Conservation Service's (NRCS) Pond Code 378, Visual Resource Design.

- [6] Removal of healthy mature trees shall be limited.
- [7] Scenic views that can be seen from within the tract should be preserved to the greatest extent possible.
- [8] The applicant for a cluster development shall illustrate that the following sequence and process was followed in the site design of the cluster project:
 - [a] Identify lands that should be preserved. First, areas worthy of preservation should be mapped, including wetlands, wooded areas, waterways, other water bodies, and natural drainage areas. Then, other features that are important should be mapped, such as tree lines, scenic views, historic buildings, and prime farmland. The areas with the fewest important natural, scenic and historic features should be considered the "potential development area."
 - [b] Identify developable areas. Next, the most appropriate locations for development should be chosen to minimize the impact to the most important features mapped in the first step.
 - [c] Locate roads and trails. After the developable areas are determined, a road system should be designed to serve those homes. A trail system that links homes to destinations outside of the tract should be designed.
 - [d] Locate lot lines. The last step is to configure lot lines and make necessary adjustments to satisfy the various reviewing agencies' comments.
- [9] Sidewalks shall be required at least on one side of each street, subject to Planning and Zoning Commission approval.

- (b) The cluster development plan will preserve the natural environment and any historic or archeological resources.
 - (c) 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.
 - (d) The cluster development lies within a Town Center, a Developing Area or an Environmentally Sensitive Developing Area as described within the Land Use Element and as shown on the Future Land Use Plan of the adopted Sussex County Comprehensive Plan, and the proposed development complies with § 115-25B(2), and does not exceed four dwelling units per gross acre, and the developer has proffered to Sussex County for the purpose of creating open space for preservation and/or active and/or passive recreation areas the development fee required by § 115-25B(3). The Sussex County Council prior to the signing of a contract to purchase, shall approve all such land or conservation easement purchases which utilize monies paid to the County under the terms of this act. All such approvals by the Council shall be by a four-fifths majority vote. It is understood that the County shall control all monies and the Sussex County Land Trust will act as a recommending body and partner at the discretion of the County Council.
- (4) The Sussex County Planning and Zoning Commission may add conditions to the approval of any cluster development to protect adjacent properties and the natural environment.

§ 115-26. Reference to additional regulations.

The regulations contained in this article are supplemented or modified by regulations contained in other articles of this chapter, especially the following:

Article I, § 115-4, Definitions and word usage

Article XX, Tables of Height, Area and Bulk Requirements

Article XXI, Signs

Article XXII, Off-Street Parking

Article XXIII, Off-Street Loading

Article XXIV, Conditional Uses

Article XXV, Supplementary Regulations
Article XXVII, Board of Adjustment

§ 115-27. AR-2 to be closed district.

As of the date of adoption, the AR-2 District shall be considered a closed district and shall not be applied to any additional lands in Sussex County. The district and its various provisions and regulations shall continue to exist as they apply to AR-2 Districts legally established under the procedures of this chapter.

§ 115-31. Conditional uses.

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

Beaches, commercial

Cemeteries, including a crematorium if located at least 200 feet from the boundaries of the cemetery

Marinas or yacht clubs

Multifamily dwelling structures, subject to the provisions of Articles IV through XX, § 115-219 and Table 2 (included at the end of this chapter)

Nursing and similar care facilities **[Added 4-16-2019 by Ord. No. 2645]**

Private clubs

Public or governmental buildings and uses, including schools, parks, parkways, playgrounds and public boat landings

Public utilities or public service uses, buildings, generating or treatment plants, pumping or regulator stations, substations and transmission lines utilizing multilegged structures, but not telephone central offices

Swimming or tennis clubs, private, nonprofit or commercially operated