

ORDINANCE NO. 2262

(As Amended Correcting Typographical Error)

AN ORDINANCE TO AMEND CHAPTER 115, SECTION 115-174 OF THE CODE OF SUSSEX COUNTY TO DEFINE WHEN CONSTRUCTION OR USE IS SUBSTANTIALLY UNDERWAY OR ABANDONED FOR THE PURPOSE OF DETERMINING THE PERIOD OF VALIDITY FOR A CONDITIONAL USE

WHEREAS, Chapter 115, Section 174 of the Code of Sussex County currently states the period for validity of a Conditional Use and further states that a conditional use becomes null and void if not "substantially underway" within a three-year period; and

WHEREAS, there is no definition of "substantially underway" in the Zoning Code; and

WHEREAS, the Subdivision Code (Chapter 99) of the Code of Sussex County contains a definition of "substantial construction" for purposes of determining subdivision validity; and

WHEREAS, a Conditional Use may be "abandoned", but there is currently no definition of that term; and

WHEREAS, it is the desire of Sussex County to have uniformity for both subdivisions and conditional uses for their periods of validity; and

WHEREAS, additions to the Code are underlined and deletions from the Code are in [brackets];

THE COUNTY OF SUSSEX HEREBY ORDAINS:

The Code of Sussex County, Chapter 115, Article XXIV, Section 115-174 is hereby amended as follows:

Approval of a conditional use under this article shall be valid for a period of three years after the date of approval and thereafter shall become null and void unless construction or use is substantially underway during said three-year period. Any conditional use shall expire upon abandonment or expiration of the use. Construction shall be deemed to be "substantially underway" if the right of way has been cleared, the roadways, internal streets and/or parking areas have been rough graded, the drainage system and/or stormwater management facilities have been rough-graded and erosion and sediment control measures are in place and being actively maintained. In a case where no new construction is required to implement the approved use, the use shall be deemed "substantially underway" if the activity permitted by the approved conditional use is actively underway. "Abandonment" shall mean that the subject parcel remains idle or unused, or that no construction activity is actively underway, for a continuous period of two (2) years whether or not equipment or fixtures are removed.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2262 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 19TH DAY OF JUNE 2012.



ROBIN A. GRIFFITH
CLERK OF THE COUNCIL