

§ 115-76. Purpose. [Amended 7-20-1999 by Ord. No. 1328]

The purpose of this district is to provide for retail shopping, personal services and a wide variety of commercial and miscellaneous service activities generally serving a community-wide area. Such uses are generally located along major arterial roadways where a general mixture of commercial and service activity now exists. Such uses shall not be characterized by extensive warehousing, frequent heavy trucking activity, open storage of materials or the nuisance factors of dust, odor and noise associated with manufacturing.

§ 115-77. Permitted uses.

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

Animal hospitals or kennels with any open pens at least 200 feet from any residential district and 50 feet from any property line

Any use permitted in an AR District and the B-1 District

Automobile or truck sales, service and repair, body or fender repair, but not auto salvage or junk, and any major repairs shall be inside a completely enclosed building. All displays shall be a minimum of twenty-five feet from front property line

Bakeries

Boat and boat trailer sales and storage. Boat displays of more than five feet in height shall be a minimum of 25 feet from the front property line

Bottling works, dyeing and cleaning works or laundry, plumbing and heating shops, painting shops, upholstering shops, cabinet and furniture manufacture, sheet metal shops, tire sales and service (including vulcanizing and recapping but no manufacturing), appliance repairs and general service and repair establishments, similar in character to those listed in this item, provided that no outside storage of material is permitted, except as provided in this section

Business and commercial radio and television stations and studios or recording studios, but not towers more than 150 feet in height, except as provided in Article XXVII

Car washes or automobile laundries, automatic or otherwise

Commercial greenhouses, wholesale or retail, and nurseries for growing of plants, trees and shrubs, including a building for sale of products produced on the premises

Farm implement sales, service, rental and repair, but not salvage or junk, and provided that major repair or storage of materials, damaged or unusable implements or vehicles shall be inside a completely enclosed building. Displays of materials and equipment of more than five feet in height shall be a minimum of 25 feet from the front property line.

Garages, parking or storage

Hotels, motels or motor lodges

Indoor amusement places and theaters, except open-air drive-in theaters. Indoor amusement places include bowling alleys, dance halls, subject to applicable County regulations, skating rinks, swimming pools, miniature golf, billiard or pool parlors, indoor model racing tracks and similar activities conducted entirely within a closed structure. **[Added 8-22-2006 by Ord. No. 1870]**

Lawn mower, yard and garden equipment, rental, sales and services

Lumber and building materials stores

Manufactured home sales and storage, parked a minimum of 40 feet from the front property line **[Amended 10-12-2010 by Ord. No. 2152]**

Marijuana cultivation facilities, marijuana product manufacturing facilities or marijuana testing facilities **[Added 5-14-2024 by Ord. No. 3016]**

Monument sales establishments with incidental processing to order, but not including the shaping of headstones

Multiple-family dwellings and structures of mixed commercial and residential use, subject to the mixed-use provisions of Articles XXII, XXIII and XXV.

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

Printing, publishing and engraving establishments

Schools for industrial training, trade or business

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

- (1) 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.

- (2) 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.
- (3) In determining whether to administratively approve a special event, the Director or his or her designee shall consider the following:
 - (a) The estimated number of attendees;
 - (b) The size of the parcel where the special event is to be located;
 - (c) The parking requirements of the special event;
 - (d) Roads and traffic patterns providing access to the special event;
 - (e) Prior events conducted by the applicant;
 - (f) Noise, light, odor, and dust generated by the special event;
 - (g) Proposed hours of operation and number of consecutive days; and
 - (h) Such other considerations that may be applicable to the requested event.
- (4) The Director or his or her designee may impose conditions upon an administrative approval.
- (5) 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.
- (6) Special events that do not meet these requirements or which are not administratively approved shall require a conditional use.

Tourist homes or rooming house

Temporary removable vendor stands, including but not limited to food trucks and similar vehicles or trailers, located on the premises between March 15 and November 15 for the sale of food, agricultural products or other food-related goods. Such temporary removable vendor stands must comply with all of the following requirements: **[Added 5-19-2015 by Ord. No. 2397]**

- (1) No temporary removable vendor stand shall be permanently affixed to the premises. All temporary removable vendor stands shall be fully transportable and moveable within 24 hours.
- (2) There shall be no more than one temporary removable vendor stand on a parcel at any one time.
- (3) No temporary removable vendor stand shall be wider than eight feet six inches nor longer than 45 feet.
- (4) No temporary removable vendor stand shall be permanently connected to any utilities, including water, sewer, electric or gas.
- (5) No temporary removable vendor stand shall interfere with vehicular or pedestrian movement on a parcel or adjacent rights-of-way.
- (6) The owner of a proposed temporary removable stand shall present the Director of Planning and Zoning with written approval of the existence and location of the stand by the property owner and a drawing showing the location of the stand upon the property. Upon presentation of this information, the Director may preliminarily approve the stand or require the owner to apply for a special use exception from the Board of Adjustment if there are concerns about the location, the size of the property, the effect(s) upon on-site parking, neighboring properties or roadways, or other good cause.
- (7) If preliminarily approved, the owner of a proposed temporary removable stand shall present the Director of Planning and Zoning with evidence of a current State of Delaware business license.

- (8) Upon approval by the Director, a Sussex County Vendor Stand sticker shall be issued in a form established by the Director. This sticker shall be visible on the stand at all times.
- (9) The approval of the temporary removable vendor stand shall be valid for one year.
- (10) The application for a temporary removable vendor stand shall be in a form established by the Director. The fee for filing the application shall be \$100.

Used car and truck sales and storage, parked a minimum of 25 feet from the front property line

Warehousing within a completely enclosed building, provided that such use is not objectionable by reason of odor, dust, noise or similar factors

- B. The total gross building area of any building or group of buildings shall be less than seventy-five thousand square feet. **[Added 7-20-1999 by Ord. No. 1328]**

§ 115-77.1. Large-scale uses. [Added 7-20-1999 by Ord. No. 1328]

- A. It is recognized that there may be large-scale commercial, or retail uses planned in the C-1 General Commercial District, generally serving a regional area. Such uses are defined as those where the total floor area of any building or group of buildings shall be equal to or exceed 75,000 square feet. Such uses shall be adjacent to a major arterial roadway, as defined in § 99-5 of the Subdivision Ordinance, Chapter 99 of the Code of Sussex County, and be located where adequate infrastructure is existing, planned or funded and shall be completed prior to the issuance of a certificate of compliance. Such uses are not characterized by extensive warehousing, frequent heavy trucking activity, open storage of materials or the nuisance factors of dust, odor and noise associated with manufacturing. Such uses must comply with the provisions contained within this section. **[Amended 8-23-2022 by Ord. No. 2880]**
- B. Height, area and bulk requirements.

- (1) Minimum lot sizes. Minimum lot sizes shall be as follows:

| Use | Area (acres) | Width (feet) | Depth (feet) |
|----------|-----------------|-----------------|-----------------|
| All uses | 3 | 150 | 100 |

- (2) Minimum yard requirements. Minimum yard requirements shall be as follows:

| Use | Depth of Front Yard (feet) | Width of Side Yard (feet) | Depth of Rear Yard (feet) |
|-----|----------------------------|---------------------------|---------------------------|
| All | 60* | 20 | 30 |

*NOTE: See also minimum buffers and setbacks contained in § 115-194.1E.

- (3) Maximum height requirements. Maximum height requirements shall be as follows:

All uses: 42 feet

- C. Access standards from roadways. Access points and left turning movements along roadways shall be minimized. Access and circulation to roadways shall comply with the following standards:

- (1) Access from roadways shall be kept to a minimum and shall encourage the use of shared driveways where feasible and shall be subject to the approval of the Delaware Department of Transportation.
- (2) Access drives and service roads shall be designed to minimize queuing of entering or exiting vehicles.
- (3) Access driveways shall accommodate pedestrian traffic through the use of depressed curbs.

- D. Additional requirements.

- (1) The following improvements shall be shown on the site plan:
 - (a) Transit accommodations shall be provided at the discretion of the Planning and Zoning Commission and DelDOT.
 - (b) Pedestrian movement shall be accommodated throughout the site to provide safe connections to transit stops, parking areas and sidewalks.
 - (c) Cross access easements and interconnections shall be provided to adjoining sites for vehicular and pedestrian traffic.
- (2) Off-street parking space requirements shall be increased by 20% over those contained in § 115-162.

§ 115-78. Permitted accessory uses.

Permitted accessory uses are as follows:

- A. Any accessory use permitted in an AR District.
- B. Storage of office supplies or merchandise normally carried in stock in connection with a permitted office, business or commercial use, subject to applicable district regulations.

§ 115-79. Conditional uses.

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

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

Aquariums, commercial

Beaches, commercial

Bus terminals

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

Drive-in theaters

Exposition centers or fairgrounds

Heliports or helistops

Hospitals and sanitariums

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

Outdoor amusement places and open-air drive-in theaters. Outdoor amusement places include, but are not limited to, batting cages, skating rinks, waterslides, miniature golf model racing tracks and similar recreational activities. Mobile or fixed-type cranes or lifting devices, not designed, not approved for, not manufactured for or not intended to carry, transport or in any fashion move individual(s) or person(s), shall be prohibited and shall not be used for amusement purposes. **[Added 8-11-1992 by Ord. No. 849; amended 3-30-1993 by Ord. No. 887; 8-22-2006 by Ord. No. 1870]**

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

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

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 § 115-79 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

Swimming or tennis clubs, private, nonprofit or commercially operated

§ 115-80. Special use exceptions.

Special use exceptions may be permitted by the Board of Adjustment and 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

Driving ranges

Outdoor display or promotional activities at shopping centers or elsewhere

Pony rings

Raising for sale of birds, bees, rabbits and other small animals, fish and other creatures

Riding academies, public stables or private stables

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 approved 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, 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 provisions of required loading space.

C. Other special use exceptions as follows:

Alteration, extension or replacement of a nonconforming manufactured home, subject to the provisions of § 115-196 [**Amended 10-12-2010 by Ord. No. 2152**]

Cemeteries for pets¹

Day nurseries or child-care centers²

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**]

1. Editor's Note: The entry for "convalescent homes, nursing homes or homes for the aged," which immediately followed, was repealed 4-16-2019 by Ord. No. 2645.

2. Editor's Note: The former entry reading "Frog or fish farms," which immediately followed this entry, was repealed 11-26-1991 by Ord. No. 806.

Off-premises signs, subject to the provisions of § 115-81A(2) [**Added 12-14-1993 by Ord. No. 945**]

Public telephone booths in residential areas³

Any temporary removable vendor stand for the sale of food, agricultural products or other food-related goods that is not a permitted use under the provisions of § 115-77; provided, however, that the use shall not operate until the owner presents the Director of Planning and Zoning with evidence of a current State of Delaware business license. Upon approval and submission of the business license, the Director shall issue a Sussex County Vendor Stand sticker in a form established by the Director. This sticker shall be visible on the stand at all times. [**Added 5-19-2015 by Ord. No. 2397**]

- D. Structures of mixed use, commercial and residential, subject to the provisions of Articles IV through XX and § 115-219.

§ 115-81. Permitted signs. [Amended 10-3-1989 by Ord. No. 619; 12-14-1993 by Ord. No. 945; 12-2-2008 by Ord. No. 2008]

See Article XXI, § 115-159.5, for signs permitted in the C-1 District and other regulations relating to signs.

§ 115-82. Height, area and bulk requirements.

- A. Minimum lot sizes. Minimum lot sizes shall be as follows:

| Use | Area** (square feet) | Width* (feet) | Depth (feet) |
|------------------------|-------------------------|------------------|-----------------|
| Single-family dwelling | 10,000 | 75 | 100 |
| Other | 10,000 | 75 | 100 |

*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; amended 7-20-1999 by Ord. No. 1328**]

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**]

- B. Minimum yard requirements. Minimum yard requirements shall be as follows, except that, in addition, the requirements relating to minimum buffers and setbacks contained in § 115-194.1E of this Code shall apply to all uses other than single-family dwellings and multifamily structures:

3. Editor's Note: The former entry for windmills and wind-powered generators, which immediately followed this entry, was repealed 9-13-2011 by Ord. No. 2213.

| Use | Depth of Front Yard (feet) | Width of Side Yard (feet) | Depth of Rear Yard (feet) |
|----------------------------|--|---------------------------|---------------------------|
| Single-family dwelling | 40 (30)* | 10 | 10 |
| Other | 60** | 5* | 5* |
| Multifamily-type structure | (See Table II, included at the end of this chapter.) | | |

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

**NOTE: See also § 115-194.1.

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

| Use | Feet |
|------------------------|------|
| Single-family dwelling | 42 |
| Other | 42 |

§ 115-83. Reference to additional regulations.

- A. 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 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

- B. Closed district. As of the date of adoption of this amendment, the C-1 General Commercial 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 a C-1 District established under the procedures of this chapter. **[Added 8-22-2006 by Ord. No. 1870]**