

AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES XIA, XIC, XXV, SECTIONS 115-83.11 115-83.18, 115-83.19A AND 115-194.7 AND “115 ATTACHMENT 4, SUSSEX COUNTY TABLE IV PERMITTED USES COMMERCIAL” TO AMEND THE REQUIREMENTS FOR RETAIL MARIJUANA STORES IN SUSSEX COUNTY.

WHEREAS, Ordinance No. 3016 was adopted by Sussex County on May 14, 2024; and

WHEREAS, as it did with Ordinance No. 3016, Sussex County acknowledges that many municipalities have prohibited Marijuana Establishments and as a result thereof Ordinance No. 3016 created distance separation requirements from any municipal boundary so that municipalities that have prohibited Marijuana Establishments are not circumvented by having them immediately adjacent to their municipal boundaries; and

WHEREAS, Sussex County desires to amend and reduce the existing three-mile separation distance between such establishments and municipalities to one-half of a mile; and

WHEREAS, it remains the intention of Sussex County to permit Marijuana Establishments in appropriate zoning districts, with reasonable requirements concerning the proximity to schools, churches, substance abuse treatment facilities and other Marijuana Establishments; and

WHEREAS, Sussex County has determined that it can be appropriate for Retail Marijuana Stores to operate in the C-2 Medium Commercial District and C-3 Heavy Commercial District as a Permitted Use; and

WHEREAS, it has been determined that this Ordinance promotes and protects the health, safety, convenience, orderly growth and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. The Code of Sussex County, Chapter 115, Article XIA, § 115-83.11 is hereby amended by inserting the italicized and underlined language therein as follows:

§ 115-83.11. Permitted Uses.

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

...

- (1) Agriculture-related uses.
 - (a) Wholesale, retail nurseries for sale of products produced on site.
 - (b) *Retail Marijuana Store, subject to the requirements of §115-194.7.*

Section 2. The Code of Sussex County, Chapter 115, Article XIC, § 115-83.18 is hereby amended by inserting the italicized and underlined language therein as follows:

§ 115-83.18. Permitted Uses.

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

...

- (1) Agriculture-related uses.
 - (a) Greenhouse, commercial
 - (b) Wholesale, retail nurseries for sale of products produced on site.

- (c) Marijuana Cultivation Facilities, Marijuana Product Manufacturing Facilities or Marijuana Testing Facilities.
- (d) Retail Marijuana Store, subject to the requirements of §115-194.7.

Section 3. The Code of Sussex County, Chapter 115, Article XIC, is hereby amended by deleting § 115-83.19A “Conditional Uses” in its entirety by deleting the language in brackets as follows:

[§ 115-83.19A. Conditional Uses.

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

Retail Marijuana Store, subject to the requirements of §115-194.6.]

Section 4. The Code of Sussex County, Chapter 115, Article XXV § 115-194.7 “Marijuana Establishments”, is hereby amended by deleting the language in brackets and inserting the italicized and underlined language therein as follows:

§ 115-194.7. Marijuana Establishments.

All Marijuana Establishments shall be subject to the following requirements:

- A. No Retail Marijuana Store shall be located within [three miles] one-half of a mile of any municipal boundary.
- B. No Retail Marijuana Store shall be located within three miles of any other Retail Marijuana Store.

- C. No Retail Marijuana Store shall be located within three miles of any church, school, college, or substance abuse treatment facility as defined under §2203 of Title 16 of the Delaware Code.
- D. Retail Marijuana Stores may only operate between the hours established for them by Title 4 of the Delaware Code.
- E. Any approved and licensed Marijuana Establishment in existence as of the date of adoption of this Ordinance shall be considered a legal, nonconforming use. Any licensed and approved pre-existing, legally nonconforming Retail Marijuana Store shall be subject to the hours of operation set forth in subsection D. herein.

Section 5. The Code of Sussex County, “115 Attachment 4, Sussex County, Table IV Permitted Uses, Commercial”, is hereby amended by deleting the language in brackets and by inserting the italicized and underlined language therein as follows:

Blank = Not Permitted P = Permitted Use SUE =Special Use Exception CU = Conditional Use A = Permitted Accessory Use, see section D =Definition, see section	Zone B-2	Zone B-3	Zone C-2	Zone C-3	Zone C-4	Zone C-5	Zone I-1
Agriculture-Related Uses							
<i>Marijuana Cultivation Facilities</i>				<i>P</i>			
<i>Marijuana Product Manufacturing Facilities</i>				<i>P</i>			
<i>Marijuana Testing Facilities</i>				<i>P</i>			
Sales and Rental of Goods, Merchandise, and Equipment							
<i>Retail Marijuana Store</i>			<u><i>P</i></u> ^s	[CU] <u><i>P</i></u> ^s			

⁵ *Subject to the requirements of §115-194.7.*

Section 6. Severability.

The provisions of this Ordinance are severable and if any of its provisions or any sentence, clause, or paragraph or the application thereof to any person or circumstance shall be held unconstitutional or violative of the Laws of the State of Delaware by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions which can be given effect without the invalid provision or application.

Section 7. Effective Date.

This Ordinance shall take effect immediately upon its adoption by Sussex County Council.