

ORDINANCE NO. 1710

AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY TO REVISE AND REPLACE SECTION 194.1 WITH A NEW SECTION ENTITLED THE COMBINED HIGHWAY CORRIDOR OVERLAY ZONE

WHEREAS, the Sussex County Council desires to provide for orderly growth in Sussex County, and

WHEREAS, the adopted Comprehensive Plan for Sussex County emphasizes that the major highway corridors of Routes 1, 13, 113 and the east-west routes are in need of requirements and guidelines to provide a positive visual experience of Sussex County's environment, healthful living standards, agricultural industry and transportation network, and

WHEREAS, safe access and turning movements, especially during emergency evacuation, along those corridors is important to the citizens and visitors to Sussex County,

NOW, THEREFORE, THE COUNTY OF SUSSEX ORDAINS:

The Code of Sussex County is hereby amended to revise and replace Section 194.1 to be known as the *Combined Highway Corridor Overlay Zone – (CHCOZ)*.

Revise 115 – 194.1 *Combined Highway Corridor Overlay Zone – (CHCOZ)*, as follows:

A. Purpose. The *Combined Highway Corridor Overlay Zoning District – (CHCOZ District)* is hereby established ~~to [for the purpose of providing for the]~~ provide for the continued and efficient use of existing roadways and *Emergency Evacuation Routes*, to preserve and enhance the aesthetic and visual character of land uses *contiguous to those roadways* and to provide for orderly development in Sussex County. The requirements and guidelines contained in the chapter are to encourage a positive visual experience of development of lands along ~~the [a portion of the State Route 1]~~ corridors and provide safe access and turning movements for vehicular and pedestrian traffic, *especially during an emergency evacuation*. Development within the CHCOZ District shall conform to the minimum standards in this chapter; provided however, that variances to the provisions of this section will be considered by the Board of Adjustment, as permitted pursuant to Article XXVII, *Board of Adjustment*.

B. Delineation of the zoning district.

~~[Generally,]~~ *The CHCOZ District shall be established along the major north south corridors (Routes 1, 13, and 113). They are more particularly described below.*

The Route 1 Corridor:

(1) The Highway Corridor Overlay Zoning District - *Route 1* shall include all *unincorporated* lands within 600 feet on each side of State Route 1, ~~[between the intersection of Routes 9/18 and Route 1 at Five Points on the north and the intersection of Route 1 and Route 273 (on both sides of Route 1) on the south]~~ *between Kent County, DE and Fenwick Island, DE.*

(2) The six-hundred-foot zone will be measured from the existing road right-of-way line.

The Route 13 Corridor:

(3) The Highway Corridor Overlay Zoning District – *Route 13* shall include all *unincorporated* lands within 600 feet on each side of *State Route 13*, *between Kent County, DE and Delmar, DE.*

(4) The six-hundred-foot zone will be measured from the existing road right-of-way line.

The Route 113 Corridor

(5) The Highway Corridor Overlay Zoning District – *Route 113* shall include all *unincorporated* lands within 600 feet on each side of *State Route 113* *between Milford, DE and Selbyville, DE.*

(6) The six-hundred-foot zone will be measured from the existing road right-of-way line.

C. Permitted uses.

(1) The overlay zone.

(a) The CHCOZ District establishes procedures, guidelines and standards in which development and access should occur. The overlay zone is established to promote orderly development within the underlying zoning district. Uses permitted within the CHCOZ District will be those permitted by the underlying zoning category, *except as modified by this section of the Zoning Ordinance.*

~~[(2)](b)~~ Uses prohibited in the underlying zone are also prohibited in the overlay zone.

~~[(3)](2)~~ The underlying zone.

(a) Established development densities in underlying zoning districts shall be maintained; however buffer and building setbacks will be required in the CHCOZ District.

~~(b) [After the adoption of this amendment any rezoning to any commercial or industrial district shall only take place within Town Centers or Developing Areas as shown in the currently effective Sussex County Comprehensive Plan and, when along the Route 113 Corridor, after the completion of the North-South Limited Access Highway Study.]~~

(b) Existing buildings and structures that do not meet the requirements of this ordinance shall be a nonconforming use and shall continue subject to the provisions of Section 115-195 of the Zoning Ordinance.

~~[(4)](3)~~ Exemptions from the requirements of the CHCOZ District include:

~~(a) [Except for lots contiguous to the designated Corridor right of way, single family residential lots on record as of the adoption of this section.]~~

(a) Existing homes and businesses.

(b) ~~[Existing developments and unbuild]~~ Commercial and industrial developments and subdivisions ~~[which]~~ that have obtained site plan approval prior to the adoption of this ~~[section.]~~ Ordinance.

(c) Land in agricultural use.

(d) Historic properties that are listed on the National Register of Historic Places.

D. Permitted accessory uses.

(1) Permitted accessory uses in the CHCOZ District shall be the same as in the underlying zoning district, *except as modified by this section of the Zoning Ordinance.*

(2) Prohibited accessory uses in the underlying district shall be prohibited in the overlay zoning district.

E. Minimum buffer and setback requirements.

(1) For the purposes of this section, a ~~[A]~~ "buffer" is defined as the ~~[landscaped]~~ area landscaped with native vegetative species, as provided for in (5) below, between the road right-of-way line of the relevant Corridor and the edge of paving and/or area of disturbance. The buffer is a part of and is included in the required setback.

(2) A "building setback" is defined as the minimum distance from the road right-of-way line of the relevant Corridor to the nearest building edge. For purposes of this section of the Zoning Ordinance, the setback shall be measured as described in Table 1, Note 7 in the General Table of Height, Area and Bulk Requirements.

(3) Setbacks and buffers will be required for all developments in the CHCOZ District in accordance with the following table:

District	Setback (feet)	Buffer (feet)
AR-1 Agricultural Residential	40	20
AR-2 Agricultural Residential	40	20
MR Medium-Density Residential	40	20
GR General Residential	40 [60]	20
HR-1 High-Density Residential	60	20
HR-2 High-Density Residential	60	20
B-1 Neighborhood Business	60	20
C-1 General Commercial	60	20
M Μαριε	60	20
LI-1 Limited Industrial	60	20
LI-2 Light Industrial	60	20
HI-1 Heavy Industrial	60	20
RPC Residential Planned Community	60	20

(4) Permitted uses within the required buffer include

- (a) Driveway access.
- (b) Transit oriented uses including bus stops and shelters.
- (c) Utility lines.
- (d) Pedestrian and bike paths.
- (e) Lighting fixtures.
- (f) Signs.
- (g) Clearing and grading for sight distance.
- (h) Benches and other streetscape furniture.
- (i) *Water features, but not including stormwater management structures.*
- (j) *Pathways*

(5) *Permitted uses in the setback, outside of the buffer, are those uses permitted in the underlying zone including but not limited to: lawns, parking areas, driveways and stormwater management structures.*

(6) Landscape requirements.

- (a) A landscape plan *for the buffer and the site* shall be submitted and approved with each site plan. ~~[Except for lots contiguous to the designated Corridor right of way, single-family detached residential lots shall be exempt.]~~ Buffers shall retain existing *native* vegetated areas to the maximum extent possible. In areas where vegetation does not exist, additional landscaping shall be provided utilizing earth mounds and/or plant material. Landscape plantings should be indigenous to local areas and should provide a soft visual buffer between the roadway ~~and~~, *the proposed development, and contiguous land uses.*
- (b) *For each 100 linear feet of buffer yard required, the number of plantings required shall be not less than [45-] 22. The plantings shall include, on average, a canopy forest of at least 25 12 deciduous or evergreen/conifer trees, and [20] 10 shrubs. The buffer yard shall be seeded with grass or planted with ivy unless natural ground cover is established. In areas where a ten foot paved path is provided, the landscaping requirement can be reduced by fifty percent.*

F. Access standards from arterial roadways. The intent of the CHCOZ District is to minimize the number of access points and left turning movements along *the designated Corridor*. Access and circulation to *the designated Corridor* shall comply with the following standards:

- (1) Access from *the designated Corridor* [~~shall generally be limited to no more than one per property and~~] shall be subject to the approval of the Delaware Department of Transportation.
- (2) Access drives and service roads should be designed to minimize queuing of entering or exiting vehicles.
- (3) Shared driveways shall be used where feasible.
- (4) Access driveways should accommodate pedestrian traffic through the use of depressed curbs.
- (5) When properties are bound by two or more roadways access [~~should~~] shall be obtained from the lower roadway classification *unless a traffic study, approved by DelDOT, determines that the operation or safety of an adjacent intersection is degraded.*

G. Additional requirements.

- (1) The following improvements shall be shown on the site plan:
 - (a) Transit accommodations shall be provided for sites containing structures of [~~80,000~~] 75,000 gross square feet or greater, at the discretion of the Planning and Zoning Commission and DelDOT.
 - (b) Pedestrian movement must 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 between adjoining sites for vehicular and pedestrian traffic.
 - (d) *Service roads shall be provided where required by DelDOT.*

Revise TABLE 1, Note (7) as follows:

On property fronting on highways designated by the Delaware [~~Division of Highways~~] *Department of Transportation* as *Principal Arterials or Minor Arterials* [~~a low type expressway, high type and low type divided highway~~], the setback shall be measured from a point not less than 50 feet from the center line of the right-of-way. On property fronting on highways designated by the Delaware [~~Division of Highways~~] *Department of Transportation* as *Major or Minor Collectors* [~~a two lane minor arterial and two lane collector road~~], the setback shall be measured from a point not less than 40 feet from the center line of the right-of-way. On property fronting on all other *local* [~~numbered~~] roads shown on the General Highway Map for Sussex County of 1964, as *last* revised, the setback shall be measured from a point not less than [~~25~~] 30 feet from the center line of the right-of-way. *If the existing right-of-way on any of these roads or highways is greater than the minimum dimension listed above, the setback shall be measured from the existing right-of-way line.*

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 1710 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 3RD DAY OF AUGUST 2004.

ROBIN A. GRIFFITH
CLERK OF THE COUNCIL