ORDINANCE NO. 2397

AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE X, §69 AND §72; ARTICLE XI, §77 AND §80 AND; ARTICLE XIA, §83.2 AND §83.6 OF THE CODE OF SUSSEX COUNTY RELATING TO TEMPORARY REMOVABLE VENDOR STANDS

WHEREAS, Sussex County Council has the power and jurisdiction to regulate zoning and uses of land in those portions of Sussex County which are not included within the corporate limits of any City or Town; and

WHEREAS, the Code of Sussex County does not clearly address or regulate temporary removable vendor stands, including "food trucks", and by default they have required Conditional Use approvals to legally operate in the County; and

WHEREAS, Sussex County Council desires to create a process in the Zoning Code to allow temporary removable vendor stands, including "food trucks" in certain areas under certain circumstances; and

WHEREAS, Sussex County Council deems it appropriate to allow certain temporary removable vendor stands, including "food trucks" to exist as permitted uses within the B-1 Neighborhood Business District, the C-1 General Commercial District and the CR-1 Commercial Residential District with certain limitations; and

WHEREAS, Sussex County Council deems it appropriate to include temporary removable vendor stands as special use exceptions in the B-1 Neighborhood Business District, the C-1 General Commercial District and CR-1 Commercial Residential District if not considered a permitted use; and

WHEREAS, Sussex County Council is of the opinion that this amendment will promote the health, safety morals, convenience, order, prosperity and welfare of the present and future inhabitants of the County and provide for a more orderly development of the County; and

WHEREAS, any material that is to be deleted from the Code of Sussex County is enclosed in [brackets] and any new material inserted into the Code of Sussex County is indicated by <u>underlining</u>;

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. The Code of Sussex County, Chapter 115, Article X, Section 69, Permitted Uses, is hereby amended by adding the following language after "Telephone stations or booths, including drive-in or talk-from-the car stations, and telephone central offices, provided that all storage of materials, all repair facilities and all housing of repair crews are within a completely enclosed area" and before "Undertaking businesses or establishments or funeral homes" as follows:

<u>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:</u>

<u>A. No temporary removable vendor stand shall be permanently affixed to the premises. All temporary removable vendor stands shall be fully transportable and moveable within twenty four hours.</u>

<u>B. There shall be no more than one temporary removable vendor stand on a parcel at any one time.</u>

<u>C. No temporary removable vendor stand shall be wider than 8 feet 6 inches nor longer than 45 feet.</u>

D. No temporary removable vendor stand shall be permanently connected to any utilities, including water, sewer, electric or gas.

E. No temporary removable vendor stand shall interfere with vehicular or pedestrian movement on a parcel or adjacent rights of way.

F. The owner of a proposed temporary removable stand shall present the Director of Planning and Zoning with (i) written approval of the existence and location of the stand by the property owner, and (ii) 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 (a) the location, (b) the size of the property, (c) the effect(s) upon on-site parking, neighboring properties or roadways, or (d) other good cause.

G. 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.

H. 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.

I. The approval of the temporary removable vendor stand shall be valid for one year.

J. 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 $100.00.

Section 2. The Code of Sussex County, Chapter 115, Article XI, Section 77, Permitted Uses, is hereby amended by adding the following language after "Tourist homes or rooming house" and before "Used car and truck sales and storage, parked a minimum of 25 feet from the front property line" as follows:

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:

A. No temporary removable vendor stand shall be permanently affixed to the premises. All temporary removable vendor stands shall be fully transportable and moveable within twenty four hours.

B. There shall be no more than one temporary removable vendor stand on a parcel at any one time.

C. No temporary removable vendor stand shall be wider than 8 feet 6 inches nor longer than 45 feet.

D. No temporary removable vendor stand shall be permanently connected to any utilities, including water, sewer, electric or gas.

E. No temporary removable vendor stand shall interfere with vehicular or pedestrian movement on a parcel or adjacent rights of way.

F. The owner of a proposed temporary removable stand shall present the Director of Planning and Zoning with (i) written approval of the existence and location of the stand by the property owner, and (ii) 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 (a) the location, (b) the size of the property, (c) the effect(s) upon on-site parking, neighboring properties or roadways, or (d) other good cause.

G. 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.

H. 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.

I. The approval of the temporary removable vendor stand shall be valid for one year.

J. 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 $100.00.

Section 3. The Code of Sussex County, Chapter 115, Article XIA, Section 83.2, Permitted Uses, is hereby amended by adding the following language after "Tourist homes or rooming house" and before "Used car and truck sales and storage, parked a minimum of 25 feet from the front property line" as follows:

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:

A. No temporary removable vendor stand shall be permanently affixed to the premises. All temporary removable vendor stands shall be wheeled and shall be fully transportable and moveable within twenty four hours.

B. There shall be no more than one temporary removable vendor stand on a parcel at any one time.

C. No temporary removable vendor stand shall be wider than 8 feet 6 inches nor longer than 45 feet.

D. No temporary removable vendor stand shall be permanently connected to any utilities, including water, sewer, electric or gas.

E. No temporary removable vendor stand shall interfere with vehicular or pedestrian movement on a parcel or adjacent rights of way.

F. The owner of a proposed temporary removable stand shall present the Director of Planning and Zoning with (i) written approval of the existence and location of the stand by the property owner, and (ii) 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 (a) the location, (b) the size of the property, (c) the effect(s) upon on-site parking, neighboring properties or roadways, or (d) other good cause.

G. 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.

H. Upon approval by the Director or Board of Adjustment, 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.

I. The approval of the temporary removable vendor stand shall be valid for one year.

J. 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 $100.00.

Section 4. The Code of Sussex County, Chapter 115, Article X, Section 72, Special Use Exceptions, is hereby amended by adding a new category of special use exception within subparagraph C. thereof as follows:

C. Other special use exceptions as follows:

…

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 Section 115-69. 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.

Section 5. The Code of Sussex County, Chapter 115, Article XI, Section 80, Special Use Exceptions, is hereby amended by adding a new category of special use exception within subparagraph C. thereof as follows:

C. Other special use exceptions as follows:

…

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 Section 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.

Section 6. The Code of Sussex County, Chapter 115, Article XI, Section 83.6, Special Use Exceptions, is hereby amended by adding a new category of special use exception within subparagraph C. thereof as follows:

C. Other special use exceptions as follows:

…

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 Section 115-83.2. 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.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2397 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 19TH DAY OF MAY 2015.

ROBIN A. GRIFFITH
CLERK OF THE COUNCIL

Synopsis

There have been several proposed temporary removable vendor stands (including "food trucks") that have sought approval in Sussex County, and until now there was no clear path under the Zoning Code governing the approval process. Instead, approvals have been sought by default under the Conditional Use "catch-all" category of "residential, business, commercial or industrial uses when the purpose of this chapter are more fully met by issuing a conditional use permit." As a result of this, existing stands run the risk of violation, and those seeking approval face uncertainty about how to proceed under the Code. With this amendment, such stands in the B-1, C-1 and CR-1 districts can receive over-the-counter approval if certain specific requirements are satisfied. In those districts, if the Director still has concerns about the proposal, the owner of the stand can seek a Special Use Exception from the Sussex County Board of Adjustment.

This amendment will not affect temporary removable farm stands that are permitted uses in the AR-1 District under Section 115-20.A.(3).