

ORDINANCE NO. 2938

AN ORDINANCE TO AMEND CHAPTER 99, ARTICLE III, SECTION 99-21 “PUBLIC SITES AND OPEN SPACES” AND CHAPTER 115, ARTICLE XXV, “SUPPLEMENTAL REGULATIONS” OF THE CODE OF SUSSEX COUNTY REGARDING THE TIMING OF CONSTRUCTION FOR AMENITIES IN RESIDENTIAL DEVELOPMENTS.

WHEREAS, The Code of Sussex County does not currently have any requirements for completion of amenities within a residential development such as clubhouses, swimming pools and other community amenities; and

WHEREAS, As a result of this lack of clarity, the completion of these amenities are defined through individual conditions of approval on each subdivision or other residential community without uniformity; and

WHEREAS, this Ordinance will create uniformity in the deadlines for completion of Clubhouse and community buildings, recreational facilities (including swimming pools, game courts, play areas, walking paths, bike paths and multimodal paths) and the associated parking areas within new residential developments in Sussex County; and

WHEREAS, this amendment protects the health, safety and welfare of Sussex County and its current and future.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. The Code of Sussex County, Chapter 99, Article III, Section 99-21 “Public sites and open spaces”, is amended by inserting therein the italicized language as a new subsection “E” as follows:

§ 99-21 Public sites and open spaces.

A. Where the proposed subdivision includes lands proposed for use as parks, playgrounds, playfields, public landings or school sites in the Comprehensive Plan, the subdivider shall indicate the location of such lands on the subdivision plat and shall reserve the right of purchase of such lands by the appropriate jurisdiction for the time period specified herein. If the reserved lands are not purchased by the appropriate jurisdiction within the specified time limit, the subdivider shall be free to market such lands for an alternate purpose as specified on the approved subdivision plat.

B. Park, playground and playfield areas may be required to be reserved for a period of two years from the date of recording the subdivision, and school sites shall be reserved for four years from such date.

C. Where deemed essential by the Commission upon consideration of the type of development proposed in the subdivision, the subdivider may be required to dedicate other areas or sites of a character, extent or location suitable to meet the needs of such development. In lieu of dedication, such additional areas may be reserved for the common use of all property owners in the proposed subdivision through deed restrictions or agreements approved by the Commission, which restrictions or agreements may include a right of enforcement by the County Council.

D. For residential subdivision and other residential land development, the following table shall serve as a guide for determining the minimum percentage of the total site which shall be set aside for park and open space uses:

Gross Density (dwelling units per acre)	Minimum Percentage of Open Space
2 to 5	10
6 to 10	15
Over 10	25 or more

E. Community buildings, recreational facilities (including swimming pools, game courts, play areas, tot lots, playgrounds, walking paths, bike paths and multimodal paths) and the associated parking areas shall be constructed and open to use by the residents of a subdivision on or before the issuance of the residential building permit representing 60% of the total residential building permits for the subdivision.

Section 2. The Code of Sussex County, Chapter 115, Article XXV “Supplemental Regulations”, is amended by the italicized language as a new §115-194.5 as follows:

§115-194.5 Completion of Community Amenities.

Community buildings, recreational facilities (including swimming pools, game courts, play areas, tot lots, playgrounds, walking paths, bike paths and multimodal paths) and the associated parking areas shall be constructed and open to use by the residents of a development on or before the issuance of the residential building permit representing 60% of the total residential building permits for the development.

Section 3. Effective Date:

This Ordinance shall take effect immediately upon its adoption by Sussex County Council. Provided, however, that it shall not apply to any residential development that has been approved by ordinance or that has received Preliminary Site Plan approval as of the date of adoption.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2938 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 18TH DAY OF JULY 2023.

**Tracy N. Torbert
Clerk of the Council**