

1 **AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY,**  
2 **CHAPTER 110, ARTICLE III, SECTIONS 110-9 AND CHAPTER 115,**  
3 **ARTICLES I, IV, V, VI, VII, VIII, IX, AND XXVII SECTIONS 115-4, 115-20,**  
4 **115-23, 115-29, 115-32, 115-40 115-48, 115-53, 115-56, 115-64, AND 115-210**  
5 **REGARDING ACCESSORY DWELLING UNITS.**

6  
7 WHEREAS, it is acknowledged that there is a need for affordable housing options  
8 in Sussex County, and a diversification of housing options; and

9  
10 WHEREAS, Accessory Dwelling Units, currently identified as Garage/Studio  
11 Apartments in the Code of Sussex County, can provide an alternative and affordable  
12 housing option in Sussex County; and

13  
14 WHEREAS, it is the desire of Sussex County to revise the name of these housing  
15 units from “Garage/Studio Apartment” to “Accessory Dwelling Units”, which is a  
16 more appropriate description of the types of units covered by this definition; and

17  
18 WHEREAS, these amendments promote the health, safety and welfare of Sussex  
19 County and its residents; and

20  
21 **NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDNAINS:**

22  
23 **Section 1. The Code of Sussex County, Chapter 110, Article III, § 110-109 is**  
24 **hereby amended inserting the italicized and underlined language**  
25 **alphabetically within the definitions as follows:**

26  
27 § 110-9. Separate building sewers required.

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29 A. A separate and independent building sewer shall be provided for every newly  
30 constructed dwelling, building or property used for human occupancy,  
31 employment, recreation or other purpose. The Engineer may allow more than  
32 one existing structure to be connected to a single building sewer in the best  
33 interest of the County.

34 B. A building sewer serving newly constructed buildings shall not service more  
35 than one of the following:

- 36 (1) Residential dwelling, either detached or one side of a double house or house  
37 in a row of houses, provided that *an accessory dwelling unit*, a garage, a

38 guesthouse and similar features incidental to the family life shall be  
39 considered as a portion of the dwelling.

40 (2) Industrial, commercial or manufacturing establishment.

41 (3) Commercial buildings separated by a partition wall or walls and  
42 comprising of stores, offices or any combination thereof.

43 (4) Detached building comprising apartments, stores, offices or any  
44 combination thereof.

45 (5) Establishment consisting of individual dwelling units under the  
46 management of a single commercial or cooperative entity.

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49 **Section 2. The Code of Sussex County, Chapter 115, Article I, § 115-4 is hereby**  
50 **amended by deleting the language in brackets and strikethrough and by**  
51 **inserting the italicized and underlined language alphabetically within the**  
52 **definitions as follows:**

53

54 **§ 115-4. Definitions and Word Usage.**

55 . . .

56

57 B. General definitions. For the purpose of this chapter, certain terms and words are  
58 hereby defined as follows:

59

60 [~~GARAGE/STUDIO APARTMENT~~] ACCESSORY DWELLING UNIT

61 [~~A building or use designed and use as a single apartment unit containing not more~~  
62 ~~than 800 square feet of total floor area and accessory to the single family dwelling~~

63 ~~Garage/studio apartments do not include duplexes, tourist homes, servant quarters,~~  
64 ~~or guest homes. Prior to use, a garage/studio apartment shall obtain a special use~~

65 ~~exception under the provisions of Article XXVII, Board of Adjustment, and all~~  
66 ~~necessary state and local permits.] A self-contained dwelling unit that is secondary~~

67 to the principal dwelling unit on a property and includes independent living  
68 facilities, such as a separate entrance, bathroom and kitchen. The dwelling unit

69 may be attached to, or detached from, the primary dwelling on the property.  
70 Accessory dwelling units do not include duplexes, tourist homes, servant quarters,

71 or guest homes.

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74 **Section 3. The Code of Sussex County, Chapter 115, Article IV, §115-20**  
75 **“Permitted Uses” is hereby amended by deleting the language in brackets and**  
76 **strikethrough inserting the italicized and underlined language:**

77  
78 **§ 115-20 Permitted Uses.**

79  
80 A. A building or land shall be used only for the following purposes:

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82 . . .

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84 (15) [~~Garage/studio apartment with at least one parking space~~] One accessory  
85 dwelling unit for the exclusive use of the tenant included on the premises that is  
86 administratively approved by the Director or his or her designee, and subject to the  
87 following:

88  
89 (a) There shall be a fee [~~of \$50~~] in an amount determined by County  
90 Council to request the [~~administrative~~] approval [~~which shall be credited towards a~~  
91 ~~Board of Adjustment application fee should consideration by the Board become~~  
92 ~~necessary~~] of the accessory dwelling unit.

93  
94 (b) The applicant shall submit a survey signed and sealed by a surveyor  
95 licensed in the State of Delaware to the Director showing the location of the  
96 [~~garage/studio apartment~~] accessory dwelling unit and the floor area of both the  
97 accessory dwelling unit and the single family dwelling.

98  
99 (c) [~~The Director shall give written notice to adjacent property owners of~~  
100 ~~the requested garage/studio apartment and accept written statements within 10~~  
101 ~~working days from the date of mailing. If any objection is received, the Director~~  
102 ~~shall refer the application to the Board of Adjustment for a Special Use Exception.]~~  
103 No accessory dwelling unit shall have a floor area that is greater than 1,000 square  
104 feet. An accessory dwelling unit shall not be larger than 50% of the floor area of  
105 the single family dwelling located on the same lot. An accessory dwelling shall not  
106 have a lot coverage that is greater than 50%.

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108 (d) [~~The Director shall consider factors including whether the~~  
109 ~~garage/studio apartment will have a substantially adverse effect on neighboring~~  
110 ~~properties.] There shall be at least 1 parking space set aside for an accessory  
111 dwelling unit.~~

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(e) [~~Within 30 working days after the request is submitted, the Director or his or her designee may approve the garage/studio apartment or advise the applicant that an application must be submitted to the Board of Adjustment for a Special Use Exception.~~] *An accessory dwelling unit shall comply with the same setbacks as the primary single family dwelling located on the same lot. An accessory dwelling shall be placed behind the primary single family dwelling on the same lot and maintain one-half of the single family dwelling's actual side and rear setbacks.*

(f) *No accessory dwelling unit shall be constructed or placed on a lot that is smaller than one-half acre in size.*

**Section 4. The Code of Sussex County, Chapter 115, Article IV, §115-23 “Special Use Exceptions” is hereby amended by deleting the language in brackets and strikethrough and inserting the italicized and underlined language:**

§ 115-23 Special use exceptions.

Special use exceptions may be permitted by the Board of Adjustment in accordance with the provisions of Article XXVII of this chapter and may include:

...

C. Other special use exceptions as follows:

...

(5) [~~Garage/studio apartments, when not approved administratively by the Director or his or her designee, provided that at least one parking space for the exclusive use of the tenant is included on the premises~~] *Reserved.*

**Section 5. The Code of Sussex County, Chapter 115, Article V, §115-29 “Permitted Uses” is hereby amended by deleting the language in brackets and strikethrough inserting the italicized and underlined language:**

§ 115-29 Permitted Uses.

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

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151 . . .

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153 ~~(K) [Garage/studio apartment with at least one parking space for the exclusive use~~  
154 ~~of the tenant included on the premises that is administratively approved by the~~  
155 ~~Director or his or her designee, and] One Accessory dwelling unit subject to the~~  
156 requirements set forth in Article IV, Section 115-20A.(15).

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158 **Section 6. The Code of Sussex County, Chapter 115, Article V, §115-32**  
159 **“Special Use Exceptions” is hereby amended by deleting the language in**  
160 **brackets and strikethrough:**

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162 § 115-32 Special use exceptions.

163 Special use exceptions may be permitted by the Board of Adjustment in accordance  
164 with the provisions of Article XXVII of this chapter and may include:

165 . . .

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167 C. Other special use exceptions as follows:

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171 ~~[Garage/studio apartments, when not approved administratively by the Director or~~  
172 ~~his or her designee, provided that at least one parking space for the exclusive use of~~  
173 ~~the tenant is included on the premises.]~~

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175 **Section 7. The Code of Sussex County, Chapter 115, Article VI, §115-40**  
176 **“Special Use Exceptions” is hereby amended by deleting the language in**  
177 **brackets and strikethrough:**

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179 § 115-40 Special use exceptions.

180 Special use exceptions may be permitted by the Board of Adjustment in accordance  
181 with the provisions of Article XXVII of this chapter and may include:

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184 C. Other special use exceptions as follows:

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188 [~~Garage/studio apartments, when not approved administratively by the Director or~~  
189 ~~his or her designee, provided that at least one parking space for the exclusive use of~~  
190 ~~the tenant is included on the premises.~~]

191  
192 **Section 8. The Code of Sussex County, Chapter 115, Article VII, §115-48**  
193 **“Special Use Exceptions” is hereby amended by deleting the language in**  
194 **brackets and strikethrough:**

195  
196 § 115-48 Special use exceptions.

197 Special use exceptions may be permitted by the Board of Adjustment in accordance  
198 with the provisions of Article XXVII of this chapter and may include:

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200  
201 C. Other special use exceptions as follows:

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203 . . .

204  
205 [~~Garage/studio apartments, when not approved administratively by the Director or~~  
206 ~~his or her designee, provided that at least one parking space for the exclusive use of~~  
207 ~~the tenant is included on the premises.~~]

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210  
211 **Section 9. The Code of Sussex County, Chapter 115, Article VIII, §115-53**  
212 **“Permitted Uses” is hereby amended by deleting the language in brackets and**  
213 **strikethrough and inserting the italicized and underlined language:**

214  
215 **§ 115-53 Permitted Uses.**

216  
217 A. A building or land shall be used only for the following purposes:

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219  
220 (H) [~~Garage/studio apartment with at least one parking space for the exclusive use~~  
221 ~~of the tenant included on the premises that is administratively approved by the~~]

222 ~~Director or his or her designee, and]~~ *One accessory dwelling unit* subject to the  
223 requirements set forth in Article IV, Section 115-20A.(15).

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227 **Section 10. The Code of Sussex County, Chapter 115, Article VIII, §115-56**  
228 **“Special Use Exceptions” is hereby amended by deleting the language in**  
229 **brackets and strikethrough:**

230

231 § 115-56 Special use exceptions.

232 Special use exceptions may be permitted by the Board of Adjustment in accordance  
233 with the provisions of Article XXVII of this chapter and may include:

234 . . .

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236 C. Other special use exceptions as follows:

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238 . . .

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240 [~~Garage/studio apartments, when not approved administratively by the Director or~~  
241 ~~his or her designee, provided that at least one parking space for the exclusive use of~~  
242 ~~the tenant is included on the premises.]~~

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244 **Section 11. The Code of Sussex County, Chapter 115, Article IX, §115-64**  
245 **“Special Use Exceptions” is hereby amended by deleting the language in**  
246 **brackets and strikethrough:**

247

248 § 115-64 Special use exceptions.

249 Special use exceptions may be permitted by the Board of Adjustment in accordance  
250 with the provisions of Article XXVII of this chapter and may include:

251 . . .

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253 C. Other special use exceptions as follows:

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257 [~~Garage/studio apartments, when not approved administratively by the Director or~~

258 ~~his or her designee, provided that at least one parking space for the exclusive use of~~  
259 ~~the tenant is included on the premises.]~~

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261 **Section 12. The Code of Sussex County, Chapter 115, Article XXVII, §115-210**  
262 **“Special Exceptions” is hereby amended by deleting the language in brackets**  
263 **and strikethrough:**

264

265 § 115-210 Special exceptions.

266 In order to provide for adjustments in the relative location of uses and buildings, to  
267 promote the usefulness of these regulations and to supply the necessary elasticity to  
268 their efficient operation, special use exceptions, limited as to locations described in  
269 this Article, and special yard and height, exceptions are permitted by the terms of  
270 these regulations. The following buildings and uses are permitted as special  
271 exceptions if the Board finds that, in its opinion, as a matter of fact, such exceptions  
272 will not substantially affect adversely the uses of adjacent and neighboring property:

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276 (3) Other special use exceptions as follows, which are specified in each district:

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278 . . .

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280 [~~(p) Garage/studio apartments, when not approved administratively by the~~  
281 ~~Director or his or her designee, provided that at least one parking space for the~~  
282 ~~exclusive use of the tenant is included on the premises.]~~

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284 **Section 13. Effective Date.**

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