

1 **AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY,**
2 **CHAPTER 72, ARTICLE II, SECTION 72-24 AND CHAPTER 115,**
3 **ARTICLE IV, V, VI, VII AND VIII SECTIONS 115-20, 115-29, 115-**
4 **37, 115-45 AND 115-53 REGARDING AFFORDABLY PRICED**
5 **RENTAL UNITS AND THE SUSSEX COUNTY RENTAL UNIT**
6 **(SCRIP) PROGRAM.**

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8 WHEREAS, Sussex County Council has adopted the 2018
9 Comprehensive Development Plan (the “Plan”); and

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11 WHEREAS, The Housing Element of the Plan contains the following
12 “Housing Vision”: To ensure the provision of decent, safe, affordable and
13 safe housing opportunities to improve communities and quality of life for
14 the residents of Sussex County; and

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16 WHEREAS, The Housing Element of the Plan recognizes that “the
17 shortage of affordable housing remains a very real problem for low to
18 moderate-income households in Sussex County, including many with
19 full-time, year-round jobs”; and

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21 WHEREAS, Goal 8.2 of the Housing Element within the Plan states that
22 Sussex County should “Ensure that a diversity of housing opportunities
23 are available to meet the needs of residents of different ages, income
24 levels, abilities, national origins and household configurations”; and

25
26 WHEREAS, Objective 8.2.1 and Strategy 8.2.1.1 of the Housing Element
27 within the Plan state that Sussex County will “Affirmatively further
28 affordable and fair housing opportunities in the County to accommodate
29 the needs of all residents” and in so doing “improve the County’s SCRIP
30 and MPHU Programs to provide incentives to properly reflect the housing
31 market and incentivize developers to participate in the provision of
32 affordable housing”; and

34 WHEREAS, Strategy 8.2.1.3 of the Housing Element within the Plan
35 states that Sussex County should “explore ways for private developers to
36 provide multi-family and affordable housing opportunities; and

37

38 WHEREAS, Strategy 8.3.1.1 of the Housing Element within the Plan
39 states that Sussex County should “evaluate current County Code on an
40 on-going basis to determine if any regulatory barriers exist that impede
41 the development of multi-family and affordable housing”; and

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43 WHEREAS, Sussex County Council, with the assistance of the Office of
44 Community Development and Housing, has determined that the current
45 Sussex County Rental Program has been underutilized based upon
46 impacts to such developments; and

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48 WHEREAS, Sussex County Council commissioned a Land Use Reform
49 Working Group that developed multiple recommendations for
50 improvements to the Sussex County Code regarding housing and land use
51 and one of the recommendations included an update to the Sussex County
52 Rental Unit program as reflected in this Ordinance; and

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54 WHEREAS, Sussex County Council, with the assistance of the Office of
55 Community Development and Housing, has determined that the current
56 Sussex County Rental Unit program contained in Chapter 72 of the Code
57 of Sussex County requires an update based upon lessons learned in the
58 implementation and application of that Chapter to the single rental project
59 in Sussex County that has utilized the Program; and

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

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65 **NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY**
66 **ORDAINS:**

67 **Section 1. The Code of Sussex County, Chapter 72, Article II, §72-24**
68 **“SCRP Units” is hereby amended by deleting the language in**
69 **brackets and inserting the italicized and underlined language as**
70 **follows:**

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72 **§ 72-24 SCR P Units.**

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74 **A. Rent.**

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76 (1) Rent shall be established and updated annually by the
77 Department based upon 25% of household income for ~~50~~60%
78 of the area median income adjusted for household size and unit
79 size and shall not include trash services, parking, water and
80 sewer utilities and any other charges to be paid by the tenant.

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84 **Section 2. The Code of Sussex County, Chapter 115, Article IV, §115-**
85 **20 “Permitted Uses”, is hereby amended by deleting the language in**
86 **brackets and inserting the italicized and underlined language as**
87 **follows:**

88

89 **§115-20 Permitted Uses.**

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91 **A. A building or land shall be used only for the following purposes:**

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93 . . .

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95 (17) A Sussex County Rental Program, or SCR P, ~~townhouse or~~
96 ~~multi-family~~ development governed by, and subject to, Chapter
97 72, where at least ~~25~~15% of all dwelling units are SCR P Units

98 pursuant to Chapter 72. The SCRP development must satisfy the
99 following criteria:

100 (a) The site must be located within a Town Center, a Developing
101 Area, the Commercial Area or the Coastal Area as described
102 within the Land Use Element and as shown on the Future Land
103 Use Plan of the adopted Sussex County Comprehensive Plan.

104
105 (b) The site shall be located within 2,640 feet of a principal arterial
106 road, minor arterial road or major collector road as classified by
107 the Delaware Department of Transportation. In addition, an
108 Applicant should make every effort to coordinate with DART for
109 transit access to and from the site.

110
111 (c) The site must be served by a central sewer system and a central
112 water system.

113
114 (d) The total maximum number of dwelling units (including both
115 SCRP Units and non-SCRP Units) that may be permitted shall be
116 determined by dividing the gross area by 3,630 square feet.
117 "Gross area" shall exclude any area designated as a [tidal tributary
118 stream or tidal wetlands] *Tidal Waters or Tidal Wetlands* by § 115-
119 193.

120 (e) There shall be a [one-hundred] *fifty* foot wide setback around
121 the entire site, which shall incorporate the perimeter buffers and
122 perimeter buffer protection areas (if Perimeter Buffer Protection
123 Areas are required) set forth in §99-21.A. This setback may
124 include walking and biking trails.

125 (f) The height of any [townhouse or multi-family] buildings shall
126 not exceed 52 feet or four stories, whichever is greater; provided,
127 however, [that if the height does not exceed 42 feet, then the

128 setback described in this subsection shall be reduced from 100
129 feet to 50 feet] that if the height exceeds 42 feet and the site is
130 adjacent to land that is, or could become, developed residentially,
131 the building(s) shall include a stepback design above 42 feet
132 and/or an increased setback to ensure an appropriate
133 relationship between the higher density SCRP project and uses of
134 low intensity or height, existing or future, outside the proposed
135 SCRP project.

136 (g) There shall be sidewalks on at least one side of all streets,
137 roadways and parking areas, with interconnectivity to adjacent
138 walkway systems wherever possible.

139 (h) There must be interconnectivity with any adjacent property
140 that is zoned C-1, CR-1, C-2, C-3, C-4, C-5, B-1, B-2 or B-3
141 wherever appropriate as determined by the Commission.

142 (i) There shall be open space that exceeds [50]30% of the gross
143 area of the entire site.

144 [(j) Sussex County shall commence a comprehensive review of
145 the provisions of this SCRP program as set forth herein on or
146 before January 1, 2028.]

147
148 **Section 3. The Code of Sussex County, Chapter 115, Article V, §115-**
149 **29 “Permitted Uses”, is hereby amended by deleting the language in**
150 **brackets and inserting the italicized and underlined language as**
151 **follows:**

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153 **§115-29 Permitted Uses.**

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

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159 M. A Sussex County Rental Program, or SCRP, [townhouse or
160 multi-family] development governed by, and subject to, Chapter
161 72, where at least [25]15% of all dwelling units are SCRP Units
162 pursuant to Chapter 72. The SCRP development must satisfy the
163 following criteria:

164 (1) The site must be located within a Town Center, a Developing
165 Area, the Commercial Area or the Coastal Area as described
166 within the Land Use Element and as shown on the Future Land
167 Use Plan of the adopted Sussex County Comprehensive Plan.

168
169 (2) The site shall be located within 2,640 feet of a principal arterial
170 road, minor arterial road or major collector road as classified by
171 the Delaware Department of Transportation. In addition, an
172 Applicant should make every effort to coordinate with DART for
173 transit access to and from the site.

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175 (3) The site must be served by a central sewer system and a central
176 water system.

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178 (4) The total maximum number of dwelling units (including both
179 SCRP Units and non-SCRP Units) that may be permitted shall be
180 determined by dividing the gross area by 3,630 square feet.
181 "Gross area" shall exclude any area designated as a [tidal tributary
182 stream or tidal wetlands] Tidal Waters or Tidal Wetlands by § 115-
183 193.

184 (5) There shall be a [one-hundred] fifty foot wide setback around
185 the entire site, which shall incorporate the perimeter buffers and
186 perimeter buffer protection areas (if Perimeter Buffer Protection
187 Areas are required) set forth in §99-21.A. This setback may
188 include walking and biking trails.

189 (6) The height of any [townhouse or multi-family] buildings shall
190 not exceed 52 feet or four stories, whichever is greater; provided,
191 however, [that if the height does not exceed 42 feet, then the
192 setback described in this subsection shall be reduced from 100
193 feet to 50 feet] that if the height exceeds 42 feet and the site is
194 adjacent to land that is, or could become, developed residentially,
195 the building(s) shall include a stepback design above 42 feet
196 and/or an increased setback to ensure an appropriate
197 relationship between the higher density SCRP project and uses of
198 low intensity or height, existing or future, outside the proposed
199 SCRP project.

200 (7) There shall be sidewalks on at least one side of all streets,
201 roadways and parking areas, with interconnectivity to adjacent
202 walkway systems wherever possible.

203 (8) There must be interconnectivity with any adjacent property
204 that is zoned C-1, CR-1, C-2, C-3, C-4, C-5, B-1, B-2 or B-3
205 wherever appropriate as determined by the Commission.

206 (9) There shall be open space that exceeds [50]30% of the gross
207 area of the entire site.

208 [(10) Sussex County shall commence a comprehensive review of
209 the provisions of this SCRP program as set forth herein on or
210 before January 1, 2028.]

211
212 **Section 4. The Code of Sussex County, Chapter 115, Article VI, §115-**
213 **37 “Permitted Uses”, is hereby amended by deleting the language in**
214 **brackets and inserting the italicized and underlined language as**
215 **follows:**

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217 **§115-37 Permitted Uses.**

218
219 Permitted uses are as follows:

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222 C. A Sussex County Rental Program, or SCRP, [townhouse or
223 multi-family] development governed by, and subject to, Chapter
224 72, where at least [25]15% of all dwelling units are SCRP Units
225 pursuant to Chapter 72. The SCRP development must satisfy the
226 following criteria:

227 (1) The site must be located within a Town Center, a Developing
228 Area, the Commercial Area or the Coastal Area as described
229 within the Land Use Element and as shown on the Future Land
230 Use Plan of the adopted Sussex County Comprehensive Plan.

231
232 (2) The site shall be located within 2,640 feet of a principal arterial
233 road, minor arterial road or major collector road as classified by
234 the Delaware Department of Transportation. In addition, an
235 Applicant should make every effort to coordinate with DART for
236 transit access to and from the site.

237
238 (3) The site must be served by a central sewer system and a central
239 water system.

240
241 (4) The total maximum number of dwelling units (including both
242 SCRP Units and non-SCRP Units) that may be permitted shall be
243 determined by dividing the gross area by 3,630 square feet.
244 "Gross area" shall exclude any area designated as a [tidal tributary
245 stream or tidal wetlands] Tidal Waters or Tidal Wetlands by § 115-
246 193.

247 (5) There shall be a [one-hundred] fifty foot wide setback around
248 the entire site, which shall incorporate the perimeter buffers and
249 perimeter buffer protection areas (if Perimeter Buffer Protection

250 Areas are required) set forth in §99-21.A. This setback may
251 include walking and biking trails.

252 (6) The height of any [townhouse or multi-family] buildings shall
253 not exceed 52 feet or four stories, whichever is greater; provided,
254 however, [that if the height does not exceed 42 feet, then the
255 setback described in this subsection shall be reduced from 100
256 feet to 50 feet] that if the height exceeds 42 feet and the site is
257 adjacent to land that is, or could become, developed residentially,
258 the building(s) shall include a stepback design above 42 feet
259 and/or an increased setback to ensure an appropriate
260 relationship between the higher density SCRP project and uses of
261 low intensity or height, existing or future, outside the proposed
262 SCRP project.

263 (7) There shall be sidewalks on at least one side of all streets,
264 roadways and parking areas, with interconnectivity to adjacent
265 walkway systems wherever possible.

266 (8) There must be interconnectivity with any adjacent property
267 that is zoned C-1, CR-1, C-2, C-3, C-4, C-5, B-1, B-2 or B-3
268 wherever appropriate as determined by the Commission.

269 (9) There shall be open space that exceeds [50] 30% of the gross
270 area of the entire site.

271 [(10) Sussex County shall commence a comprehensive review of
272 the provisions of this SCRP program as set forth herein on or
273 before January 1, 2028.]

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275 **Section 5. The Code of Sussex County, Chapter 115, Article VII,**
276 **§115-45 “Permitted Uses”, is hereby amended by deleting the**
277 **language in brackets and inserting the italicized and underlined**
278 **language as follows:**

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280 **§115-45 Permitted Uses.**

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Permitted uses are as follows:

. . .

F. A Sussex County Rental Program, or SCRP, [townhouse or multi-family] development governed by, and subject to, Chapter 72, where at least [25] 15% of all dwelling units are SCRP Units pursuant to Chapter 72. The SCRP development must satisfy the following criteria:

(1) The site must be located within a Town Center, a Developing Area, the Commercial Area or the Coastal Area as described within the Land Use Element and as shown on the Future Land Use Plan of the adopted Sussex County Comprehensive Plan.

(2) The site shall be located within 2,640 feet of a principal arterial road, minor arterial road or major collector road as classified by the Delaware Department of Transportation. In addition, an Applicant should make every effort to coordinate with DART for transit access to and from the site.

(3) The site must be served by a central sewer system and a central water system.

(4) The total maximum number of dwelling units (including both SCRP Units and non-SCRP Units) that may be permitted shall be determined by dividing the gross area by 3,630 square feet. "Gross area" shall exclude any area designated as a [tidal tributary stream or tidal wetlands] Tidal Waters or Tidal Wetlands by § 115-193.

311 (5) There shall be a [one-hundred] *fifty* foot wide setback around
312 the entire site, which shall incorporate the perimeter buffers and
313 perimeter buffer protection areas (if Perimeter Buffer Protection
314 Areas are required) set forth in §99-21.A. This setback may
315 include walking and biking trails.

316 (6) The height of any [townhouse or multi-family] buildings shall
317 not exceed 52 feet or four stories, whichever is greater; provided,
318 however, [that if the height does not exceed 42 feet, then the
319 setback described in this subsection shall be reduced from 100
320 feet to 50 feet] *that if the height exceeds 42 feet and the site is*
321 *adjacent to land that is, or could become, developed residentially,*
322 *the building(s) shall include a stepback design above 42 feet*
323 *and/or an increased setback to ensure an appropriate*
324 *relationship between the higher density SCRCP project and uses of*
325 *low intensity or height, existing or future, outside the proposed*
326 *SCRCP project.*

327 (7) There shall be sidewalks on at least one side of all streets,
328 roadways and parking areas, with interconnectivity to adjacent
329 walkway systems wherever possible.

330 (8) There must be interconnectivity with any adjacent property
331 that is zoned C-1, CR-1, C-2, C-3, C-4, C-5, B-1, B-2 or B-3
332 *wherever appropriate as determined by the Commission.*

333 (9) There shall be open space that exceeds [50] 30% of the gross
334 area of the entire site.

335 [(10) Sussex County shall commence a comprehensive review of
336 the provisions of this SCRCP program as set forth herein on or
337 before January 1, 2028.]

338

339 **Section 6. The Code of Sussex County, Chapter 115, Article VIII,**
340 **§115-53 “Permitted Uses”, is hereby amended by deleting the**

341 **language in brackets and inserting the italicized and underlined**
342 **language as follows:**

343

344 **§115-53 Permitted Uses.**

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

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348 . . .

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350 K. A Sussex County Rental Program, or SCRCP, [**townhouse or**
351 **multi-family**] development governed by, and subject to, Chapter
352 72, where at least [**25**] 15% of all dwelling units are SCRCP Units
353 pursuant to Chapter 72. The SCRCP development must satisfy the
354 following criteria:

355 (1) The site must be located within a Town Center, a Developing
356 Area, the Commercial Area or the Coastal Area as described
357 within the Land Use Element and as shown on the Future Land
358 Use Plan of the adopted Sussex County Comprehensive Plan.

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360 (2) The site shall be located within 2,640 feet of a principal arterial
361 road, minor arterial road or major collector road as classified by
362 the Delaware Department of Transportation. In addition, an
363 Applicant should make every effort to coordinate with DART for
364 transit access to and from the site.

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366 (3) The site must be served by a central sewer system and a central
367 water system.

368

369 (4) The total maximum number of dwelling units (including both
370 SCRCP Units and non-SCRCP Units) that may be permitted shall be
371 determined by dividing the gross area by 3,630 square feet.

372 "Gross area" shall exclude any area designated as a [tidal tributary
373 stream or tidal wetlands] Tidal Waters or Tidal Wetlands by § 115-
374 193.

375 (5) There shall be a [one-hundred] fifty foot wide setback around
376 the entire site, which shall incorporate the perimeter buffers and
377 perimeter buffer protection areas (if Perimeter Buffer Protection
378 Areas are required) set forth in §99-21.A. This setback may
379 include walking and biking trails.

380 (6) The height of any [townhouse or multi-family] buildings shall
381 not exceed 52 feet or four stories, whichever is greater; provided,
382 however, [that if the height does not exceed 42 feet, then the
383 setback described in this subsection shall be reduced from 100
384 feet to 50 feet] that if the height exceeds 42 feet and the site is
385 adjacent to land that is, or could become, developed residentially,
386 the building(s) shall include a stepback design above 42 feet
387 and/or an increased setback to ensure an appropriate
388 relationship between the higher density SCRIP project and uses of
389 low intensity or height, existing or future, outside the proposed
390 SCRIP project.

391 (7) There shall be sidewalks on at least one side of all streets,
392 roadways and parking areas, with interconnectivity to adjacent
393 walkway systems wherever possible.

394 (8) There must be interconnectivity with any adjacent property
395 that is zoned C-1, CR-1, C-2, C-3, C-4, C-5, B-1, B-2 or B-3
396 wherever appropriate as determined by the Commission.

397 (9) There shall be open space that exceeds [50] 30% of the gross
398 area of the entire site.

399 [(10) Sussex County shall commence a comprehensive review of
400 the provisions of this SCRIP program as set forth herein on or
401 before January 1, 2028.]

402

403 **SECTION 7. Effective Date.** This Ordinance shall become effective on
404 the date of its adoption by Sussex County Council.