

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

15  
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

20  
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

42

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

47

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

53

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.

64

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:**

71

72 **§ 72-24 SCR P Units.**

73

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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82 . . . .

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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:**

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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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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.**

154  
155 A building or land shall be used only for the following purposes:

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157 . . .  
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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.  
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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:**

216

217 **§115-37 Permitted Uses.**

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219 Permitted uses are as follows:

220 . . .  
221

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.]

274

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 SCRP project and uses of*  
325 *low intensity or height, existing or future, outside the proposed*  
326 *SCRP 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 SCRP 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.**

345

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

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348 . . .

349

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

359

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.

365

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 SCRP Units and non-SCRP 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 SCRCP project and uses of*  
389 *low intensity or height, existing or future, outside the proposed*  
390 *SCRCP 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 SCRCP 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.