

1 **AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY,**
2 **CHAPTER 72, ARTICLE II, SECTIONS 72-16 THROUGH 72-28**
3 **AND CHAPTER 115, ARTICLE IV, V, VI, VII AND VIII**
4 **SECTIONS 115-20, 115-25, 115-29, 115-34, 115-37, 115-42, 115-45,**
5 **115-50, 115-53 AND 115-58 REGARDING AFFORDABLY PRICED**
6 **RENTAL UNITS AND THE SUSSEX COUNTY RENTAL UNIT**
7 **(SCRIP) PROGRAM.**

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

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

16
17 WHEREAS, The Housing Element of the Plan recognizes that an influx
18 of new residents in Sussex County has fueled prosperity in the County’s
19 real estate market, hospitality industry, and related economic sectors, yet
20 most housing, particularly on the eastern side of the County, is new and
21 often unaffordable to low-income families, seasonal employees, entry-
22 level workers, or recent college graduates; and

23
24 WHEREAS, The Housing Element of the Plan recognizes that “the
25 shortage of affordable housing remains a very real problem for low to
26 moderate-income households in Sussex County, including many with
27 full-time, year-round jobs; and

28
29 WHEREAS, Goal 8.2 of the Housing Element within the Plan states that
30 Sussex County should “Ensure that a diversity of housing opportunities
31 are available to meet the needs of residents of different ages, income
32 levels, abilities, national origins and household configurations”; and

33
34 WHEREAS, Objective 8.2.1 and Strategy 8.2.1.1 of the Housing Element
35 within the Plan states that Sussex County will “Affirmatively further
36 affordable and fair housing opportunities in the County to accommodate
37 the needs of all residents” and in so doing “improve the County’s SCRIP
38 and MPHU Programs to provide incentives to properly reflect the housing
39 market and incentivize developers to participate in the provision of
40 affordable housing”; and

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

46 WHEREAS, Objective 8.2.3 and Strategies 8.2.3.1, 8.2.3.2 and 8.2.3.6 of
47 the Housing Element within the Plan state that Sussex County should
48 “facilitate and promote land use policies that enable an increase in the
49 supply of affordable housing in areas with adequate infrastructure” by
50 “increasing affordable housing options, including the supply of rental
51 units, near employment opportunities”; by reviewing “County code to
52 determine if there are regulatory barriers to development of affordable
53 housing”; and by “revisiting [the] zoning code to determine in districts
54 where multifamily housing is currently a conditional use, if it should be
55 made a permitted use if water and sewer are already present and available
56 on the site”; and

57

58 WHEREAS, Strategy 8.3.1.1. of the Housing Element within the Plan
59 states that Sussex County should “evaluate current County code on an on-
60 going basis to determine if any regulatory barriers exist that impede the
61 development of multi-family and affordable housing”; and

62

63 WHEREAS, this Ordinance is in furtherance of these Goals, Objectives
64 and Strategies as set forth in the of the Housing Element within the Plan;
65 and

66

67 WHEREAS, Sussex County Council commissioned a study of Housing
68 Opportunities and Market Evaluation to evaluate and recommend
69 strategies and policies designed to promote housing choice and economic
70 vitality for Sussex County’s residents and workforce; and

71

72 WHEREAS, in November of 2019, LSA, the housing consultant retained
73 by Sussex County Council, issued its Final Report on “Housing
74 Opportunities and Market Evaluation” following an eight-month
75 initiative that included input from residents, homebuilders, developers,
76 housing advocates, County staff, County Council and Planning
77 Commissioners (“the LSA Report”); and

78

79 WHEREAS, one of the primary Strategy Recommendations included in
80 the LSA Report was a recommendation to “Modify the Zoning Code to
81 promote housing affordability in the Growth Areas identified in the
82 Comprehensive Plan, including the allowance for a maximum density of
83 12 units per acre “by-right” where affordable housing units are provided;
84 and

85

86 WHEREAS, this Ordinance carries out the Goals, Objectives and
87 Strategies of the Sussex County Comprehensive Plan and the LSA
88 Report; and

89

90 WHEREAS, Sussex County Council, with the assistance of the Office of
91 Community Development and Housing, has determined that the current
92 Sussex County Rental Unit program contained in Chapter 72 of the Code
93 of Sussex County requires an update based upon lessons learned in the
94 implementation and application of that Chapter to the single rental project
95 in Sussex County that has utilized the Program; and

96
97 WHEREAS, Sussex County Council, with the assistance of the Office of
98 Community Development and Housing, has determined that the current
99 Sussex County Rental Unit program contained in Chapter 72 of the Code
100 of Sussex County should be revised to attract more affordable housing
101 developments within Sussex County; and

102
103 WHEREAS, it has been determined that this Ordinance promotes and
104 protects the health, safety, convenience, orderly growth and welfare of
105 the inhabitants of Sussex County.

106
107 **NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY**
108 **ORDAINS:**

109
110 **Section 1. The Code of Sussex County, Chapter 72, Article II, §72-16**
111 **through 72-28 is hereby amended by deleting the language in**
112 **brackets and inserting the italicized and underlined language as**
113 **follows:**

114
115 **§ 72-16 Intent.**

116
117 This chapter seeks to better protect the health, safety and welfare of
118 Sussex County's residents and workforce by stimulating the provision of
119 affordable rental housing for residents with low and moderate incomes
120 and is hereafter known as the "Sussex County Rental Program" or
121 "SCRIP" or "program."

122
123 **§ 72-17 Governmental findings.**

124
125 The Sussex County Council hereby finds that a shortage exists within the
126 County for housing for residents with low and moderate incomes.
127 Specifically, the Council finds that:

128
129 A. It is well known that Sussex County rents have inflated far beyond
130 the ability of an average wage earner to pay. It is also known that
131 federal rental assistance programs, such as the state-administered
132 Public Housing and Section 8 Housing Choice Voucher
133 Programs, are unable to completely satisfy the need for affordable
134 rental housing.

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B. Council finds that new development is not adequately addressing the rental housing needs of the County's low- and moderate-income residents and workforce. Without influencing this trend, local employers will have a difficult time maintaining an ample workforce.

C. Without an adequate supply of affordable rental housing in close proximity to employment and Town Centers, the County's workforce must commute a great distance for work. Not only do long commutes have a negative effect on the environment and transportation, but commuting also comes with high fuel expenses.

D. Given the proper incentives, the private sector possesses the necessary resources and expertise to provide the type of affordable rental housing needed in Sussex County.

§ 72-18 Declaration of public policy.

The Sussex County Council hereby declares it to be the public policy of the County to:

A. Encourage the creation of a full range of housing choices, conveniently located in suitable living environments, for all incomes, ages and family sizes.

B. Encourage the production of affordable rental units to meet the existing and anticipated future employment needs in the County.

C. Assure that affordable rental units are dispersed throughout the County consistent with the Comprehensive Plan.

D. Encourage developments in Growth Areas as defined within the County's most current comprehensive plan and Areas of Opportunity as defined by the Delaware State Housing Authority to include [a minimum percentage of] affordable rental units on public water and sewer systems.

E. Provide incentives for developers to construct affordable rental units through tools such as the density incentive and expedited review (defined below).

§ 72-19 Definitions.

The following words and phrases have the following meanings:

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APPLICANT

Any person, firm, partnership, association, joint venture, corporation, or other entity or combination of entities owning or controlling via contract qualifying land (defined below) and any transferee or successor in interest of all or part of the qualifying land pursuing the development of affordable rental housing under the SCRIP that:

- A. Submits to the County for approval or extension of approval a plan of housing development for any type of site plan review, subdivision plan or development approval (hereinafter, a "site plan") that provides for the development of affordable rental units on qualifying land in one or more subdivisions, parts of subdivisions, resubdivisions, multi-family townhouse developments or phases of development under the terms and conditions as set forth in this article.
- B. With respect to land in zones not subject to subdivision approval or site plan review, applies for building permits for the construction of affordable rental units on qualifying land under the terms and conditions as set forth in this article.

AREA MEDIAN INCOME

The midpoint family income for Sussex County, calculated each year by the U.S. Department of Housing and Urban Development (HUD), adjusted for household size.

AT ONE LOCATION

All land of the [a]Applicant if:

- A. The property lines are contiguous; or
- B. The property lines are separated only by a public or private right-of-way at any point; or
- C. The property lines are separated only by other land of the [a]Applicant and not subject to this section at the time of the submission of an application or development plan by the [a]Applicant.

[CERTIFICATE OF ELIGIBILITY

A certificate valid for a period of time, which is issued to eligible tenants by the landlord (defined below) and supplied to the Department (defined below) as further set forth within this article. This certificate must be issued before a tenant will be permitted to sign a lease agreement.]

223 [CONTROL PERIOD

224 The time a SCRP unit is subject to rental controls and occupancy
225 requirements. The control period is 30 years and begins on the date
226 of lease (defined below).]

227

228 DATE OF LEASE

229 The date of the initial lease agreement signing of an approved
230 [e]Eligible [t]Tenant for a SCRP [u]Unit.

231

232 DENSITY INCENTIVE

233 [Any increase in density pursuant to § 72-21 that allows a residential
234 development to achieve a density greater than would have been
235 possible under the applicable provisions of current and future zoning
236 ordinances and the County subdivision regulations then in effect.]

237 The density permitted by §72-21 and as a permitted use for SCRP
238 projects in Chapter 115.

239

240 DEPARTMENT

241 The Sussex County Department of Community Development and
242 Housing or its successors.

243

244 DEPARTMENT-DESIGNATED ENTITY (DDE)

245 Any agency, authority or political subdivision of the State of
246 Delaware or any other public housing development agency or
247 nonprofit housing corporation, land trust or similar entity designated
248 by the Department and approved by the County Administrator.

249

250 DIRECTOR

251 The head of the Department of Community Development and
252 Housing or head of a DDE, as applicable.

253

254 DWELLING

255 Any building, structure, or portion thereof which is occupied as, or
256 designed or intended for occupancy as, a residence; and any vacant
257 land which is offered for sale or lease for the construction or location
258 thereon of any such building, structure, or portion thereof.
259 "Dwelling" shall not include hotels, motels, motor lodges, boarding
260 and lodging houses, tourist houses, or similar structures.

261

262 ELIGIBLE INCOME

263 The levels of income designated by the County Administrator which
264 prohibit or severely limit the financial ability of persons to rent a
265 dwelling unit in Sussex County. Eligible [i]Income is low- to
266 moderate-income, defined as 30% to 80% of the area median
267 income for Sussex County adjusted for household size as defined by
268 the U.S. Department of Housing and Urban Development (HUD).

269 Income includes gross salary, wages, dividends, interest and all
270 other sources recognized by HUD from the [e]Eligible [t]Tenant and
271 all other adults (age 18 and older) who will occupy the SCRP
272 [u]Unit. Income will be verified by a copy of the filed income tax
273 returns from the previous year and any other personal and financial
274 information requested by the [l]Landlord in order to accurately
275 verify the potential tenant's qualifications and income, which may
276 include, but is not limited to, a credit history report and a criminal
277 background report on the proposed adult tenants, so long as these
278 are requirements for all leases in the housing development.

279

280 ELIGIBLE TENANT

281 Person(s):

282 A. Whose household *income is within the Eligible Income* [is of low or
283 moderate income;].

284 [B. Who has been found eligible to participate in the Sussex County
285 Rental Program; and

286 C. Who holds a valid certificate of eligibility from the landlord.]

287

288 EXPEDITED REVIEW

289 A project entering the SCRP will receive priority in the County's
290 planning and zoning process, with the Director of Planning and
291 Zoning and the County Administrator to determine the
292 [a]Applicant's placement in the list of pending applications. The
293 expedited review is provided to the [a]Applicant to assist the
294 [a]Applicant in managing, to the extent possible, the risk of changes
295 to cost, interest rates, schedule and other factors that the [a]Applicant
296 is taking on by virtue of participation in the SCRP. If an [a]Applicant
297 at any time during processing elects to withdraw from the SCRP,
298 any approvals granted for the development through the date of
299 withdrawal will be vacated and the [a]Applicant will have to
300 resubmit the project through the normal County process. A project
301 receiving expedited review does not exempt the project from the
302 County's planning and zoning process, nor guarantee approval
303 through that process.

304

305 FORECLOSURE EVENT

306 A foreclosure, deed-in-lieu of foreclosure or other court-ordered
307 sale of the rental unit or of the subdivision or development in which
308 the unit is located, subject to rental restrictions continuing in force
309 after foreclosure sale of disposition.

310

311 LANDLORD

312 The owner of the property that contains SCRP [u]Units or an entity
313 designated by the owner to manage and lease dwelling units.

314

315 QUALIFYING LAND

316 All land that:

317 A. Is owned by or under contract to the [a]Applicant; and

318 B. [Is located within a Growth Area as defined within the County's most
319 current comprehensive plan or within an Area of Opportunity as
320 defined by the Delaware State Housing Authority; and] Allows the
321 SCRP Units as a Permitted Use pursuant to Chapter 115.

322 [C. Requires the submission and approval of a site plan or, where a site
323 plan is not required, one or more building permits; and

324 D. Is served by a public water and sewer system; and

325 E. Is at one location as defined above.]

326

327 SUSSEX COUNTY RENTAL PROGRAM UNIT (SCRP UNIT)

328 A dwelling which is:

329 A. Offered for lease to [e]Eligible [t]Tenants through or pursuant to the
330 provisions of this article and any regulations promulgated
331 thereunder by the Department and approved by the County
332 Administrator; or

333 B. Leased under another government program designated by the County
334 Administrator designed to assist in the construction or occupancy of
335 affordable rental housing.

336

337 **§ 72-20 Minimum standards of eligibility for tenants.**

338

339 A. Eligible [t]Tenants must:

340

341 (1) Have proof of citizenship.

342

343 (2) Be of [e]Eligible [i]Income, as defined in § 72-19 above,
344 and be able to pay the first month's rent and any required
345 security deposit.

346

347 (3) Be employed [and live] in Sussex County for at least one
348 year preceding application to the SCRP. Sussex County
349 employers may seek waivers to this restriction from the
350 Director and County Administrator. Waivers are evaluated
351 on a case-by-case basis and are not guaranteed.

352

353 (4) Provide proof that adult tenants have not been convicted of
354 a felony and have a satisfactory credit and criminal history,
355 so long as these are requirements of all leases within the
356 proposed housing development.

357
358 (5) Occupy the SCRCP [u]Unit as the tenant's principal residence
359 during the lease period. Each [e]Eligible [t]Tenant must
360 certify before taking occupancy that the tenant will occupy
361 the SCRCP [u]Unit as the tenant's principal residence. Any
362 tenant who violates occupancy requirements will be subject
363 to eviction procedures.

364
365 B. Where necessary or advisable to achieve the objectives of this
366 chapter or to comply with state or federal housing laws, the
367 Department may propose changes to these standards for approval
368 by the County, including changes to eligibility requirements for
369 tenants as recommended by the Department.

370
371 **§ 72-21 Density and expedited review incentives.**

372
373 A. Density incentive. [Subject to meeting the requirements outlined
374 in § 72-22, a proposed development on qualifying land at one
375 location may receive a density bonus of 20%. The project entering
376 the SCRCP with the execution of a SCRCP [a]Agreement will be
377 allowed to utilize the density permitted by the zoning district in
378 which the property is located, provided that the total density,
379 including any SCRCP density bonus, shall not exceed 12 units per
380 acre.] See Permitted Uses in Chapter 115.

381
382 B. Expedited review. A project entering the SCRCP through execution
383 of an SCRCP [a]Agreement will receive expedited review, as
384 defined in § 72-19 above, through the County's Planning and
385 Zoning process.

386
387 C. Incentives will only be granted to projects submitted for new
388 development that meet all requirements of this program.

389
390 [D. To the extent necessary, Council shall amend the provisions of
391 the County's Zoning Ordinances as needed to achieve the density
392 incentives and the specific design elements (e.g., minimum lot
393 sizes, setbacks, building heights, parking requirements, etc.) of
394 approved SCRCP projects.]

395
396 **§ 72-22 Minimum standards of eligibility for SCRCP developments.**

397

398 [A. Applicants must contribute 12.5% of all units to SCRIP inventory.
399 In applying and calculating the number of affordable units within
400 a proposed development, any decimal fraction less than or equal
401 to 0.50 may be disregarded, and any decimal fraction greater than
402 0.50 shall be constructed as one unit. In the case where the total
403 number of units being constructed is four or less, the minimum
404 number of SCRIP units must be one unit.

405
406 B.] A. All parcels in the proposed project must be on qualifying land,
407 as defined in § 72-19.

408
409 [C]B. All units contributed as SCRIP [u]Units will remain at the
410 affordable rental rates specified herein [for the remainder of the
411 control period]. SCRIP [u]Units shall never be leased as market-
412 rate units [during the control period], regardless of vacancy,
413 except in accordance with § 72-23N(1).

414
415 D. SCRIP [u]Units must be fully integrated into the communities of
416 which they are a part and shall not be substantially different in
417 external appearance from market-rate units. SCRIP [u]Units shall
418 be equipped with the same basic appliances as the market rate
419 units, such as an oven, refrigerator, dishwasher, and washer and
420 dryer.

421
422 **§ 72-23 SCRIP Agreements.**

423
424 To participate in the SCRIP and secure any incentives provided for
425 herein, an [a]Applicant must execute an SCRIP [a]Agreement
426 prepared by the Department and the County Attorney. Each
427 agreement must include, at a minimum, the following information
428 and/or evidence the following agreements and any others deemed
429 necessary by the Department and the County Attorney to properly
430 implement the chapter:

431
432 A. The specific number of SCRIP [u]Units to be constructed in the
433 project. If a final site plan has not been approved when the SCRIP
434 [a]Agreement is executed, an amendment to the SCRIP
435 [a]Agreement will be made to incorporate the approved final site
436 plan.

437
438 B. [The schedule pursuant to which the SCRIP units will be
439 constructed, marketed, and delivered and explaining the
440 relationship between the delivery of market-rate units and the
441 delivery of SCRIP units (i.e., a stated number of SCRIP units to be
442 created for each market-rate unit created).] A description of how
443 the SCRIP Units will be marketed and delivered. The SCRIP Units

444 must be constructed and delivered in equal proportion to non-
445 SCRP Units within the development.

446
447 (1) Applicants [should] *shall* affirmatively market the SCR
448 [U]Units to diverse populations, and meet with the
449 surrounding residents early in the development approval
450 process.

451
452 C. Any economic risk created by changes, whether within or outside
453 of the [a]Applicant's control, in development and construction
454 costs, interest rates, processing and construction schedules,
455 permitting and any other factor impacting the [a]Applicant's costs
456 and development obligations are borne solely by the [a]Applicant.

457
458 D. Building permits, performance bonds and letters of credit.

459
460 [(1)] No building permits shall be issued in any subdivision or
461 housing development where SCR [u]Units are included until
462 the [a]Applicant executes a valid SCR [a]Agreement which
463 applies to the entire subdivision.

464
465 [(2)] If an applicant does not build the SCR units in accordance
466 with the construction schedule along with or before other
467 dwelling units the County Administrator may withhold
468 building permits or call in performance bond or letter of credit
469 from the applicant until the SCR units contained in the
470 construction schedule are built and contributed to SCR rental
471 inventory to the satisfaction of the Department.]

472
473 E. Be signed by the [a]Applicant and all other parties having an
474 interest in the property whose signatures are required for the
475 effective and binding execution of contracts conveying real
476 property. SCR [a]Agreements must be executed in a manner that
477 will enable them to be recorded in the land records of the County.
478 [If the applicant is a corporation or limited liability company, the
479 principal officers of the entity must sign the agreements
480 individually and on behalf of the corporation pursuant to a duly
481 adopted resolution.]

482
483 F. Partnerships, associations, corporations and other entities may not
484 evade the requirements of the SCR [a]Agreement through
485 voluntary dissolution, bankruptcy, or the sale or transfer of
486 qualifying land.

487
488 G. The SCR [a]Agreement may only be assigned with the prior
489 written approval of the Department and only if the proposed

490 assignee demonstrates the financial ability to fulfill all of the
491 [a]Applicant's obligations under the SCRП [a]Agreement.
492

493 H. Landlords are responsible for marketing, leasing, and determining
494 tenant eligibility for the SCRП [u]Units. [A lease agreement shall
495 not be signed unless validated by a certificate of eligibility.] A
496 landlord shall not be permitted to refuse to rent a unit to an
497 [e]Eligible [t]Tenant [without providing the Department with just
498 cause, to the Department's satisfaction, for the refusal]. *The*
499 *reasons for a refusal to rent to an Eligible Tenant shall be*
500 *documented and included in the Annual Audit and Certification*
501 *required by §72-28*
502

503 I. If the [a]Applicant is not also the builder, the relationship between
504 the [a]Applicant and the builder shall be fully disclosed to the
505 Department's satisfaction, as soon as the relationship is
506 established.
507

508 J. SCRП [u]Units must be fully integrated into the communities of
509 which they are a part (not separated geographically from the
510 market rate units and not grouped together) and shall not be
511 substantially different in external appearance from non-SCRП
512 [u]Units. When the SCRП [u]Units are a part of a phased
513 development, a proportionate number or percentage of said
514 [u]Units will be placed within each phase and/or constructed
515 within each housing type appearing in the development. The
516 planning and design of individual SCRП [u]Units must be
517 consistent with the planning and design of *non-SCRП Units (i.e.*
518 *market-rate units)* within a single project.
519

520 (1) The ratio of SCRП [u]Units by type must reflect the ratio by
521 type of market rate units, to the extent feasible. For instance,
522 if a development has 200 two-bedroom dwelling units and
523 100 one-bedroom dwelling units, the ratio of two-bedroom to
524 one-bedroom SCRП [u]Units should also be 2:1.
525

526 K. [The applicant will execute and record covenants confirming
527 that]*The SCRП Agreement shall be recorded in the Office of the*
528 *Recorder of Deeds confirming that:*
529

530 (1) The covenants *contained within it* will bind the [a]Applicant,
531 any assignee, mortgagee, or buyer and all other parties that
532 receive title to the property. In the event the mortgagee
533 acquires the property through a foreclosure or acceptance of
534 deed-in-lieu of foreclosure, the SCRП [a]Agreement

535 covenants will continue in effect. The covenants must be
536 senior to all instruments securing financing.

537
538 (2) In any deed or instrument conveying title by the [a]Applicant,
539 the property shall remain subject to all of the terms and
540 conditions contained in the SCRCP [a]Agreements by the
541 [a]Applicant required under the chapter [during the control
542 period]. The source of the SCRCP [a]Agreements and any deed
543 restrictions related thereto must be included in the public land
544 records so that they are readily identifiable in a routine title
545 search.

546
547 L. Where the [a]Applicant is a DDE, agreements will be negotiated
548 between the Department and the DDE so as to be consistent with
549 the mission, strategies, business plans and operating procedures
550 of the DDE and may, with Council approval, deviate from the
551 requirements of this chapter.

552
553 M. The SCRCP [a]Agreement requires that the [l]Landlord ensure that
554 the SCRCP [u]Units are occupied only by tenants whose [monthly]
555 *annual* income levels do not exceed the eligible income limit, and
556 shall prohibit tenants from subletting or subleasing the [u]Units.
557 [The agreement shall also require the landlord to submit a copy of
558 the initial and all renewal leases to the Director within 30 days of
559 signing the lease.]

560
561 (1) In addition, the [l]Landlord must supply the information listed
562 below in a format acceptable to the Director on an annual
563 basis:

564
565 (a) The number of SCRCP [u]Units, by bedroom count, that are
566 leased to [e]Eligible [t]Tenants and those that are vacant,
567 and the monthly rent charged for each SCRCP [u]Unit;

568
569 (b) For each SCRCP [u]Unit, the tenant's name, household size,
570 and total household income as of the date of the lease, and
571 the effective date of the lease;

572
573 (c) A statement that, to the best of the [l]Landlord's
574 information and knowledge, tenants who are leasing the
575 SCRCP [u]Units meet the eligibility criteria; and

576
577 (d) A copy of each new or revised certificate of eligibility
578 obtained since the last annual report].
579

580 (2) The Department shall audit the report and may require such
581 additional information *monthly* needed to evaluate and accept
582 the annual report.
583

584 N. The tenant must vacate the SCRIP [u]Unit if the tenant's household
585 income exceeds 80% of the area median income by 20% *at the*
586 *time of lease renewal*. The [a]Applicant must take the necessary
587 action to have the tenant vacate the SCRIP [u]Unit within six
588 months of receiving information that the tenant's household
589 income exceeds the [e]Eligible [i]Income limit.
590

591 (1) Notwithstanding the provisions of § 72-23N above, if the
592 [a]Applicant immediately designates an additional
593 comparable unit as an affordable dwelling unit to be leased
594 under the controlled rental price and requirements of the
595 SCRIP program, the tenant of such SCRIP [u]Unit referenced
596 in § 72-23N above may continue to lease such [u]Unit at the
597 market value rent.
598

599 O. The Landlord shall comply with the Annual Audit and
600 Certification Requirements of Section 72-28
601

602 § 72-24 SCRIP [u]Units.

603

604 A. Rent.

605

606 (1) Rent shall be established and updated annually by the
607 Department based upon 25% of household income for 50% of
608 the area median income adjusted for household size and unit size
609 and shall not include trash services, parking, water and sewer
610 utilities and any other charges to be paid by the tenant.
611

612 (2) The [e]Eligible [t]Tenant must provide to the [l]Landlord income
613 tax returns (and proof of payment of any taxes owed) from the
614 previous year for all members of the household who were
615 required to file such returns. If an [e]Eligible [t]Tenant was not
616 required to file tax returns or if the [l]Landlord believes that
617 information from the previous tax returns is insufficient to
618 determine income, the [l]Landlord is authorized to request such
619 information as it deems necessary to confirm the income levels
620 of the proposed tenants.
621

622 B. Unit and household size. Households must be placed in units
623 according to the following distribution:
624

Unit Size (number of bedrooms)	Household Size
Efficiency	1
1	1 to 2
1 plus Den	2 to 4
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4	5 to 8

625 § 72-25 Leasing of SCRP [u]Units.

626

627 A. Leases to [e]Eligible [t]Tenants.

628

629 (1) Every SCRP [u]Unit constructed under this program must
630 be offered to all [e]Eligible [t]Tenants for lease as the
631 [e]Eligible [t]Tenant's principal residence. Notification to
632 the public of SCRP [u]Unit availability will be made by the
633 [l]Landlord and is recommended to be made by advertising
634 on DelawareHousingSearch.org *and similar sites*. The
635 Department may, but is not obligated to, provide notice of
636 SCRP [u]Unit availability through the Department's
637 website.

638

639 (2) The [l]Landlord will determine SCRP tenant eligibility
640 under § 72-20[, and lease agreements shall not be signed
641 until the tenant has received a certificate of eligibility from
642 the landlord].

643

644 (3) Annually, the Department will provide updated income
645 guidelines and rental rates to the [l]Landlord for use in
646 leasing the SCRP [u]Units.

647

648 (4) Lease agreements shall contain the same terms and
649 conditions as the lease agreements with market-rate renters
650 with the exception of the rental rates and other terms and
651 conditions as required under this article.

652

653 (5) All lease agreements of SCRP [u]Units shall cover a period
654 of one year.

655

656 (6) An [e]Eligible [t]Tenant already occupying a SCRP [u]Unit
657 [has]shall have a first-option to renew the lease agreement
658 each year, as long as the tenant maintains good standing

659 with the [l]Landlord and continues to qualify as an
660 [e]Eligible [t]Tenant. [The Department shall be notified by
661 the landlord of the intent to evict and the reasons therefor at
662 the same time the landlord first provides notice to the
663 tenant.]

664

665 B. Tenants of SCRP [u]Units shall provide an executed affidavit on
666 an annual basis certifying their continuing occupancy of the unit
667 as their principal residence. Tenants shall provide such affidavit
668 to the [l]Landlord by the date that may be specified in their lease
669 or that may otherwise be specified by the [l]Landlord.

670

671 C. In the event the tenant of an SCRP [u]Unit fails to provide his or
672 her [l]Landlord with an executed affidavit as provided for in the
673 preceding paragraph within 30 days of written request for such
674 affidavit, then the lease shall automatically terminate, become
675 null and void and the occupant shall vacate the [u]Unit within 30
676 days of written notice from the [l]Landlord.

677

678 § 72-26 Foreclosure or default.

679

680 A. The [l]Landlord must provide the Department with a copy of any
681 mortgage default notification immediately upon receipt and a written
682 explanation of how the default will be remedied.

683

684 B. If a foreclosure event occurs [during the control period], the covenants
685 endure through the transfer of property [until the end of the control
686 period].

687

688 [C. If the foreclosure event occurs after the thirty-year control period, then
689 all binding restrictions of this chapter will dissolve.]

690

691 § 72-27 Implementation.

692

693 Improvements to concepts, processes and rules and regulations of the
694 SCRP program will be incorporated into future amendments of this
695 article. Council views this article as a living document that will be
696 modified as needed to respond to economic, housing, development,
697 land use and other trends in the County and to best practices in
698 affordable rental programs.

699

700 §72-28 Annual Audit and Certification.

701

702 The Landlord shall contract with an independent Delaware Certified
703 Public Accountant that has no other relationship with the
704 Landlord/Developer/Owner/Manager to audit the Landlord's

705 Compliance with this Chapter 72, the conditions of approval for the
706 project, the terms of the SCRCP Agreement, the rental of the SCRCP
707 Units and the status of the Eligible Tenants (and their Eligible
708 Income) within the project. In this engagement, the Delaware
709 Certified Public Accountant will perform this obligation in
710 accordance with attestation standards established by the American
711 Institute of Certified Public Accountants. This annual audit and
712 report shall certify that the project remains in compliance with (i) all
713 of the Chapter 72 requirements and the terms of the SCRCP Agreement;
714 (ii) the status of each of the SCRCP Units (whether leased or vacant);
715 (iii) certification that each of the Eligible Tenants renting an SCRCP
716 Unit within the project are an Eligible Tenant as of the date of the
717 annual audit and report; (iv) the status and duration of any vacancy
718 of any SCRCP Unit; (v) the marketing efforts to re-let any vacant SCRCP
719 Unit to an Eligible Tenant; (vi) the status of any list of Eligible
720 Tenants waiting for an SCRCP Unit to come available; and (vii) such
721 other information as the Delaware Certified Public
722 Accountant and/or the Community Development and Housing Office
723 may deem appropriate and necessary. This annual audit and report
724 shall be submitted to both the Office of Planning & Zoning and the
725 Community Development & Housing Office no later than March 1 of
726 each year.

727
728 **§ 72-2[8]2 Government regulations; enforcement.**

- 729
730 A. The Department will maintain a list of all SCRCP [u]Units
731 constructed and leased under this program, and the Council
732 hereby authorizes the County Administrator to promulgate and
733 adopt regulations and approve the various agreements/documents
734 necessary to administer this program.
735
736 B. The Director may, with Council approval, waive or modify the
737 provisions of the program if the Director finds the program in
738 conflict with state or federal housing laws.
739
740 C. This program applies to all agents, successors, and assigns of an
741 [a]Applicant. A building permit shall not be issued and a
742 preliminary plan of subdivision, development plan, or site plan
743 shall not be approved for a development that will contain
744 affordable rental units to be submitted to this program unless it
745 meets the requirements of this program. The County
746 Administrator may deny, suspend, or revoke any building or
747 occupancy permit upon finding a violation of this program. Any
748 prior approval of a preliminary or final plan of subdivision,
749 development plan or site plan may be suspended or revoked upon
750 the failure to meet any requirement of this chapter. An occupancy

751 permit shall not be issued for any building to any [a]Applicant, or
752 a successor, or assign of any [a]Applicant, for any construction
753 that does not comply with this program. The County
754 Administrator may also withhold or call in performance bond
755 funds, letters of credit, and certificates of compliance or
756 occupancy from the [a]Applicant for any violation of this
757 program.

758
759 D. In the event that the Landlord rents any of the SCRP Units at non-
760 SCR P Unit rates (i.e. market rental rates) so that the
761 proportionate share of SCRP Units versus non-SCR P Units as
762 originally approved is not maintained, the Landlord of the project
763 shall be required to pay to Sussex County the monthly market rent
764 collected from any such SCRP Unit that is rented at a non-SCR P
765 Unit Rate. Any such funds collected by Sussex County shall be
766 used for housing purposes and administered by the Sussex County
767 Office of Community Development and Housing.

768
769 D]E. The Director is authorized to pursue any available remedy, legal
770 or equitable in nature, to enforce the requirements of this program
771 or to prevent or abate a violation of this program.

772
773 [E]F. The Director may take legal action to stop or cancel any lease
774 of an SCRP [u]Unit if any party does not comply with all
775 requirements of this program. The Director may recover any
776 funds improperly obtained from the rental of a SCRP [u]Unit in
777 violation of this chapter.

778
779 [F]G. In the event of litigation to enforce the terms and conditions of
780 this chapter or any agreement or obligation under the SCRP
781 program, the Department shall be entitled to an award of legal
782 costs and fees to be collected from the party who is determined to
783 be in violation of such agreements and obligations.

784
785
786 **Section 2. The Code of Sussex County, Chapter 115, Article IV, §115-**
787 **20 “Permitted Uses”, is hereby amended by inserting the italicized**
788 **and underlined language as a new subpart A.(17) thereof as follows:**

789
790 **§115-20 Permitted Uses.**

791
792 A. A building or land shall be used only for the following purposes:

793
794 . . .

796 (17) A Sussex County Rental Program, or SCRP, townhouse or multi-
797 family development governed by, and subject to, Chapter 72,
798 where at least 30% of all dwelling units are SCRP Units pursuant
799 to Chapter 72. The SCRP development must satisfy the following
800 criteria:

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

805
806 (b) The site shall be located within 2,640 feet of an existing or
807 proposed DART Route operated by the Delaware Transit
808 Corporation. In the case of a proposed DART Route, Final Site
809 Plan approval shall not be granted until the Route is in existence
810 and operated by DART.

811
812 (c) The site must be served by a central sewer system and a central
813 water system.

814
815 (d) The total maximum number of dwelling units (including both
816 SCRP Units and non-SCRP Units) that may be permitted shall be
817 determined by dividing the gross area by 3,630 square feet.
818 "Gross area" shall exclude any area designated as a tidal
819 tributary stream or tidal wetlands by § 115-193.

820 (e) There shall be a one-hundred foot wide setback around the
821 entire site, which shall incorporate the "Forested and/or
822 Landscaped Buffer Strip" identified in Section 99-4. This setback
823 shall include walking and biking trails.

824 (f) The height of any townhouse or multi-family buildings shall
825 not exceed 52 feet or four stories, whichever is greater.

826 (g) There shall be sidewalks on all streets, roadways and parking
827 areas, with interconnectivity to adjacent walkway systems.

828 (h) There must be interconnectivity with any adjacent property
829 that is zoned C-1, CR-1, C-2, C-3, C-4, C-5, B-1, B-2 or B-3.

830 (i) There shall be open space that exceeds fifty percent of the
831 gross area of the entire site. The Primary view from each
832 dwelling unit shall be directed to open space and recreational
833 amenities.

834
835 **Section 3. The Code of Sussex County, Chapter 115, Article IV, §115-**
836 **25 "Height, Area and Bulk Requirements", is hereby amended by**

837 inserting the italicized and underlined language as a new subpart G
838 thereof as follows:

839

840 **§115-25 Height, Area and Bulk Requirements.**

841

842 . . .

843

844 G. Sussex County Rental Unit development permitted by §115-20A.(17).
845 The minimum lot size, lot area per dwelling unit, open space, height and
846 setback requirements for a Sussex County Rental Unit development
847 permitted by §115-20A.(17) shall be governed by the dimensional
848 requirements set forth in that Section.

849

850 **Section 4. The Code of Sussex County, Chapter 115, Article V, §115-**
851 **29 “Permitted Uses”, is hereby amended by inserting the italicized**
852 **and underlined language as a new subpart K. thereof as follows:**

853

854 **§115-29 Permitted Uses.**

855

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

857

858 . . .

859

860 K. A Sussex County Rental Program, or SCRP, townhouse or multi-
861 family development governed by, and subject to, Chapter 72,
862 where at least 30% of all dwelling units are SCRP Units pursuant
863 to Chapter 72. The SCRP development must satisfy the following
864 criteria:

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

869

870 (2) The site shall be located within 2,640 feet of an existing or
871 proposed DART Route operated by the Delaware Transit
872 Corporation. In the case of a proposed DART Route, Final Site
873 Plan approval shall not be granted until the Route is in existence
874 and operated by DART.

875

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

878

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

884 (5) There shall be a one-hundred foot wide setback around the
885 entire site, which shall incorporate the "Forested and/or
886 Landscaped Buffer Strip" identified in Section 99-4. This setback
887 shall include walking and biking trails.

888 (6) The height of any townhouse or multi-family buildings shall
889 not exceed 52 feet or four stories, whichever is greater.

890 (7) There shall be sidewalks on all streets, roadways and parking
891 areas, with interconnectivity to adjacent walkway systems.

892 (8) There must be interconnectivity with any adjacent property
893 that is zoned C-1, CR-1, C-2, C-3, C-4, C-5, B-1, B-2 or B-3.

894 (9) There shall be open space that exceeds fifty percent of the
895 gross area of the entire site. The Primary view from each
896 dwelling unit shall be directed to open space and recreational
897 amenities.

898
899 **Section 5. The Code of Sussex County, Chapter 115, Article V, §115-**
900 **34 "Height, Area and Bulk Requirements", is hereby amended by**
901 **inserting the italicized and underlined language as a new subpart D.**
902 **thereof as follows:**

903
904 **§115-34 Height, Area and Bulk Requirements.**

905
906 ...

907
908 D. Sussex County Rental Unit development permitted by §115-29K. The
909 minimum lot size, lot area per dwelling unit, open space, height and
910 setback requirements for a Sussex County Rental Unit development
911 permitted by §115-29K shall be governed by the dimensional
912 requirements set forth in that Section.

913
914

915 **Section 6. The Code of Sussex County, Chapter 115, Article VI, §115-**
916 **37 "Permitted Uses", is hereby amended by inserting the italicized**
917 **and underlined language as a new subpart C. as follows:**

918
919 **§115-37 Permitted Uses.**

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Permitted uses are as follows:

...

C. A Sussex County Rental Program, or SCRP, townhouse or multi-family development governed by, and subject to, Chapter 72, where at least 30% 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, 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 an existing or proposed DART Route operated by the Delaware Transit Corporation. In the case of a proposed DART Route, Final Site Plan approval shall not be granted until the Route is in existence and operated by DART.

(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 by § 115-193.

(5) There shall be a one-hundred foot wide setback around the entire site, which shall incorporate the "Forested and/or Landscaped Buffer Strip" identified in Section 99-4. This setback shall include walking and biking trails.

(6) The height of any townhouse or multi-family buildings shall not exceed 52 feet or four stories, whichever is greater.

(7) There shall be sidewalks on all streets, roadways and parking areas, with interconnectivity to adjacent walkway systems.

(8) There must be interconnectivity with any adjacent property that is zoned C-1, CR-1, C-2, C-3, C-4, C-5, B-1, B-2 or B-3.

(9) There shall be open space that exceeds fifty percent of the gross area of the entire site. The Primary view from each dwelling unit shall be directed to open space and recreational amenities.

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Section 7. The Code of Sussex County, Chapter 115, Article VI, §115-42 “Height, Area and Bulk Requirements”, is hereby amended by inserting the italicized and underlined language as a new subpart D. thereof as follows:

§115-42 Height, Area and Bulk Requirements.

...

D. Sussex County Rental Unit development permitted by §115-37C. The minimum lot size, lot area per dwelling unit, open space, height and setback requirements for a Sussex County Rental Unit development permitted by §115-37C shall be governed by the dimensional requirements set forth in that Section.

Section 8. The Code of Sussex County, Chapter 115, Article VII, §115-45 “Permitted Uses”, is hereby amended by inserting the italicized and underlined language as a new subpart F. thereof as follows:

§115-45 Permitted Uses.

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 30% 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, 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 an existing or proposed DART Route operated by the Delaware Transit Corporation. In the case of a proposed DART Route, Final Site Plan approval shall not be granted until the Route is in existence and operated by DART.

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

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(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 by § 115-193.

(5) There shall be a one-hundred foot wide setback around the entire site, which shall incorporate the "Forested and/or Landscaped Buffer Strip" identified in Section 99-4. This setback shall include walking and biking trails.

(6) The height of any townhouse or multi-family buildings shall not exceed 52 feet or four stories, whichever is greater.

(7) There shall be sidewalks on all streets, roadways and parking areas, with interconnectivity to adjacent walkway systems.

(8) There must be interconnectivity with any adjacent property that is zoned C-1, CR-1, C-2, C-3, C-4, C-5, B-1, B-2 or B-3.

(9) There shall be open space that exceeds fifty percent of the gross area of the entire site. The Primary view from each dwelling unit shall be directed to open space and recreational amenities.

Section 9. The Code of Sussex County, Chapter 115, Article VII, §115-50 "Height, Area and Bulk Requirements", is hereby amended by inserting the italicized and underlined language as a new subpart G. thereof as follows:

§115-50 Height, Area and Bulk Requirements.

...

G. Sussex County Rental Unit development permitted by §115-45F. The minimum lot size, lot area per dwelling unit, open space, height and setback requirements for a Sussex County Rental Unit development permitted by §115-45F. shall be governed by the dimensional requirements set forth in that Section.

Section 10. The Code of Sussex County, Chapter 115, Article VIII, §115-53 "Permitted Uses", is hereby amended by inserting the italicized and underlined language as a new subpart K. thereof as follows:

§115-53 Permitted Uses.

1045
1046 A building or land shall be used only for the following purposes:

1047

1048 . . .

1049

1050 K. A Sussex County Rental Program, or SCRP, townhouse or multi-
1051 family development governed by, and subject to, Chapter 72, where at
1052 least 30% of all dwelling units are SCRP Units pursuant to Chapter
1053 72. The SCRP development must satisfy the following criteria:

1054 (1) The site must be located within a Town Center, a Developing
1055 Area, or the Coastal Area as described within the Land Use Element
1056 and as shown on the Future Land Use Plan of the adopted Sussex
1057 County Comprehensive Plan.

1058

1059 (2) The site shall be located within 2,640 feet of an existing or
1060 proposed DART Route operated by the Delaware Transit
1061 Corporation. In the case of a proposed DART Route, Final Site Plan
1062 approval shall not be granted until the Route is in existence and
1063 operated by DART.

1064

1065 (3) The site must be served by a central sewer system and a central
1066 water system.

1067

1068 (4) The total maximum number of dwelling units (including both
1069 SCRIP Units and non-SCRIP Units) that may be permitted shall be
1070 determined by dividing the gross area by 3,630 square feet. "Gross
1071 area" shall exclude any area designated as a tidal tributary stream or
1072 tidal wetlands by § 115-193.

1073 (5) There shall be a one-hundred foot wide setback around the
1074 entire site, which shall incorporate the "Forested and/or Landscaped
1075 Buffer Strip" identified in Section 99-4. This setback shall include
1076 walking and biking trails.

1077 (6) The height of any townhouse or multi-family buildings shall
1078 not exceed 52 feet or four stories, whichever is greater.

1079 (7) There shall be sidewalks on all streets, roadways and parking
1080 areas, with interconnectivity to adjacent walkway systems.

1081 (8) There must be interconnectivity with any adjacent property
1082 that is zoned C-1, CR-1, C-2, C-3, C-4, C-5, B-1, B-2 or B-3.

1083 (9) There shall be open space that exceeds fifty percent of the
1084 gross area of the entire site. The Primary view from each dwelling
1085 unit shall be directed to open space and recreational amenities.

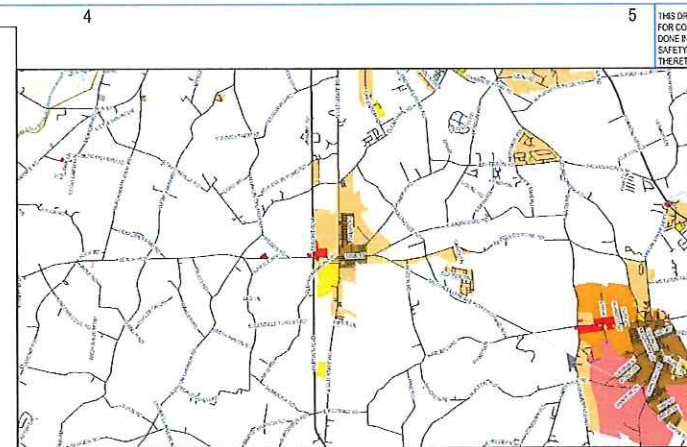
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Section 11. The Code of Sussex County, Chapter 115, Article VIII, §115-58 “Height, Area and Bulk Requirements”, is hereby amended by inserting the italicized and underlined language as a new subpart E. thereof as follows:

§115-58 Height, Area and Bulk Requirements.

...

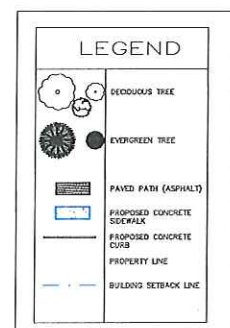
E. Sussex County Rental Unit development permitted by §115-53K. The minimum lot size, lot area per dwelling unit, open space, height and setback requirements for a Sussex County Rental Unit development permitted by §115-53K shall be governed by the dimensional requirement set forth in that Section.



VICINITY MAP
(NOT TO SCALE)

SITE DATA

SITE LOCATION: TOWN CENTER, DEVELOPING AREA, OR COASTAL AREA
 SITE LOCATION: WITHIN 2,460 FEET OF AN EXISTING OR PROPOSED DART ROUTE
 DENSITY: NOT TO EXCEED 12 UNITS/ACRE
 REQUIREMENT: 30% OF UNITS MUST BE SCRIP
 BUILDING HEIGHT: 52 FEET OR 4 STORIES (WHICHEVER IS GREATER)
 BUILDING SETBACK: 100 FEET AROUND ENTIRE SITE
 OPEN SPACE: TO EXCEED 50% OF GROSS AREA
 PEDESTRIAN: SIDEWALKS ON ALL STREETS, ROADS, AND PARKING AREAS
 UTILITIES: SERVED BY CENTRAL SEWER AND CENTRAL WATER
 PERMITTED DENSITY: 12 DU/ACRE = 120 DWELLING UNITS
 PROPOSED DENSITY: 120 DWELLING UNITS (8 BUILDINGS WITH 15 DU/BLDG)
 REQUIRED SCRIP: 30% SCRIP UNITS
 PROPOSED SCRIP: 30% (36) SCRIP UNITS
 REQUIRED PARKING: 240 PARKING SPACES (120 DU x 2 SPACES/BR = 240 SPACES)
 PROPOSED PARKING: 254 PARKING SPACES INCLUDING 15 ADA SPACES
 REQUIRED OPEN SPACE: 50% OPEN SPACE
 PROPOSED OPEN SPACE: 5.4 AC OPEN SPACE (54%)



THIS DRAWING DOES NOT INCLUDE NECESSARY COMPONENTS FOR CONSTRUCTION SAFETY. ALL CONSTRUCTION MUST BE DONE IN COMPLIANCE WITH THE CURRENT OCCUPATIONAL SAFETY AND HEALTH ACT AND ALL RULES AND REGULATIONS THERE TO AND APPURTENANT.



NO.	DESCRIPTION	DATE	BY

SCALE: 1"=40'
 HORIZONTAL: 1"=120'
 VERTICAL: 1"=12'
 IF THIS BAR DOES NOT MEASURE 1" THEN ADJUST SCALE ACCORDINGLY

EXAMPLE SITE PLAN WORKFORCE HOUSING
 WORKFORCE HOUSING PROJECT
 SUSSEX COUNTY, DELAWARE

DRAWN BY: ERH
 DESIGNED BY: ERH
 REVIEWED BY: -
 APPROVED BY: -

ISSUE DATE: 05/24/2022

REVISION: 0

PROJECT NO.: N/A

SHEET NO.:

EX-01

SHEET SEQUENCE: 1 OF 1

**Sussex County On-Call Planning
Affordably Priced Rental Units
GIS Spatial Analysis for Eligibility
Parcel Distribution
May 25, 2022**

Purpose

This document is a supplement to the original GIS Spatial Analysis that determined parcel eligibility for the proposed Affordably Priced Rental Units Ordinance. This supplement summarizes the breakdown of parcels, based on size, that are eligible for the proposed ordinance.

Parcel Eligibility Breakdown

The eligible parcels that were identified in the original GIS spatial analysis were further refined into parcel size groups. The table below provides a summary of the number of parcels in each parcel size range. Parcels under 1 ac. will need to be combined with at least one other parcel to meet the setback criteria in the proposed ordinance. Parcels in the 1-2 ac. grouping could meet the setback criteria however those closer to 1 ac. will need to be combined with at least one other parcel. Parcels larger than 2 ac. could be developed under the proposed ordinance as an independent parcel.

Parcel Distribution in Acres		
Parcel Size (Ac)	Number of Parcels	% of Parcels
< 1	1,910	75.8%
1-2	263	10.4%
2-5	177	7.0%
5-10	73	2.9%
10-50	76	3.0%
50-100	12	0.5%
>100	10	0.4%
Total	2,521	100.0%

**Sussex County On-Call Planning
Affordably Priced Rental Units
GIS Spatial Analysis for Eligibility
May 12, 2022**

FILE COPY

RECEIVED

MAY 12 2022

SUSSEX COUNTY
PLANNING & ZONING

Purpose

The purpose of this Geospatial analysis was to determine what total area of land and the number of parcels that would be eligible for the Sussex County Rental Program (SCRIP) as defined in the draft Affordably Priced Rental Units Ordinance. The following criteria, as defined in §115-20 Permitted Uses of the draft ordinance, was used in the analysis to develop a “compatibility zone” that would represent the total area of land and the number of parcels that would be eligible for the Sussex County Rental Program (SCRIP). The criteria are as follows:

- Within 1/2 mile from transit route
- Able to be served by central sewer and water Tier 1 or Tier 2
- Able to be served by public water
- Preference to parcels over 1 acre to satisfy the 100’ setback
- The site must be located within a Town Center, Developing Area, Existing Developing Area, Commercial, or Coastal Area as described within the Land Use Element layer.
- Exclude any parcels currently under development, within a municipality, those with an existing conditional use, and areas within tidal wetlands

Work Flow Analysis

All analysis was ran using data from Delaware First Map and compiled in ESRI ArcPro Desktop

- Data layers were imported in and reprojected to Delaware state plane and added to the working directory

The following layers were used in the analysis:

- Wetlands
- Delaware Transit Routes
- CPCN Water
- Conditional Use
- Parcels

- Subdivision
- Sussex County Sewer
- Future Land Use
- Town Boundary

The analysis assembled data and GIS layers that resulted in an inclusion zone. These data sets included the following:

- Buffer transit routes by .5 miles output name "within halfMile (inclusive)"
- Create a query layer from Sussex County sewer tiers where only Tiers 1 and 2 are shown. The query layer is called "Tier 1 and 2 Preferred Sewer (inclusive)"
- Create a query layer from future land use where only coastal community, developing area, existing developing areas, commercial, and town center are shown. This query layer was named "land use preferred classification (inclusive)"

This inclusion zones layer was further refined by adding the CPCN data layer.

- The intersect tool was used on all inclusion layers; land use, sewer tier 1 and 2, CPCN, and within halfMile that resulted in the final inclusion zone.

Next, a layer was created to exclude areas that would not be eligible. These were classified as exclusion zones.

- Layers to be used were wetland, town boundary, subdivision, and conditional use. These layers were combined to create a layer called "exclusion zones"

Now that Inclusion zones and exclusion zone layers exist, a process to remove exclusion zones from inclusion layer was run to produce the final layer for analysis.

- The erase tool was used to cut out exclusion zones from inclusion intersect layer. The output layer name is "compatibility zone"

The final query analysis was to determine the acreage and number of parcels withing the compatibility zone which with be eligible. Queries were run on the layers to produce total acreage, parcels involved, and parcels greater than 1 acre.

- The spatial location query was used on parcels within the compatibility zone to get a count of parcels within the zone. This data was further refined to identify parcels that "have their center in" the compatibility zone. The second query was used to remove all parcels from the selection that were less than 43,560 square feet.

Based on the spatial analysis the following total land area and parcels would be eligible to be developed under the draft ordinance.

- **Parcels involved - 2,521**
- **Parcels Greater than 1 acre - 612**
- **Total area - 274,041,609 sq. ft. or 6291.12 acres**

Project Name

Project Location

Proposed Workforce Housing Units - Monthly Rent Calc

Inputs/Choosers:

Percent of Units restricted	30.0%
% of Gross Household Inc. Used toward Housing Cost	25.0%
% of Area Median Income (AMI) Used	50.0%

Unit Size	Efficiency	1 BR	1 BR + Den	2 BR	2 BR + Den	3 BR
HH Size	1	1.5	2	3	3.5	4.5+
Fixed Rental Rate = 25% of Gross Household Income of 50% AMI Adjusted for Household Size & # of Bedrooms	\$550	\$585	\$630	\$705	\$745	\$815

Market Rents		\$1,195		\$1,450		\$1,695
--------------	--	---------	--	---------	--	---------

Discount to Market Rents		\$610		\$745		\$880
% Discount to Market Rent		51.0%		51.4%		51.9%

Sussex County 2021 AMI - affordable rents by number of people within apartment

%AMI	1 person	1.5 people	2 people	3 people	3.5 people	4 people	4.5 people	5 people	6 people	7 people	8 people
30%	\$15,800	\$22,330	\$18,050	\$21,960	\$24,230	\$26,500	\$28,770	\$31,040	\$35,580	\$40,120	\$44,660
50%	\$26,300	\$27,910	\$30,050	\$33,800	\$35,670	\$37,550	\$39,070	\$40,600	\$43,600	\$46,600	\$49,600
60%	\$31,570	\$34,170	\$36,070	\$40,570	\$42,820	\$45,060	\$46,890	\$48,700	\$52,450	\$55,900	\$59,500
70%	\$36,830	\$39,870	\$42,080	\$47,330	\$49,950	\$52,570	\$54,700	\$56,820	\$61,200	\$65,220	\$69,420
80%	\$42,100	\$45,570	\$48,100	\$54,100	\$57,100	\$60,100	\$62,525	\$64,950	\$69,950	\$74,550	\$79,350
100%	\$52,620	\$56,960	\$60,120	\$67,620	\$71,370	\$75,100	\$78,150	\$81,180	\$87,430	\$93,180	\$99,180

AMI numbers as of 4/01/21 from http://www.destatehousing.com/Renters/rentersmedia/hud_incomelimits.pdf

Project Name

Project Location

Proposed Workforce Housing Units - Monthly Rent Calc

Inputs/Choosers:

Percent of Units restricted **30.0%**
 % of Gross Household Inc. Used toward Housing Cost **25.0%**
 % of Area Median Income (AMI) Used **80.0%**

Unit Size	Efficiency	1 BR	1 BR + Den	2 BR	2 BR + Den	3 BR
HH Size	1	1.5	2	3	3.5	4.5+
Fixed Rental Rate = 25% of Gross Household Income of 80% AMI Adjusted for Household Size & # of Bedrooms	\$880	\$950	\$1,005	\$1,130	\$1,190	\$1,305

Market Rents		\$1,195		\$1,450		\$1,695
--------------	--	---------	--	---------	--	---------

Discount to Market Rents		\$245		\$320		\$390
% Discount to Market Rent		20.5%		22.1%		23.0%

Sussex County 2021 AMI - affordable rents by number of people within apartment

%AMI	1 person	1.5 people	2 people	3 people	3.5 people	4 people	4.5 people	5 people	6 people	7 people	8 people
30%	\$15,800	\$22,330	\$18,050	\$21,960	\$24,230	\$26,500	\$28,770	\$31,040	\$35,580	\$40,120	\$44,660
50%	\$26,300	\$27,910	\$30,050	\$33,800	\$35,670	\$37,550	\$39,070	\$40,600	\$43,600	\$46,600	\$49,600
60%	\$31,570	\$34,170	\$36,070	\$40,570	\$42,820	\$45,060	\$46,890	\$48,700	\$52,450	\$55,900	\$59,500
70%	\$36,830	\$39,870	\$42,080	\$47,330	\$49,950	\$52,570	\$54,700	\$56,820	\$61,200	\$65,220	\$69,420
80%	\$42,100	\$45,570	\$48,100	\$54,100	\$57,100	\$60,100	\$62,525	\$64,950	\$69,950	\$74,550	\$79,350
100%	\$52,620	\$56,960	\$60,120	\$67,620	\$71,370	\$75,100	\$78,150	\$81,180	\$87,430	\$93,180	\$99,180

AMI numbers as of 4/01/21 from http://www.destatehousing.com/Renters/rentersmedia/hud_incomelimits.pdf

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SUSSEX COUNTY
PLANNING & ZONING

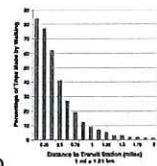
Chapter 4: Actions to Increase the Safety of Pedestrians Accessing Transit

Understanding pedestrian characteristics and facilities (e.g., sidewalks, crosswalks, pedestrian signals, etc.) is an important step in providing safe access to transit systems. This section introduces basic pedestrian safety concepts to help readers understand issues, solutions, and resources that are presented in other parts of this guide. Concepts addressed in this chapter include:

- Typical walking distance to transit.
- Motor vehicle speed and pedestrian safety.
- Pedestrian characteristics and behavior.

A. Typical Walking Distance to Transit

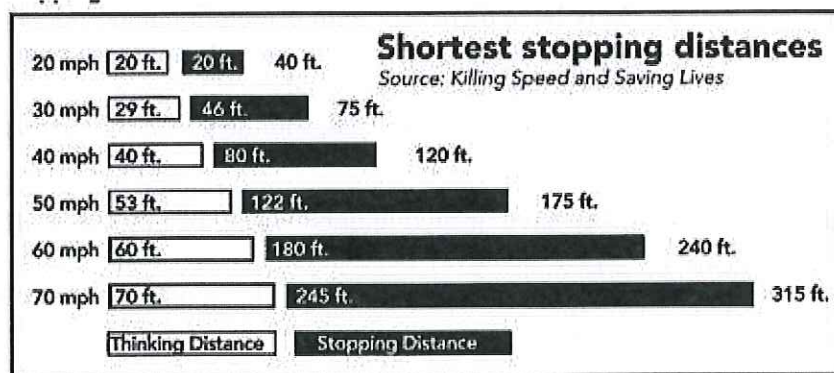
Most people are willing to walk for five to ten minutes, or approximately ¼- to ½-mile to a transit stop (see figure below). However, recent research has shown that people may be willing to walk considerably longer distances when accessing heavy rail services. Therefore, in order to encourage transit usage, safe and convenient pedestrian facilities should be provided within ¼- to ½-mile of transit stops and stations, and greater distances near heavy rail stations. Note that bicyclists are often willing to ride significantly further than ½-mile to access rail transit stations, so safe facilities should be provided for bicycling within a larger catchment area around transit hubs.



Transit route spacing and location are important considerations for pedestrian access to transit. For example, in a city with a regular street grid pattern of streets, appropriate stop spacing can be achieved when transit routes are spaced between ½- to 1-mile apart. If the stops on these routes are spaced 1/8- to ¼- mile apart, then a majority of the people in the neighborhoods served by the transit system will be within ¼- to ½-mile of a transit stop.²⁰

B. The Effect of Motor Vehicle Speed on Pedestrian Safety

Pedestrians accessing transit stops and stations must often walk along or cross roadways that carry motor vehicle traffic. Pedestrians may feel less comfortable and safe as nearby motor vehicle speeds increase. The faster a driver is traveling, the more difficult it is to stop (see figure below).²¹ Larger vehicles, such as buses and trucks require even longer stopping distances.



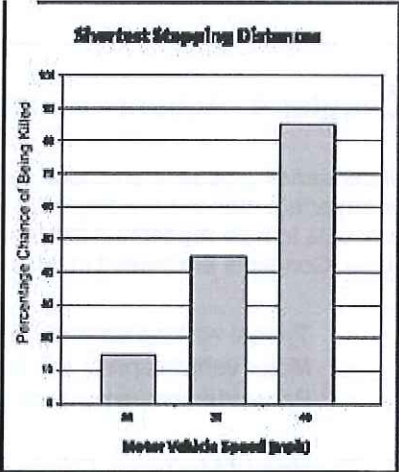
Reducing motor vehicle speeds on roadways near transit stops and stations can improve conditions for transit customers and encourage more people to walk and to use transit. Lower vehicle speeds can reduce the severity of injuries when crashes occur. When hit by a vehicle traveling at 40 miles per hour, a pedestrian has an 85% chance of being killed; at 30 miles per hour, the likelihood decreases to 45%; and at 20 miles per hour the pedestrian fatality rate is only 5% (see figure below).²¹

Several of the roadway crossing treatments described in this guide, such as median crossing islands, curb extensions, and reduced intersection turning radii, may help decrease motor vehicle speeds.

When identifying pedestrian safety issues and solutions, communities should keep in mind that pedestrians have varied characteristics (e.g., age, gender, disabilities, etc.). Different classes of pedestrians travel at different speeds, are comfortable walking different distances, and have varied levels of comfort with traffic, temperature, and time spent waiting at a transit stop. It is important for transit agencies and other partners to consider how environmental conditions impact all types of pedestrians.

C. Pedestrian Characteristics and Behavior

In addition to walking speed, pedestrians can be differentiated by spatial needs, mobility issues and cognitive abilities. It is crucial to understand the characteristics of the range of pedestrians that may be accessing transit to help develop the safest possible system.



The table below summarizes some important pedestrian characteristics to consider when making pedestrian safety improvements near transit.

Pedestrian Group	Characteristics & Behaviors
Child Pedestrians	<ul style="list-style-type: none"> • May have difficulty choosing where and deciding when it is safe to cross the street. • May have difficulty seeing (and being seen by) drivers of all types of vehicles, including buses because of less peripheral vision and shorter stature than adults. • May have difficulty judging the speed of approaching vehicles. • May need more time to cross a street than adults.
Older Pedestrians	<ul style="list-style-type: none"> • May have reduced motor skills that limit their ability to walk at certain speeds or turn their heads. • May need more time to cross a street than younger adults. • May have difficulty with orientation and understanding traffic signs, so they may need more information about how to access transit and get around safely. • May have difficulty judging the speed of approaching vehicles.
Recent Immigrants	<ul style="list-style-type: none"> • May have limited understanding of English, traffic laws, or typical roadway behaviors. • May not understand the traffic signals that indicate when to walk.

	<ul style="list-style-type: none"> • May not have the experience to know how to interact safely with drivers.
People with Disabilities (e.g., people using wheelchairs, crutches, canes, or people with visual or cognitive impairments)	<ul style="list-style-type: none"> • May be more affected by surface irregularities in the pavement and changes in slope or grade. • May need more time to cross a street than people without disabilities. • May benefit from pedestrian signal information provided in multiple formats (audible, tactile, and visual). • May have trouble seeing (and being seen) by drivers of all types of vehicles due to seated position (for people using wheelchairs). • Pedestrians who are blind or who have low vision may have trouble detecting yielding vehicles or communicating visually with drivers in crossing at unsignalized crosswalks.

Safe roadway crossing facilities should be located at the most direct crossing locations.

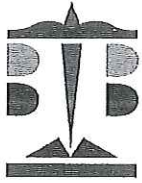
Understanding common pedestrian behavior is essential to promoting pedestrian safety near transit. Pedestrians typically take the most direct line possible to minimize the distance and time they must walk to reach their destination. Therefore, safe roadway crossing facilities should be located at the most direct crossing locations, which can subsequently make the safest location for crossing attractive to pedestrians. Poorly-designed environments often result in pedestrians using informal paths through properties and crossing roadways at locations without pedestrian safety enhancements.

Pedestrians traveling to transit stops are frequently preoccupied with reaching the stop before the bus or train arrives. As a result, pedestrians who are running late may take more risks than they typically would under normal conditions.

Pedestrians traveling to the bus or train may exhibit some of the following behaviors:

- Running to catch transit.
- Jaywalking, or crossing at locations that do not have pedestrian crossing facilities or safety enhancements.
- Walking between stopped or parked vehicles, including buses.
- Stepping into street to get around people waiting at a stop.

The safety treatments listed in Chapter 3 can help reduce the potential harmful effects of risky pedestrian behavior near transit stops.



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BROCKSTEDT LLC**

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John W. Paradee
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john@bmbde.com

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VIA ELECTRONIC MAIL & REGULAR MAIL

May 16, 2022

Received after
PZC Public Hearing
before
CC Public Hearing

Mr. Jamie Whitehouse
Sussex County Department of Planning
2 The Circle
P.O. Box 417
Georgetown, DE 19947

RE: Affordably Priced Rental Units

Dear Mr. Whitehouse:

I write to follow up on my May 9, 2022 letter regarding the above-referenced matter, reiterating my strong support for the draft Ordinance regarding "Affordably Priced Rental Units" which Sussex County is presently considering for enactment. I would also strongly suggest that new subpart A.(17)(a) which is proposed to be added to Section 115-20 of the Code, regarding "Permitted Uses" (see lines 801-804 of the draft Ordinance), be revised to include "a Commercial Area" as a permissible location for a SCRP development. The Commercial Area is not a low density area, and I believe there would be a great deal of interest and support for workforce housing in Commercial Areas, just the same as for a Town Center, a Developing Area, and/or the Coastal Area. Again, as I stated in my letter of last week, I have a number of clients who would pursue projects for affordably priced housing units if such an Ordinance were to be adopted, particularly so if such housing were permitted in Commercial Areas as well as a Town Center, a Developing Area, and/or the Coastal Area.

Thank you for your time and consideration.

Very truly yours,



John W. Paradee

JWP/lwr

cc: Mackenzie Peet, Esquire
J. Michael Riemann, P.E.
Louis J. Capano, III
Christian Hudson

Chase Phillips

MAY 12 2022

From: Kauffman, Jared D (DeIDOT) <Jared.Kauffman@delaware.gov>
Sent: Thursday, May 12, 2022 8:14 AM
To: Planning and Zoning
Cc: Sisson, John (DeIDOT); Theyerl, Julie (DeIDOT); Smith, Catherine C (DeIDOT); Cherry-Wall, Tremica (DeIDOT); Williamson, William (DeIDOT); Jamie Whitehouse
Subject: Comments for Sussex Ordinance Ord 22-01: Affordable Housing

SUSSEX COUNTY
PLANNING & ZONING

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Dear Planning & Zoning Commission,

Thank you for recognizing the transportation needs of lower-income residents in Sussex County and moving forward with an ordinance that encourages the development of housing that can meet their needs. While Ordinance 22-01 recognizes the key relationship between household and distance to a transit route, we believe clarifications are needed to ensure that housing is placed in locations that are built in a way that encourages residents to choose transit.

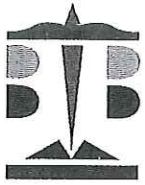
Starting on line 806, and placed in the proceeding sections, the public transit criteria state that the site, in order to qualify, shall be located within 2,640 feet (a half a mile) of an existing or proposed DART route. Within the transportation industry and literature, it is widely recognized that 1,320 feet (a quarter mile) is considered the maximum walkable range for most people choosing transit, and a half mile for those who realistically have no other option than to take transit. Additionally, clarification is needed on the measurements for the true walking distance of residents. While a site's boundary line may be within range for qualification, it is possible for a site to place housing within the development in such a way as to create significant additional walking distance beyond the agreed limit. We want to ensure that housing isn't placed a significant distance away from the property line and that non-direct pedestrian pathways are discouraged. Concurrent to what is being measured, how the measurement is being calculated also needs to be defined because the current language does not clarify whether distance is being measured by the actual pedestrian pathway or a direct line between the housing unit and bus stop.

Since distance to a bus stop from someone's home, including how direct the pathway is, has a significant impact on encouraging or discouraging someone to take transit, DTC suggests clarifying the distance in relation to the workforce housing units. Specifically, DTC suggests clarifying that the closest workforce housing unit should be no greater than a quarter mile from the bus stop, and the furthest workforce housing unit no greater than a half mile. Additionally, to mitigate the potential for creating a significant additional walking distance due to serpentine paths or pedestrian barriers, DTC suggests clarifying that the measurement follow the actual pedestrian pathway within the site, instead of a direct line to the bus stop.

Finally, because of the significant distances between some existing bus stops, DTC suggests amending the language so that a bus stop itself is the thing to which the housing units are being measured, instead of the bus route. The Route 215 is a good example of how the current language could allow a development to qualify while also being located more than two miles away from the nearest bus stop.

Again, thank you for recognizing this issue and how transit is an important aspect of finding a solution.

Jared Kauffman
DART First State
Fixed-Route Planner
119 Lower Beech St #100
Wilmington, DE 19805



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SUPPORT EXHIBIT

VIA ELECTRONIC MAIL & REGULAR MAIL

May 9, 2022

Mr. Jamie Whitehouse
Sussex County Department of Planning
2 The Circle
P.O. Box 417
Georgetown, DE 19947

RE: Affordably Priced Rental Units

Dear Mr. Whitehouse:

I write to express my strong support for the draft Ordinance regarding "Affordably Priced Rental Units" which Sussex County is presently considering for enactment. I wanted to make sure that both the Planning & Zoning Commission and the County Council are aware that there is very serious interest on the part of the real estate development community in the passage of a "workforce housing" Ordinance – indeed, I have a number of clients who would pursue projects for affordably priced housing units if such an Ordinance were to be adopted. For this reason, I wholeheartedly encourage the Planning & Zoning Commission and the County Council to proceed promptly with enactment of the proposed Ordinance regarding "Affordably Priced Rental Units".

Thank you for your time and consideration.

Very truly yours,



John W. Paraded

JWP/lwr

cc: Mackenzie Peet, Esquire
J. Michael Riemann, P.E.
Louis J. Capano, III
Christian Hudson

Jamie Whitehouse

From: Preston Schell <preston@oacompanies.com>
Sent: Tuesday, May 10, 2022 2:32 PM
To: Jamie Whitehouse
Cc: robert.wheatley@sussexcountyde.gov
Subject: Affordably Priced Rental Units - revised ordinances
Attachments: Restricted Unit Rents - Sussex County - 50% AMI.xlsx; Restricted Unit Rents - Sussex County - 80% AMI.xlsx

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Jamie,

Please submit the below comments into the record for the Planning and Zoning Commission hearing held on April 28, 2022 on proposed amendments to the Sussex County Rental Program.

In general, the changes are excellent and the program is far more viable and more likely to be utilized by developers to expand upon the amount of affordable workforce housing in eastern Sussex County.

I have the following comments to the proposed updated SCRP code provisions:

§72-24 A.(1) – I thought this was going to be updated to 25% of 80% of AMI? This still says 50% of AMI? If that doesn't get changed, the program won't work. I couldn't get this ordinance to work when it only mandated 12.5% of the rental units be priced at 25% of 50% of AMI. If I now have to do 30% of the units priced at 25% of 50% of AMI, it doesn't work times 2.5x now. Also, now you are mixing low income housing (30%-60% of AMI) with market rate housing. It will work better if you are mixing workforce housing (80%-120% of AMI) with market rate housing. This is probably an oversight but, if not, this will kill the program and no developer will be able to afford to use it. See the last two attachments. At 80%, the discount to market rents in the 113 corridor area is about 20-25%. At 50% of AMI, the discount is over 50% - this is low income housing at this point, not workforce housing. If this doesn't change, all the County's other efforts on this front are mute – the program is dead on arrival.

§115-20 A.(17)(b) – At this time, this makes it so the program cannot be used south of the Rehoboth Bay (along the Rt 26, Rt 54, Rt 20 and Rt 17). DART has no service in this area at this time. I suggest this section be modified to read that should a project be located south of the Rehoboth/Indian River bays and east of Rt 113, the location qualifies if it is located within 2,640 of a proposed DART route scheduled to be in operation within the next five years. You can't cut out half the coastal area that also needs workforce housing because DART has opted to not provide bus transportation there yet.

§115-20 A.(17)(e) – I would change the last sentence of this clause to read "may include walking and biking trails." We often put our walking trails around a central pond. Mandating the walking trails be in the setback buffer, adjacent to adjoining properties (likely already developed), will anger the neighbors more so than had those trails been internal to the site. I don't think you should say they can't be in those buffers... just may be. Right now, even if I have a great location for my trail system internal to the site, the way it is worded I "shall" (ie. have to) locate it within this setback buffer.

§115-20 A.(17)(g) – I suggest this be reworded to "there shall be connected sidewalks in front of all buildings, with interconnectivity to walking trails and adjacent walkway systems." You don't want a situation like we had at Ashton Oaks where the sidewalk is on the far side of a street or parking aisle where there is no building. It creates impervious area for no reason. No one will use it. Also, the unnecessary expense detracts from the affordability of the remaining 70% of the units.

§115-20 A.(17)(h) and §115-29 K.(8) – I want to make sure this change does not mandate that a SCRP site be located next to a property zoned C-1, CR-1, C-2, C-3, C-5, C-5, B-1, B-2 or B-3 but simply mandates that should a SCRP project be adjacent to this zoning that interconnectivity be provided. If that is the case, this is fine.

§115-20 A.(17)(i) and §115-29 K.(17)(9) – not sure all units should have to have a primary view directed to open space and recreational amenities. That's what I do with my buildings in all my projects, but there are some good building designs with internal hallways (mine are external and open to the elements) in which it is impossible for all units to have views of open space (because there are units on both the parking and non-parking side of the building). I'm not sure you should exclude those buildings from consideration.

I saw some comments in the newspaper recently stating that these projects should be permitted outside of growth zones and on properties without available public sewer. I disagree with that. There is plenty of land that meets the criteria outlined and it should be kept in place. These high density apartment projects should absolutely not be in level 4 areas without nearby available services, amenities and public transportation. Also, keep the 100' setback ... it will make these applications more acceptable to the adjacent property owners. The 50% open space may be a tad aggressive and make it difficult to hit the targeted 12 units-per-acre density. I might reduce that to 40%.

Thanks for working on this and good luck with it. So long as that first change I mention above is made, this is a great ordinance and will go a long way to addressing our workforce housing shortage in the eastern part of Sussex County.

Thanks,

Preston

Preston Schell
Ocean Atlantic Companies
18949 Coastal Hwy, Suite 301
Rehoboth Beach, DE 19971
ph: 302-227-6115
preston@oacompanies.com



THE COMMONWEALTH COMPANIES

7447 University Ave., Ste. 210
Middleton, WI 53562
www.commonwealthco.net

SUPPORT EXHIBIT

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May 4, 2022

MAY 04 2022

Sussex County Planning and Zoning Commission
2 The Circle
Georgetown, DE 19947

SUSSEX COUNTY
PLANNING & ZONING

RE: Comments on Ordinance to Amend the Code of Sussex County Regarding Affordably Priced Rental Units and the Sussex County Rental Unit (SCRUP) Program

Dear Sussex County Commissioners,

My name is Matt Padron and I represent Commonwealth Development Corporation, a national developer of high-quality rental housing designed to be affordable to working families and seniors. I am writing to express our very strong support for the proposed affordable housing Ordinance and to respectfully urge its rapid passage and enactment. Commonwealth is new to Delaware, but I myself have worked on affordable housing projects in the state for years with another organization and upon joining Commonwealth, was excited to explore the potential to bring our company's resources to develop new affordable housing to support the local workforce in Sussex County.

I regret that I was unable to attend the Planning and Zoning Commission Meeting on April 28 due to an unavoidable scheduling conflict, but I have reviewed the proposed Ordinance and listened to the full discussion of that meeting and I can confirm now as a developer that should this Ordinance pass, my organization will absolutely jump on it and make immediate use of the provisions of the Ordinance to pursue the new affordable housing development opportunities that would be made possible through its passage. Indeed, we have an exciting new affordable housing project in pre-development and under consideration for funding now just outside of Lewes and Rehoboth for which passage of this Ordinance would help clear the way for rapid development.

We have long been aware of the tremendous need for new affordable homes in the County, but a combination of high costs, limited availability, and restrictive zoning of suitable land has been an obstacle that has been difficult to overcome until now. The proposed Ordinance allowing affordable multifamily housing development by right on a large number of parcels is a potential game changer that will do much to remove these obstacles and make significant new affordable housing creation possible. One of the most challenging parts of real estate development—and in particular, affordable housing development—is the unpredictable and lengthy nature of the entitlements process and the financial, legal, and political ramifications that can arise from any need for zoning relief. This Ordinance eliminates much of this unpredictability, allowing for a



THE COMMONWEALTH COMPANIES

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straightforward and clear path to obtaining necessary approvals on a wide variety of potential sites in the County. In addition to reducing development costs and helping to ensure financial feasibility of projects, this Ordinance will make it easier to enter into agreements with sellers of applicable parcels, as many of the uncertainties of timing around entitlements and potential zoning relief would be eliminated. Furthermore, the development of affordable housing frequently relies upon a complex set of financing sources with funding agencies, lenders, and investors giving considerable weight to having permissive zoning in place. This Ordinance would enact that for many potential sites, streamlining the overall funding process and making these sites more attractive when applying for competitive funding sources.

Commonwealth Development sincerely appreciates the Commission's and County's desire for developer input into this Ordinance and is grateful for your concern that the Ordinance be truly beneficial to new affordable housing development. We would certainly value reducing the setback requirements and open space requirements as suggested during the April 28 meeting, but even exactly as written in its current form, this Ordinance is truly a significant advancement to efforts to promptly create new affordable housing in Sussex County and our greatest concern would be any undue delay in its passage and enactment. Should the ordinance be passed in the near future, it will be of instant benefit in expediting our proposed development near Lewes and will allow us to immediately begin working to confidently secure additional sites for new affordable housing development in Sussex County. This Ordinance tackles a challenging problem head on and as a developer of affordable housing, Commonwealth Development Corporation wholeheartedly supports and respectfully urges its rapid passage.

Thank you, again, for the opportunity to participate in this discussion and please do not hesitate to reach out at any time if you have any questions.

Sincerely,

Matthew F. Padron
Vice President of Development
1400 Harrisburg Pike #7806
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SUSSEX COUNTY
PLANNING & ZONING

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The Honorable Mike Vincent
President, Sussex County Council
2 The Circle
PO Box 589
Georgetown, DE 19947

Mr. Robert Wheatly
Chairman, Sussex County Planning
And Zoning Commission

Dear Council President Vincent and P&Z Chairman Wheatly:

The Sussex Economic Development Action Committee is pleased to unanimously endorse the recently introduced ordinance to amend the Code of Sussex County dealing with Affordable Rental Units and the Sussex County Rental Unit Program (SCRIP). The Council is to be commended for taking this giant step forward to address the housing problem in Sussex County that is reaching catastrophic levels.

The proposal does make giant strides in beginning the process of making rental units more available and affordable and, through these changes it makes in our present code and program, will make it easier for the private sector to develop more of these projects while making them far more affordable to large numbers of Sussex Countians facing housing shortages and housing costs out of their reach. Moreover, the changes proposed will go a long way in assisting the residents of our County to live where they work.

We support this legislation as proposed but we do have some suggestions that may improve what you are trying to accomplish. These suggestions are from our membership:

- 1) Employed for one year and live here a year. Bridgeville adopted an Affordable Housing Ordinance modeled after the County's Ordinance. They addressed the residency issue by allowing only current residents of Bridgeville to apply to rent or buy the first three months that a unit is available. After three months, any resident of Sussex County could rent or buy it. Every time a unit became available the unit was only available to a current Bridgeville resident for that three-month period and then to the open market.
- 2) One hundred (100) feet set back from neighboring properties. The one hundred feet seems a little too much unless it is tied to the height of the rental unit.
- 3) 50% of the land must be in open space. With the price of land that either has sewer and water already available or available nearby, this could affect the number of units built thus opening the development of adjacent land to similar development, a sprawl-type effect, if you will.
- 4) All units must have a primary view of open space or recreational amenities. We understand the reason for this requirement and make no comment; and

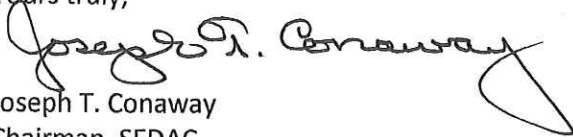
- 5) Eligibility of an individual is left to the landlord with the County having oversight. This is a good requirement and should speed up the rental of these units. With the County having final say, we are confident that problems will be at a minimum. You may want to look at some third-party appeal process if the County rejects an applicant.

As we have said, this is a giant first step and honors a commitment made by the Council but now it's time to begin to discuss how we make projects that can be purchased available as affordable housing.

We urge the Planning and Zoning Commission to recommend this Ordinance to the County Council for approval and we further urge the Sussex County Council to approve it.

Thank you. And, as always, SEDAC stands ready to assist you in your efforts to bring housing and jobs to Sussex County.

Yours truly,



Joseph T. Conaway
Chairman, SEDAC

CC: Sussex County Council
Sussex County Planning and Zoning Commission
Todd Lawson, Sussex County Administrator
Jamie Whitehouse, Director Sussex County P&Z

Lauren DeVore

From: webmaster@sussexcountyde.gov on behalf of Sussex County DE
<webmaster@sussexcountyde.gov>
Sent: Thursday, April 28, 2022 3:39 PM
To: Planning and Zoning
Subject: Submission from: Planning & Zoning Commission contact form

RECIPIENTS: Jamie Whitehouse

Submitted on Thursday, April 28, 2022 - 3:38pm

SUPPORT EXHIBIT

Name: Mindy Lyle

Email address: mindylyle@comcast.net

Phone number: 571-212-4735

Subject: Affordable Housing Ordinance

Message: I am writing in support of the Affordable Housing Ordinance. This Ordinance is essential to make the county more attractive to those seeking full-time employment and to businesses who have a consistent need for staff. I would also encourage you to consider including workforce ownership opportunities as you move forward.

Cc: Andrew Sharp; Bill Pfaff; Bob Wheatley; Bobbi Barends; Bobby Horsey; Brian McGlinchey; Brian Shannon; Bruce o'connor; Caroline Antony; Casey Kenton; Catherine Bassett; Charlie Timmons; Chris Baker; Christ Moody; Chris Weeks; Dave Speicher; david.l.wilson@delaware.gov; David Baker; David Root; Derrick Southard; dona troyer; Doug Liberman; Ed Lewandowski; Ernie Felici; Fred Dean; Gavin Short; George Beckerman; geraldhocker@gmail.com; Gus Mergenthaler; Helen Hoart; hfortunato@melvinjoseph.com; Jack Riddle; Jamie; Jacob Owens; Jared Shelton; Heun, Jean (US - Delaware); JDenney; Jerry Espositi; J Martin; Jim Provo; Joe Conaway; John Jones; jlrieley@hotmail.com; John Rieley; Jordan Schulties; Josh Mastrangelo; Karen Swain; Katie Tabeling; kelly Jansen; kelly.jansen@impactgraphix302.com; Kevin Yingling; Lauren Swain /Sussex SB; Lauren Weaver; Laurence Corrigan; Lillian Harrison; Lorri Grayson; Mark H. Davidson; Mary Dupont; Matt Robinson; Mike Vanderslice; Mike Vincent; Pat Ryan; Pete Keenan; Preston Schell; Ray Sander; Rob Eps; robert.m.nicholson@gmail.com; Robert Tunnell III; Bob Ruggio; Ruth Briggs King; Sara Pletcher; sarah gilmour; sgilmour@pathways-2-success.org; scott thomas; Sheldon Hudson; Stephanie Moody; Tom Thunstrom; tom.weaver@yourdelawarepi.com; Tom Weaver; Trish Newcomer; Walt Bryan; walt@foto-bug.com; Zach Evans
Subject: Re: from Chairman Joe

I just finished reading the proposed Ordinance and take issue with a few items, in particular, line 347, requiring any tenant to be previously employed for one full year in the County (that's an unnecessary disqualifier), and line 353, no felony record. (DUI's are a felony). This is another onerous requirement.

All in all, most of the language is based on finding the Qualifying Land, which would first and foremost need central water & sewer. We all know that the opportunities to build on land nearest Town centers are prohibitively expensive, or do not have central utilities (i.e Seaford area). I think it also puts too much of a burden on the prospective LandLord, and would actually inhibit what it is trying to create.

My opinion only.

Respectfully,

Sandra Ware / REALTOR since Jan '97 / Senior Advisor
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From: Gerard L. Esposito <espoenterprisesllc@gmail.com>

Sent: Thursday, April 21, 2022 8:19 AM

To: Sandra Ware <sandra@commercialde.com>; Linda Price <director@georgetowncoc.com>

Cc: Andrew Sharp <asharp@delawareindependent.com>; William Pfaff <william.pfaff@sussexcountyde.gov>; Bob Wheatley <bob@rcwheatley.com>; Bobbi Barends <bobbi.barends@dtcc.edu>; Bobby Horsey <bobbydgh@aol.com>; Brian McGlinchey <brianmcglinchey@me.com>; Brian Shannon <bgshannon@msn.com>; bruce o'connor <aboconnor@middlesexwater.com>; Caroline Antony <caroline@sussexpainrelief.com>; Casey Kenton <ckenton@i-realty.com>; Catherine Bassett <cbassett@mountaire.com>; Charlie Timmons <ctimmons@abcdelaware.com>; Chris Baker <cbaker@geolyn.com>; Christ Moody <Cmoody@dtcc.edu>; Chris Weeks <cweeks@beckermorgan.com>; Dave Speicher <davespeicherjr@gmail.com>; david.l.wilson@delaware.gov; David Baker <bakerudel@comcast.net>; David Root <dgroot@udel.edu>; Derrick Southard <dsouthard@ncall.org>; dona troyer <dona.troyer@sussexvt.k12.de.us>; Doug Liberman <dliberman@larsonengineering.net>; Ed Lewandowski <edlew@udel.edu>; Ernie Felici <ernie@herringpoint.com>; Fred Dean <fred@deanteamsells.com>; Gavin Short <gshortm@icloud.com>; George Beckerman <george@hoartbeckerman.com>; geraldhocker@gmail.com; Gus Mergenthaler <gus.mergenthaler@tetrattech.com>; Helen Hoart <helen@hoartbeckerman.com>; hfortunato@melvinjoseph.com; Jack Riddle <jack.riddle@communitybankdelaware.com>; Jamie <jamieb@millsboro.org>; Jacob Owens <jowens@delawarebusinesstimes.com>; Jared Shelton <jshelton@chpk.com>; Heun, Jean (US - Delaware) <jean.heun@fiserv.com>; JDenney <jdenney@corradoconstruction.com>; J Martin <jmartin@chpk.com>; Jim Provo <james.provo@sba.gov>; Joe Conaway <jconaway@hotmail.com>; John Jones <johnbjones@yahoo.com>; jlrieley@hotmail.com; John Rielely <jlrieley@sussexcountyde.gov>; Jordan Schulties <jordan.schulties@delaware.gov>; Josh Mastrangelo <jmastrangelo@cmfa.com>; Karen Swain <karen.swain@dtcc.edu>; Katie Tabeling <ktabeling@delawarebusinesstimes.com>; kelly Jansen <kelly.jansen@yourdelawarepi.com>; kelly.jansen@impactgraphix302.com; Kevin Yingling <kevin@decoop.com>; Lauren Swain /Sussex SB <lauren.swain@delaware.gov>; Lauren Weaver <Lauren@thequietresorts.com>; Laurence Corrigan <laurence.corrigan@cj.state.de.us>; Lillian Harrison <harrison.ltd@gmail.com>; Lorri Grayson <lgrayson@ggabuilds.com>; Mark H. Davidson <mdavidson@pennoni.com>; Mary Dupont <marykdupont@gmail.com>; Matt Robinson <mjrobins@udel.edu>; Mike Vanderslice <mvanderslice@envalliance.com>; Michael H. Vincent <mvincent@sussexcountyde.gov>; Pat Ryan <pryan@solutionsipem.com>; Pete Keenan <obkeen@verizon.net>; Preston Schell <preston@oacompanies.com>; Ray Sander <raymondjsander@gmail.com>; Rob Eps <rob@jadel.org>; robert.m.nicholson@gmail.com; Robert Tunnell III <rtunnell@potnets.com>; Bob Ruggio <ruggio.del@gmail.com>; Ruth Briggs King <ruth.briggsking@state.de.us>; Sara Pletcher <spletcher@milford-de.gov>; sarah gilmour <sarahgilmour@verizon.net>; sgilmour@pathways-2-success.org; scott thomas <scottT@visitsoutherndelaware.com>; Sheldon Hudson <sheldon@millsboro.org>; Stephanie Moody <smoody@scaor.com>; Tom Thunstrom <tom.thunstrom@gmail.com>; tom.weaver@yourdelawarepi.com; Tom Weaver <tom.weaver@impactgraphix302.com>; Trisha Newcomer <tbooth@seafordde.com>; Walt Bryan <walt@waltbryan.com>; walt@foto-bug.com; Zach Evans <zevans@mountaire.com>

Subject: RE: from Chairman Joe

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I agree with Sandra's observations, and would add a supporting comment about central water and sewer. Most non-municipal or non-County central water and sewer "districts" don't put infrastructure in the ground until they have an actual customer. Unlike government utilities, who can build capacity using public funds with or without paying customers, private utilities usually can't build for future growth—whether for workforce housing or not. Requiring that utility availability for the "Qualifying Land" could be prohibitive.

Jerry E.

Sent from Mail for Windows

From: Sandra Ware

Sent: Wednesday, April 20, 2022 10:25 AM

To: Linda Price