

1 To Be Introduced: 3/10/26

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

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

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

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

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

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

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

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

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

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

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

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

67 **NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY**
68 **ORDAINS:**

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

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74 **§ 72-24 SCR P Units.**

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76 A. Rent.

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

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

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91 **§115-20 Permitted Uses.**

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

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97 (17) A Sussex County Rental Program, or SCR P, ~~townhouse or~~
98 ~~multi-family~~ development governed by, and subject to, Chapter

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72, where at least ~~[25]~~15% of all dwelling units are SCRP Units pursuant to Chapter 72. The SCRP development must satisfy the following criteria:

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

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

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

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

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

(f) The height of any ~~[townhouse or multi-family]~~ buildings shall not exceed 52 feet or four stories, whichever is greater; provided,

129 however, [that if the height does not exceed 42 feet, then the
130 setback described in this subsection shall be reduced from 100
131 feet to 50 feet] that if the height exceeds 42 feet and the site is
132 adjacent to land that is, or could become, developed residentially,
133 the building(s) shall include a stepback design above 42 feet
134 and/or an increased setback to ensure an appropriate
135 relationship between the higher density SCRCP project and uses of
136 low intensity or height, existing or future, outside the proposed
137 SCRCP project.

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

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

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

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

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

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155 **§115-29 Permitted Uses.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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219 **§115-37 Permitted Uses.**

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221 Permitted uses are as follows:

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

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

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

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

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243 (4) The total maximum number of dwelling units (including both
244 SCRCP Units and non-SCRCP Units) that may be permitted shall be
245 determined by dividing the gross area by 3,630 square feet.
246 "Gross area" shall exclude any area designated as a [tidal tributary
247 stream or tidal wetlands] Tidal Waters or Tidal Wetlands by § 115-
248 193.

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

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

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

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

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

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

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277 **Section 5. The Code of Sussex County, Chapter 115, Article VII,**
278 **§115-45 “Permitted Uses”, is hereby amended by deleting the**

279 **language in brackets and inserting the italicized and underlined**
280 **language as follows:**

281

282 **§115-45 Permitted Uses.**

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284 Permitted uses are as follows:

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288 F. A Sussex County Rental Program, or SCRP, [townhouse or
289 multi-family] development governed by, and subject to, Chapter
290 72, where at least [25] 15% of all dwelling units are SCRP Units
291 pursuant to Chapter 72. The SCRP development must satisfy the
292 following criteria:

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

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

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

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

310 "Gross area" shall exclude any area designated as a [tidal tributary
311 stream or tidal wetlands] *Tidal Waters or Tidal Wetlands* by § 115-
312 193.

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

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

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

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

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

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

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Section 6. The Code of Sussex County, Chapter 115, Article VIII, §115-53 “Permitted Uses”, is hereby amended by deleting the language in brackets and inserting the italicized and underlined language as follows:

§115-53 Permitted Uses.

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

. . .

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

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

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

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

371 (4) The total maximum number of dwelling units (including both
372 SCRP Units and non-SCRP Units) that may be permitted shall be
373 determined by dividing the gross area by 3,630 square feet.
374 "Gross area" shall exclude any area designated as a [tidal tributary
375 stream or tidal wetlands] Tidal Waters or Tidal Wetlands by § 115-
376 193.

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

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

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

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

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

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

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

1 To Be Introduced: 3/10/26

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3 **AN ORDINANCE TO AMEND CHAPTER 99, ARTICLES I, III &**
4 **IV, SECTIONS 99-5 “DEFINITIONS”, 99-21, “PUBLIC SITES AND**
5 **OPEN SPACES”, §99-23 “PRELIMINARY PLAT**
6 **REQUIREMENTS” AND CHAPTER 115, ARTICLES I & V, §115-4**
7 **“DEFINITIONS AND WORD USAGE” AND §115-25 “HEIGHT,**
8 **AREA AND BULK REQUIREMENTS” OF THE CODE OF**
9 **SUSSEX COUNTY REGARDING OPEN SPACE.**

10 WHEREAS, Pursuant to the provisions of Title 9, Chapters 68 and 69 of
11 the Delaware Code, the Sussex County Government has the power and
12 authority to regulate the use of land; and

13 WHEREAS, Pursuant to Chapters 99 and 115 of the Code of Sussex
14 County, the Sussex County Government has undertaken to regulate the
15 use of land; and

16 WHEREAS, the 2019 Sussex County Comprehensive Plan and its Future
17 Land Use Element contemplate the revision of the Subdivision and
18 Zoning Codes regarding open space; and

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20 WHEREAS, Sussex County Council commissioned a Land Use Reform
21 Working Group that developed multiple recommendations for
22 improvements to the Sussex County Code regarding housing and land use
23 and one of the recommendations included an update to open space
24 requirements as reflected in this Ordinance; and

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26 WHEREAS, this ordinance has been drafted to update the open space
27 definitions and requirements in the Code of Sussex County as
28 recommended by the Land Use Reform Working Group; and

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

33 **NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY**
34 **ORDAINS:**

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36 **Section 1. The Code of Sussex County, Chapter 99, Article I, §99-5**
37 **“Definitions” is hereby amended by deleting the language in brackets**
38 **and by inserting the italicized and underlined language as follows:**

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40 **§ 99-5 Definitions.**

41 For the purpose of this chapter, certain terms and words are hereby
42 defined:

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45 **OPEN SPACE**

46 Those land areas within all major residential subdivisions, residential
47 planned communities or developments which have a purpose to provide
48 active and/or passive recreational opportunities, maintain land in a
49 predominantly undeveloped or natural and undisturbed state, including
50 lands used for agricultural purposes, promote conservation, protect
51 wildlife or serve as a buffer between residential and nonresidential areas
52 and/or commercial and noncommercial areas.

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54 (1) The following uses are permitted and the land area devoted to said
55 uses will be included in the calculation of open space:

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57 (a) Play areas not including playgrounds, tot lots or other structures,
58 walking paths, bike paths and multimodal paths that are not located
59 on state road rights-of-way.

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61 (b) Ponds.

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(c) Perimeter buffers, perimeter buffer protection areas, resource buffers and forested areas.

(d) Areas protected by perpetual conservation easements.

(e) Areas providing scenic vistas, areas providing wildlife corridors.

(f) Areas designated as "safe zones" under the Source Water Protection Ordinance contained in Chapter 89.

(g) Resources.

(h) [Stormwater management facility area].
Stormwater retention ponds when suitably designed to emulate natural features by incorporating irregular shapes, gradual slopes (no greater than 1:4) and appropriate landscape plantings.

(2) The following uses are not permitted and the land area devoted to said uses will not be included in the calculation of open space:

(a) Land area included within designated lot lines.

(b) Building footprints.

(c) Predominantly impervious surfaces such as street rights-of-way, sidewalks within street rights-of-way, parking and/or loading areas.

(d) Utility facilities, including but not limited to, any building, plant, equipment for treatment or pumping, lagoons and rapid infiltration basins, for sewer, water, gas, and/or electric utilities.

(f) Clubhouses, community buildings, recreational facilities, including swimming pools, game courts, tot lots and playgrounds,

97 pavilions, community patios, sidewalks and other impervious
98 recreational or community facilities.

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100 (g) Medians, boulevards, parking islands or areas between the
101 pavement or curb and sidewalk within a right of way unless these
102 areas are planted with trees no further than thirty feet from one
103 another that have a minimum height of six feet above ground when
104 planted and will obtain a minimum height of ten feet when fully
105 grown.

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107 (h) Stormwater retention ponds that are not suitably designed to
108 emulate natural features by incorporating irregular shapes, gradual
109 slopes (no greater than 1:4) and appropriate landscape plantings.
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113 (3) Any reference in this chapter to "open space" shall be subject to and
114 governed by this definition.

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116 **Section 2. The Code of Sussex County, Chapter 99, Article III, §99-**
117 **21 “Public Sites and Open Spaces” is hereby amended by deleting the**
118 **language in brackets and by inserting the italicized and underlined**
119 **language as follows:**

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121 **§ 99-21 Public sites and open spaces.**
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123 A. Where the proposed subdivision includes lands proposed for use as
124 parks, playgrounds, playfields, public landings or school sites in the
125 Comprehensive Plan, the subdivider shall indicate the location of such
126 lands on the subdivision plat and shall reserve the right of purchase of
127 such lands by the appropriate jurisdiction for the time period specified
128 herein. If the reserved lands are not purchased by the appropriate
129 jurisdiction within the specified time limit, the subdivider shall be free to

130 market such lands for an alternate purpose as specified on the approved
131 subdivision plat.

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

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

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146 D. For residential subdivisions and other residential land development,
147 the following table shall establish the minimum percentage of the total
148 site which shall be set aside for park and open space uses; in achieving
149 the minimum percentage of open space, isolated areas of open space that
150 are not directly connected to contiguous open space and that are smaller
151 than 10,000 square feet in size shall not be counted:

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Gross Density (dwelling units per acre)	Minimum Percentage of Open Space
2 to 5	10
6 to 10	15
Over 10	[25 or more] <u>30 in Growth Area</u> <u>50 in a Rural Area</u> ¹

¹ “Growth Areas” and “Rural Areas” are those Areas as described within the Land Use Element and as shown on the Future Land Use Map of the adopted Sussex County Comprehensive Plan

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156 E. Required open space shall comply with the following criteria:

157 [a] All required open space must meet the official definition of
158 acceptable open space contained in § 99-5.

159 [b] Required open space must be designed to be beneficial to the
160 residents or users of the open space. It shall not be constituted of
161 fragmented lands with little open space value. Accordingly, 30% of
162 all required open space shall be located on one contiguous tract of
163 land, except that such open space may be separated by water bodies
164 and a maximum of one street.

165 [c] If one of the following physical conditions exists adjacent to
166 the proposed development tract, at least 30% of all required open
167 space must be adjacent to:

168 [i] An existing or officially planned public park, land
169 preserved by easement, or land preserved as open space and
170 in municipal, County, state, or federal ownership.

171 [ii] Existing wetlands, waterways, wildlife corridors, or
172 other ecology-sensitive land.

173 [iii] Existing farmland and/or woodlands.

174 [iv] If more than one of these physical features exist on
175 adjacent properties, then one of these features will be
176 identified and utilized to satisfy this requirement.

177 [v] Open space in a cluster development shall include a
178 pedestrian trail system accessible to residents. This trail
179 system shall connect to an adjacent trail, adjacent

180 neighborhood, adjacent commercial area, or adjacent public
181 open space, if any such areas exist adjacent to the proposed
182 cluster development. Construction materials for the proposed
183 trail shall be identified, and a typical construction detail for
184 the proposed trail shall be shown. Trail construction materials
185 shall be pervious in nature.

186 F. Naturalized landscaping and native vegetation is encouraged within
187 open space, including habitat-friendly design features including native
188 plantings, pollinator zones and low-mow zones. Low- or no-mow zones
189 shall be identified on the Final Site Plan with signage located on the site
190 itself.

191

192 **Section 3. The Code of Sussex County, Chapter 115, Article I, §115-4**
193 **“Definitions and Word usage” is hereby amended by deleting the**
194 **language in brackets and by inserting the italicized and underlined**
195 **language as follows:**

196

197 **§ 115-4 Definitions and word usage.**

198 . . .

199

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

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203 . . .

204

205 OPEN SPACE

206 Those land areas within all major residential subdivisions, residential
207 planned communities or developments which have a purpose to provide

208 active and/or passive recreational opportunities, maintain land in a
209 predominantly undeveloped or natural state, including lands used for
210 agricultural purposes, promote conservation, protect wildlife or serve as a
211 buffer between residential and nonresidential areas and/or commercial
212 and noncommercial areas.

213

214 (1) The following uses are permitted and the land area devoted to said
215 uses will be included in the calculation of open space:

216

217 (a) Play areas not including playgrounds, tot lots or other structures,
218 walking paths, bike paths and multimodal paths that are not located
219 on state road rights-of-way.

220

221 (b) Ponds.

222

223 (c) Perimeter buffers, perimeter buffer protection areas, resource
224 buffers and forested areas.

225

226 (d) Areas protected by perpetual conservation easements.

227

228 (e) Areas providing scenic vistas, areas providing wildlife corridors.

229

230 (f) Areas designated as "safe zones" under the Source Water
231 Protection Ordinance contained in Chapter 89.

232

233 (g) Resources.

234

235 (h) [Stormwater management facility area].
236 Stormwater retention ponds when suitably designed to emulate
237 natural features by incorporating irregular shapes, gradual slopes
238 (no greater than 1:4) and appropriate landscape plantings.

239

240

241
242 (2) The following uses are not permitted and the land area devoted to said
243 uses will not be included in the calculation of open space:

244
245 (a) Land area included within designated lot lines.

246
247 (b) With the exception of Moderately Priced Housing Units and
248 Affordably Priced Rental Units under Chapter 72 herein or projects
249 that will be truly “affordable” as part of an official HUD, DSHA,
250 USDA or other similarly recognized housing program, land area
251 included within an area within 40 feet from the front, 10 feet from
252 the side and 10 feet from the rear of any multifamily or townhouse
253 dwelling.

254
255 (c) Building footprints.

256
257 (d) Predominantly impervious surfaces such as street rights-of-way,
258 sidewalks within street rights-of-way, parking and/or loading areas.

259
260 (e) Utility facilities, including but not limited to, any building, plant,
261 equipment for treatment or pumping, lagoons and rapid infiltration
262 basins, for sewer, water, gas, and/or electric utilities.

263
264 (f) Clubhouses, community buildings, recreational facilities,
265 including swimming pools, game courts, tot lots and playgrounds,
266 pavilions, community patio, sidewalks and other impervious
267 recreational or community facilities.

268
269 (g) Medians, boulevards, parking islands or areas between the
270 pavement or curb and sidewalk within a right of way unless these
271 areas are planted with trees no further than thirty feet from one
272 another that have a minimum height of six feet above ground when
273 planted and will obtain a minimum height of ten feet when fully
274 grown.

275

276 (h) Stormwater retention ponds that are not suitably designed to
277 emulate natural features by incorporating irregular shapes, gradual
278 slopes (no greater than 1:4) and appropriate landscape plantings.
279

280 (3) For residential subdivisions and other residential land development
281 (with the exception of Moderately Priced Housing Units and Affordably
282 Priced Rental Units under Chapter 72 herein or projects that will be truly
283 “affordable” as part of an official HUD, DSHA, USDA or other similarly
284 recognized housing program), the following table shall establish the
285 minimum percentage of the total site which shall be set aside for park and
286 open space uses; in achieving the minimum percentage of open space,
287 isolated areas of open space that are not directly connected to contiguous
288 open space and that are smaller than 10,000 square feet in size shall not
289 be counted:
290

Gross Density (dwelling units per acre)	Minimum Percentage of Open Space
2 to 5	10
6 to 10	15
Over 10	<u>[25 or more]30 in Growth Area</u> <u>50 in a Rural Area²</u>

291
292 (4) Any reference in this chapter to "open space" shall be subject to and
293 governed by this definition.
294

295 **Section 4. The Code of Sussex County, Chapter 115, Article IV, §115-**
296 **25 “Height, Area and Bulk Requirements” is hereby amended by**
297 **deleting the language in brackets as follows:**

²“Growth Areas” and “Rural Areas” are those Areas as described within
the Land Use Element and as shown on the Future Land Use Map of the
adopted Sussex County Comprehensive Plan

298

299 § 115-25 Height, area and bulk requirements.

300 . . .

301

302 F. Review procedures for cluster development.

303 . . .

304

305 (3) The Planning and Zoning Commission shall determine that the
306 following requirements are met before approving any preliminary
307 plan and such application shall be reviewed on an expedited basis.

308 (a) The cluster development sketch plan and the preliminary
309 plan of the cluster subdivision provides for a total environment
310 and design which are superior, in the reasonable judgment of
311 the Planning Commission, to that which would be allowed
312 under the regulations for the standard option. For the purposes
313 of this subsection a proposed cluster subdivision which
314 provides for a total environment and design which are superior
315 to that allowed under the standard option subdivision is one
316 which, in the reasonable judgment of the Planning
317 Commission meets all of the following criteria:

318 [1] Homes shall be clustered on the environmentally
319 suitable portions of the tract, specifically those portions
320 of the tract least encumbered by sensitive environmental
321 features, including but not limited to wetlands, mature
322 woodlands, waterways and other water bodies. This does
323 not inhibit the development of wooded parcels.

324 [2] (Reserved)

325 [[3] Required open space shall comply with the
326 following criteria:

327 [a] All required open space must meet the
328 official definition of acceptable open space
329 contained in § 115-4.

330 [b] Required open space must be designed to be
331 beneficial to the residents or users of the open
332 space. It shall not be constituted of fragmented
333 lands with little open space value. Accordingly,
334 30% of all required open space shall be located on
335 one contiguous tract of land, except that such open
336 space may be separated by water bodies and a
337 maximum of one street.

338
339 [c] If one of the following physical conditions
340 exists adjacent to the proposed cluster development
341 tract, at least 30% of all required open space must
342 be adjacent to:

343 [i] An existing or officially planned public
344 park, land preserved by easement, or land
345 preserved as open space and in municipal,
346 County, state, or federal ownership.

347 [ii] Existing wetlands, waterways, wildlife
348 corridors, or other ecology-sensitive land.

349 [iii] Existing farmland and/or woodlands.

350 [iv] If more than one of these physical
351 features exist on adjacent properties, then one

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of these features will be identified and utilized to satisfy this requirement.

[v] If the open space is proposed to be dedicated to a municipality, a County, state, or federal agency or a homeowners' association, an agreement shall be provided, in advance, stipulating that such entity agrees in advance to accept that dedication and maintain that land for public recreation or as a nature preserve.]

[vi] Open space in a cluster development shall include a pedestrian trail system accessible to residents. This trail system shall connect to an adjacent trail, adjacent neighborhood, adjacent commercial area, or adjacent public open space, if any such areas exist adjacent to the proposed cluster development. Construction materials for the proposed trail shall be identified, and a typical construction detail for the proposed trail shall be shown. Trail construction materials shall be pervious in nature.]

377 **Section 5. Effective Date.**

378 This ordinance shall become effective upon adoption. Provided however,
379 that it shall not apply to subdivision or residential planned community
380 district applications that have had a Preliminary Conference pursuant to
381 §99-7 of the Code of Sussex County and that have submitted a PLUS
382 application to the Office of State Planning Coordination and received a
383 PLUS comment letter from the Office of State Planning Coordination
384 following the PLUS meeting on the application.

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

35 **NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY**
36 **ORDAINS:**

37
38 **Section 1. The Code of Sussex County, Chapter 99, Article II, §99-9**
39 **“Public hearing on preliminary plat approval or disapproval” is**
40 **hereby amended by deleting the language in brackets and by**
41 **inserting the italicized and underlined language in Subsection 99-9.C**
42 **thereof as follows:**

43
44 **§ 99-9 Public hearing on preliminary plat approval or**
45 **disapproval.**

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47 . . .

48
49 C. In addition to the other provisions contained within this article, an
50 Applicant for approval of a preliminary plat shall *demonstrate how the*
51 *preliminary plan is consistent with the Code of Sussex County and the*
52 *Comprehensive Land Use Plan and that the following criteria are*
53 *satisfied and the manner in which each one is satisfied* [provide that the
54 following criteria are incorporated and addressed in the plat and the
55 manner in which each one is incorporated and addressed] through the
56 design of the preliminary plat:

57
58 (1) That the proposed subdivision is integrated into existing terrain and
59 surrounding landscape.

60
61 (2) That all resources and resource buffers are protected in accordance
62 with Chapters 99 and 115 herein [and that floodplains are minimally
63 used].

64

65 (3) [That natural and historic features are preserved and forest
66 fragmentation and vegetation and soil removal is minimized. In addition,
67 a forest assessment shall be conducted with a forest assessment report
68 provided with the preliminary plat. If woodlands or mature forests that
69 contain high habitat value are found, these areas shall be conserved to the
70 maximum extent possible.] That the cultural landscape, including scenic
71 views and cultural and historic features, are identified and protected as
72 appropriate on the preliminary plat.

73

74 [(4) That open space and scenic views are preserved.]

75

76 ([5]4) That the supply of potable water to future residents of the proposed
77 subdivision is safe and adequate for their use.

78

79 ([6]5) That the means and method of sewage disposal are adequately
80 addressed for the proposed subdivision.

81

82 (6) That all lots shall be configured to be contained completely outside
83 of all wetlands and that [That] the proposed subdivision will not pollute
84 surface water or groundwater.

85

86 ([8]7) That the anticipated method of minimization of erosion and
87 sedimentation are adequately identified and that the proposed subdivision
88 complies with the requirements of Chapter 90 of the Code of Sussex
89 County.

90

91 ([9]8) That changes to the groundwater levels will be minimized and
92 that groundwater recharge is maximized as a result of the proposed
93 subdivision and that the methods of both are adequately identified. In
94 addition, that there will not be increased rates of runoff or increased risk
95 of flooding onto adjoining properties from the design and construction of
96 the proposed subdivision, and the anticipated methods used to achieve
97 these criteria are adequately identified.

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99 ([10]9) That area property values will not be adversely affected.

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[(11) That any active farmland and tree farming adjacent to the proposed subdivision is adequately preserved through the design and construction of the proposed subdivision.]

(10) That objectionable features, including but not limited to, utility infrastructure, parking areas, loading zones and outdoor storage areas are screened from view of neighboring properties and roadways.

[[12]11) That the Applicant has notified the local school district where the proposed subdivision will be located.

[[13]12) That public buildings and community facilities will not be adversely affected by the proposed subdivision.

[[14]13) That the subdivision is either within an established Transportation Improvement District or the subdivision endeavors to maintain the current Delaware Department of Transportation Level of Service on all adjacent roads and intersections after the subdivision is completed and in no event will allow the Level of Service to degrade below a Level of Service D. A segment analysis of the adjacent roads and intersections may be submitted in cases where the subdivision does not warrant a Traffic Impact Study.

[[15]14) That the proposed subdivision will be compatible with other area land uses.

[[16]15) That there will be safe and efficient vehicular and pedestrian movement within the site and to and from adjacent developed properties with interconnectivity where appropriate in compliance with Section 99-17D. Sidewalks shall be required at least on one side of each street, subject to Planning and Zoning Commission approval.

(16) No lots shall have direct access to any state-maintained roads.

135 (17) That lots are located on the environmentally suitable portions of the
136 tract, specifically those portions of the tract least encumbered by sensitive
137 environmental features, including but not limited to wetlands, mature
138 woodlands, waterways and other water bodies.

139
140 (18) That the following sequence and process was followed in the site
141 design of the preliminary plan:

142
143 (a) Lands that should be preserved are identified first. First, areas
144 worthy of preservation should be mapped, including wetlands,
145 wooded areas, waterways, other water bodies, and natural drainage
146 areas. Then, other features that are important should be mapped,
147 such as tree lines, scenic views, historic buildings, and prime
148 farmland. The areas with the fewest important natural, scenic and
149 historic features should be considered the "potential development
150 area."

151
152 (b) Developable lands should be identified second. The most
153 appropriate locations for development should be chosen to minimize
154 the impact to the most important features mapped in (18)(a).

155
156 (c) Roads and trails should be identified third. After the
157 developable areas are determined, a road system should be
158 designed to serve those homes. A trail system that links homes to
159 destinations outside of the tract should be designed.

160
161 (d) Lot lines should be located fourth. The last step is to configure
162 lot lines and make necessary adjustments to satisfy the various
163 reviewing agencies' comments.

164
165 **Section 2. The Code of Sussex County, Chapter 99, Article III, §99-**
166 **17 "Street Layout" is hereby amended by deleting the language in**
167 **brackets and by inserting the italicized and underlined language in**
168 **as follows:**

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§ 99-17 Street layout.

...

D. Proposed collector streets in the subdivision shall provide for the interconnectivity with [and continuation of existing, planned, or platted streets on] adjacent tracts unless such continuation shall be prevented by preservation easement, topography or other physical condition or unless such extension is found by the Commission to be unnecessary for the coordination of development between the subdivision and such adjacent tracts. When deemed advisable, the Commission may restrict access to proposed collector streets from abutting properties.

E. Where [the Commission deems it desirable or necessary to provide access] interconnectivity is required to adjacent tracts that are not presently subdivided, proposed collector streets in the subdivision shall be extended to the boundary lines with such adjacent tracts, and temporary turnarounds shall be provided within the subdivision at the ends of such streets, by means of temporary easements or otherwise. Such interconnectivity shall be fully engineered to be compatible with the topography of the adjacent tract and shall be shown to the property boundary or boundaries on the Final Site Plan. Whenever possible, such interconnectivity shall be designed at a perpendicular alignment to the property boundary. No buildings, structures or stormwater management features shall be located within the areas of interconnectivity. The Final Site Plan shall also include a Temporary Construction Easement for the benefit of the adjacent tract to be used to facilitate the completion of the fully constructed interconnectivity.

198 **Section 3. The Code of Sussex County, Chapter 115, Article IV, §115-**
199 **25 “Height, Area and Bulk Requirements” is hereby amended by**
200 **deleting the language in brackets as follows:**

201

202 § 115-25 Height, area and bulk requirements.

203 . . .

204 [E. Design requirements for cluster development.

205 (1) All development shall be in accordance with the latest
206 amendment to the community design standards.

207 (2) Housing types in the low-density area, as shown on the Sussex
208 County Comprehensive Plan, are limited to single-family detached
209 dwellings and manufactured homes where permitted by ordinance.

210 (3) The perimeter buffer and perimeter buffer protection area as
211 required by § 99-21.A.

212 (4) No lots shall have direct access to any state-maintained roads.

213 (5) All lots shall be configured to be contained completely outside
214 of all wetlands.

215 (6) Any development using the option in Subsection B(2) shall
216 have central water and wastewater systems operated and maintained
217 by companies authorized by the State of Delaware to perform such
218 services. Wastewater collection and treatment systems must be
219 designed in accordance with the requirements of Sussex County
220 ordinances and conform to the requirements for a central sewer
221 system as defined in § 115-194A of the Sussex County Zoning
222 Ordinance.

223 F. Review procedures for cluster development.

224 (1) The developer shall submit an application for a cluster
225 development in accordance with Chapter 99, Subdivision of Land,

226 of the Sussex County Code and which shall include, at a minimum,
227 a sketch plan showing the location and uses of all open spaces, the
228 extent of existing wooded areas and wetlands and the location of any
229 historical or cultural resources. The Director of Planning and Zoning
230 may waive this requirement when the proposed development does
231 not contain significant natural features or resources.

232 (2) The information submitted shall include a plan for the
233 management of all open space.

234 (3) The Planning and Zoning Commission shall determine that the
235 following requirements are met before approving any preliminary
236 plan and such application shall be reviewed on an expedited basis.

237 (a) The cluster development sketch plan and the preliminary
238 plan of the cluster subdivision provides for a total environment
239 and design which are superior, in the reasonable judgment of
240 the Planning Commission, to that which would be allowed
241 under the regulations for the standard option. For the purposes
242 of this subsection a proposed cluster subdivision which
243 provides for a total environment and design which are superior
244 to that allowed under the standard option subdivision is one
245 which, in the reasonable judgment of the Planning
246 Commission meets all of the following criteria:

247 [1] Homes shall be clustered on the environmentally
248 suitable portions of the tract, specifically those portions
249 of the tract least encumbered by sensitive environmental
250 features, including but not limited to wetlands, mature
251 woodlands, waterways and other water bodies. This does
252 not inhibit the development of wooded parcels.

253 [2] (Reserved)

254 [3] Required open space shall comply with the
255 following criteria:

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[a] All required open space must meet the official definition of acceptable open space contained in § 115-4.

[b] Required open space must be designed to be beneficial to the residents or users of the open space. It shall not be constituted of fragmented lands with little open space value. Accordingly, 30% of all required open space shall be located on one contiguous tract of land, except that such open space may be separated by water bodies and a maximum of one street.

[c] If one of the following physical conditions exists adjacent to the proposed cluster development tract, at least 30% of all required open space must be adjacent to:

[i] An existing or officially planned public park, land preserved by easement, or land preserved as open space and in municipal, County, state, or federal ownership.

[ii] Existing wetlands, waterways, wildlife corridors, or other ecology-sensitive land.

[iii] Existing farmland and/or woodlands.

[iv] If more than one of these physical features exist on adjacent properties, then one of these features will be identified and utilized to satisfy this requirement.

[v] If the open space is proposed to be dedicated to a municipality, a County, state, or federal agency or a homeowners'

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association, an agreement shall be provided, in advance, stipulating that such entity agrees in advance to accept that dedication and maintain that land for public recreation or as a nature preserve.

[vi] Open space in a cluster development shall include a pedestrian trail system accessible to residents. This trail system shall connect to an adjacent trail, adjacent neighborhood, adjacent commercial area, or adjacent public open space, if any such areas exist adjacent to the proposed cluster development. Construction materials for the proposed trail shall be identified, and a typical construction detail for the proposed trail shall be shown. Trail construction materials shall be pervious in nature.

[4] The preliminary plan shall comply with the requirements of § 115-193.

[5] Stormwater management shall be designed to promote groundwater recharge and protect groundwater quality. Natural drainage flows shall be maintained to the greatest extent possible. Drainage from rooftops shall be directed to vegetated areas or allow green technology. Stormwater detention and retention facilities should be designed to resemble natural ponds as referenced by DNREC in the National Resource Conservation Service's (NRCS) Pond Code 378, Visual Resource Design.

[6] Removal of healthy mature trees shall be limited.

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[7] Scenic views that can be seen from within the tract should be preserved to the greatest extent possible.

[8] The applicant for a cluster development shall illustrate that the following sequence and process was followed in the site design of the cluster project:

[a] Identify lands that should be preserved. First, areas worthy of preservation should be mapped, including wetlands, wooded areas, waterways, other water bodies, and natural drainage areas. Then, other features that are important should be mapped, such as tree lines, scenic views, historic buildings, and prime farmland. The areas with the fewest important natural, scenic and historic features should be considered the "potential development area."

[b] Identify developable areas. Next, the most appropriate locations for development should be chosen to minimize the impact to the most important features mapped in the first step.

[c] Locate roads and trails. After the developable areas are determined, a road system should be designed to serve those homes. A trail system that links homes to destinations outside of the tract should be designed.

[d] Locate lot lines. The last step is to configure lot lines and make necessary adjustments to satisfy the various reviewing agencies' comments.

[9] Sidewalks shall be required at least on one side of each street, subject to Planning and Zoning Commission approval.

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(b) The cluster development plan will preserve the natural environment and any historic or archeological resources.

(c) All of the items in Ordinance Number 1152 (see § 99-9C) have been addressed and approval of the cluster option for the proposed development will not have an adverse effect on any of the items to be considered.

Section 4. Effective Date.

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This ordinance shall become effective upon adoption. Provided however, that it shall not apply to subdivision or residential planned community district applications that have had a Preliminary Conference pursuant to §99-7 of the Code of Sussex County and that have submitted a PLUS application to the Office of State Planning Coordination and received a PLUS comment letter from the Office of State Planning Coordination following the PLUS meeting on the application.

31 Residential Planned Community Districts from the Low Density Areas;
32 and

33
34 WHEREAS, this ordinance has been drafted to prohibit “cluster”
35 subdivisions with smaller lot sizes within the Low Density Area of the
36 Sussex County Future Land Use Map while retaining the ability to
37 subdivide land in that Area; and

38
39 WHEREAS, it has been determined that this Ordinance promotes and
40 protects the health, safety, convenience, orderly growth and welfare of the
41 inhabitants of Sussex County.

42 **NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY**
43 **ORDAINS:**

44
45 **Section 2. The Code of Sussex County, Chapter 115, Article IV, §115-**
46 **25 “Height, Area and Bulk Requirements” is hereby amended by**
47 **adding the language in italics and by deleting the language in**
48 **brackets as follows:**

49
50 § 115-25 Height, area and bulk requirements.

51
52 A. Minimum lot sizes for lots using a wastewater disposal system
53 located entirely on that lot and generally defined as an on-site septic
54 system.

55 (1) Standard lot option:

District (square feet)	Area (feet)	Width* (feet)	Depth
AR-1	32,670	100	100

NOTES:

A lot fronting on a numbered road shown on the latest revision of the General Highway Map for Sussex County shall have a minimum width of 150 feet.

57 (2) Cluster development option. The minimum lot size may be reduced
58 to one-half acre (21,780 square feet) where soil conditions are suitable as
59 approved by DNREC. The total number of lots allowed shall not exceed
60 the number of lots that would be permitted under the standard lot option.
61 The number of dwelling units permitted shall be determined by dividing
62 the gross area by 32,670 square feet. "Gross area" shall include the lot
63 area and the area of land set aside for common open space or recreational
64 use but shall exclude any area designated as a tidal tributary stream or
65 tidal wetlands by § 115-193. However, if the proposed cluster
66 development lies within a Low-Density Area as described within the Land
67 Use Element and as shown on the Future Land Use Plan of the adopted
68 Sussex County Comprehensive Plan, the total number of lots permitted
69 shall be determined by first reducing the gross area by 25%.

70 B. Minimum lot sizes, dimensions and open space for lots using a
71 central sewer system as defined by § 115-194A:

72 (1) Standard lot option:

District	Area** (square feet)	Width* (feet)	Depth (feet)
AR-1	20,000	100	100

73 (2) Cluster development option, but only in the Town Center, a
74 Developing Area, or the Coastal Area as described within the Land Use
75 Element and as shown on the Future Land Use Map of the adopted Sussex
76 County Comprehensive Plan [(subject to § 115-25F)]:

Minimum Tract Size (acres)	Minimum Lot Size (square feet)	Required Open Space
10	7500	30%

NOTES:

* A lot fronting on a numbered road shown on the latest revision of the General Highway Map for Sussex County shall have a minimum width of 150 feet.

** For lots located in the Coastal Area, the Development Districts or the Town Center Districts, the overlay ordinance for that district shall determine the minimum lot size.

78 (3) The number of dwelling units permitted shall be determined by
79 dividing the gross area by 21,780 square feet. When a cluster development
80 lies within a Town Center, a Developing Area, or the Coastal Area as
81 described within the Land Use Element and as shown on the Future Land
82 Use Plan of the adopted Sussex County Comprehensive Plan, and the
83 developer has proffered to Sussex County for the purpose of creating open
84 space preservation/active and passive recreation areas a development fee
85 per unit for every unit in excess of two units per acre, then the maximum
86 number of dwelling units that may be permitted by the Planning and
87 Zoning Commission shall be determined by dividing the gross area by
88 10,890 square feet. The development fee shall not be less than the
89 minimum established by the Sussex County Council and shall be paid
90 prior to recording any lot based upon the fee in effect at the time the
91 application was filed. "Gross area" shall include the lot area and the area
92 of land set aside for common open space or recreational use but shall
93 exclude any area designated as a tidal tributary stream or tidal wetlands
94 by § 115-193. The Sussex County Council prior to the signing of a
95 contract to purchase, shall approve all such land or conservation easement
96 purchases which utilize monies paid to the County under the terms of this

97 act. All such approvals by the Council shall be by a four-fifths majority
98 vote. It is understood that the County shall control all monies and the
99 Sussex County Land Trust will act as a recommending body and partner
100 at the discretion of the County Council.

101
102 **Section 3. The Code of Sussex County, Chapter 115, Article XVI,**
103 **§115-120 “Superimposed District; Effect on Other Provisions” is**
104 **hereby amended by adding the language in italics as follows:**

105
106 § 115-120 Superimposed district; effect on other provisions.

107 A. To enable the district to operate in harmony with the plan for land
108 use and population density embodied in these regulations, the RPC
109 District is created as a special district to be superimposed on other districts
110 contained in these regulations and is to be so designated by a special
111 symbol for its boundaries on the Zoning District Map. *Provided, however,*
112 *that the RPC District shall only be available in the Town Center, a*
113 *Developing Area, or the Coastal Area as described within the Land Use*
114 *Element and as shown on the Future Land Use Map of the adopted Sussex*
115 *County Comprehensive Plan.*

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117
118 **Section 3. Effective Date.**

119 This ordinance shall become effective upon adoption. Provided however,
120 that it shall not apply to subdivision or residential planned community
121 district applications that have had a Preliminary Conference pursuant to
122 §99-7 of the Code of Sussex County and that have submitted a PLUS
123 application to the Office of State Planning Coordination and received a
124 PLUS comment letter from the Office of State Planning Coordination
125 following the PLUS meeting on the application.