

ORDINANCE NO. 3027

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

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

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

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

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDNAINS:

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

§ 110-9. Separate building sewers required.

- A. A separate and independent building sewer shall be provided for every newly constructed dwelling, building or property used for human occupancy, employment, recreation or other purpose. The Engineer may allow more than one existing structure to be connected to a single building sewer in the best interest of the County.
- B. A building sewer serving newly constructed buildings shall not service more than one of the following:
 - (1) Residential dwelling, either detached or one side of a double house or house in a row of houses, provided that an accessory dwelling unit, a garage, a guesthouse and similar features incidental to the family life shall be considered as a portion of the dwelling.
 - (2) Industrial, commercial or manufacturing establishment.

- (3) Commercial buildings separated by a partition wall or walls and comprising of stores, offices or any combination thereof.
- (4) Detached building comprising apartments, stores, offices or any combination thereof.
- (5) Establishment consisting of individual dwelling units under the management of a single commercial or cooperative entity.

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

§ 115-4. Definitions and Word Usage.

...

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

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

~~[A building or use designed and use as a single apartment unit containing not more than 800 square feet of total floor area and accessory to the single family dwelling. Garage/studio apartments do not include duplexes, tourist homes, servant quarters, or guest homes. Prior to use, a garage/studio apartment shall obtain a special use exception under the provisions of Article XXVII, Board of Adjustment, and all necessary state and local permits.]~~ *A self-contained dwelling unit that is secondary to the principal dwelling unit on a property and includes independent living facilities, such as a separate entrance, bathroom and kitchen. The dwelling unit may be attached to, or detached from the primary dwelling on the property and it may also include existing interior space such as finished basements that is converted into a separate dwelling unit. Accessory dwelling units do not include duplexes, tourist homes, servant quarters, recreational vehicles (as that term is defined in Title 21, Section 101(60) of the Delaware Code) or guest homes.*

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

§ 115-20 Permitted Uses.

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

...

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

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

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

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

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

(e) ~~[Within 30 working days after the request is submitted, the Director or his or her designee may approve the garage/studio apartment or advise the applicant that an application must be submitted to the Board of Adjustment for a Special Use Exception.]~~ An accessory dwelling unit shall not encroach into the setbacks required by this Chapter. On a lot less than 3 acres in size, a detached accessory dwelling unit shall be located behind the single-family dwelling on the same lot.

(f) No accessory dwelling unit shall be constructed or placed on a lot that is smaller than 10,000 square feet in size.

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

§ 115-23 Special use exceptions.

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

...

C. Other special use exceptions as follows:

...

(5) ~~[Garage/studio apartments, when not approved administratively by the Director or his or her designee, provided that at least one parking space for the exclusive use of the tenant is included on the premises]~~ Accessory Dwelling Units, subject to the dimensional requirements of Section 115A(15(c), (d) and (e).

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

§ 115-29 Permitted Uses.

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

...

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

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

§ 115-32 Special use exceptions.

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

...

C. Other special use exceptions as follows:

...

~~[Garage/studio apartments, when not approved administratively by the Director or his or her designee, provided that at least one parking space for the exclusive use of the tenant is included on the premises.]~~ Accessory Dwelling Units, subject to the dimensional requirements of Section 115A(15(c), (d) and (e).

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

§ 115-40 Special use exceptions.

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

...

C. Other special use exceptions as follows:

...

~~[Garage/studio apartments, when not approved administratively by the Director or his or her designee, provided that at least one parking space for the exclusive use of the tenant is included on the premises.]~~ *Accessory Dwelling Units, subject to the dimensional requirements of Section 115A(15(c), (d) and (e).*

Section 8. The Code of Sussex County, Chapter 115, Article VII, §115-48 "Special Use Exceptions" is hereby amended by deleting the language in brackets and strikethrough:

§ 115-48 Special use exceptions.

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

...

C. Other special use exceptions as follows:

...

~~[Garage/studio apartments, when not approved administratively by the Director or his or her designee, provided that at least one parking space for the exclusive use of the tenant is included on the premises.]~~ *Accessory Dwelling Units, subject to the dimensional requirements of Section 115A(15(c), (d) and (e).*

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

§ 115-53 Permitted Uses.

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

...

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

...

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

§ 115-56 Special use exceptions.

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

...

C. Other special use exceptions as follows:

...

~~[Garage/studio apartments, when not approved administratively by the Director or his or her designee, provided that at least one parking space for the exclusive use of the tenant is included on the premises.]~~ Accessory Dwelling Units, subject to the dimensional requirements of Section 115A(15(c), (d) and (e).

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

§ 115-64 Special use exceptions.

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

...

C. Other special use exceptions as follows:

...

~~[Garage/studio apartments, when not approved administratively by the Director or his or her designee, provided that at least one parking space for the exclusive use of the tenant is included on the premises.]~~ Accessory Dwelling Units, subject to the dimensional requirements of Section 115A(15(c), (d) and (e).

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

§ 115-210 Special exceptions.

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

...

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

...

~~[(p) — Garage/studio apartments, when not approved administratively by the Director or his or her designee, provided that at least one parking space for the exclusive use of the tenant is included on the premises.]~~ Accessory Dwelling Units, subject to the dimensional requirements of Section 115A(15(c), (d) and (e).

Section 13. Effective Date.

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

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 3027 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 25TH DAY OF JUNE 2024.



Tracy N. Torbert
Clerk of the Council