

ORDINANCE NO. 1941

AN ORDINANCE TO AMEND CHAPTER 72, HOUSING UNITS, MODERATELY PRICED

WHEREAS, by the adoption of this Ordinance, the Sussex County Council intends to amend the Ordinance dealing with Moderately Priced Housing Units to reflect the recommendations of the working group to bring about improvements and clarifications to the ordinance which became apparent during the phased implementation test period; and

WHEREAS, that part of the ordinance, sections or subsections to be repealed or amended will indicate the matter to be omitted or deleted by enclosing it in brackets [] and shall indicate new matter by underlining.

NOW THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

§72-4. Declaration of public policy.

[G. Allow qualified projects to fully utilize the density permitted by the zoning district in which the property is located.]

G. Allow developers who are building qualified projects an expedited review period.

§72-5. Definitions.

DEPARTMENT-DESIGNATED ENTITY (DDE) – Any agency, authority or political subdivision of the State of Delaware or any other public housing development agency or nonprofit housing corporation, land trust or similar entity designated by the Department and approved by [Council] the County Administrator.

MODERATE INCOME – Those levels of income established by the County [Council] Administrator which prohibit or severely limit the financial ability of persons to buy housing in Sussex County. Initially, moderate income is established as 80% to 125% of area median income adjusted for household size as defined by the U.S. Department of Housing and Urban Development (HUD). Income includes salary, wages, dividends, interest and all other sources recognized by HUD from the eligible buyer and all other adults who will occupy the MPHU. Further, for persons or households with significant assets that do not produce income, the Department will establish criteria for imputing income to such assets.

MODERATELY PRICED HOUSING UNIT (MPHU) – A dwelling unit which is:

- A. Offered for sale and sold to eligible buyers through or pursuant to regulations promulgated by the Department and approved by the County [Council] Administrator; or
- B. Sold under another government program designated by the County [Council] Administrator and designed to assist in the construction or occupancy of moderately priced housing.

QUALIFYING LAND – All land:

- B. In a town center, developing area or environmentally sensitive developing area and zoned for any type of residential development to which a density provision applies or land that is designated on a town's comprehensive plan as lying within the town's growth and future annexation area; and that

§72-6. Minimum standards of eligibility for eligible buyers.

- B. Where necessary or advisable to achieve the objectives of this chapter or to comply with state or federal housing laws, the Department may propose changes to these standards for approval by the County [Council] Administrator, including changes to eligibility requirements for home buyer applicants as recommended by the Department.

§72-7. Density incentive; other incentives.

- B. Other incentives will include:
- [(2) Fee Waivers. In consultation with the Department of Planning and Zoning and subject to Council approval, the Department may waive some or all County fees. Any such waivers will be stated in the MPHU agreement.]
 - (2) The project entering the MPHU Program with the execution of an MPHU agreement will be allowed to utilize the density permitted by the zoning district in which the property is located, provided that the total density, including MPHU incentives, shall not exceed 12 units per acre.

§72-8. MPHU agreements.

- D. The County Administrator may withhold building permits until the applicant is, in the sole discretion of the Department, in full compliance with the MPHU agreement.
- J. MPHU[s] units must be fully integrated into the communities of which they are a part and shall not be substantially different in appearance from non-MPHU units. When the MPHU units are a part of a phased development a proportionate number or percentage of said units shall be placed within each phase and/or constructed within each housing type appearing in the development. The planning and design of individual MPHUs must be consistent with the planning and design of market rate units within a single project.
- K. The applicant will execute and record covenants confirming that:
- (2) The covenants will bind the applicant, any assignee, mortgagee, or buyer and all other parties that receive title to the property, with the exception of the first lien mortgage holder, and except for a second mortgage which is approved by the first mortgage lender and the Department prior to the date of sale and, the proceeds of which are used solely to pay or reimburse some or all of an eligible buyers down payment and/or settlement costs. In the event the first lien mortgagee acquires the property through a foreclosure or acceptance of deed-in-lieu of foreclosure, the resale restrictions will be extinguished. The covenants must be senior to all instruments securing financing with the exception of the first lien mortgagee and an approved second lien mortgage to defray some or all of the down payment and/or settlement costs, as defined above.

§72-9. Maximum sale prices of new MPHUs.

- A. (3) Multiplying the result by 0.95, or such other factor promulgated by the Department and approved by the County [Council] Administrator from time to time, to provide a minimum financial cushion for eligible buyers for routine maintenance, emergencies and other unplanned financial circumstances.

§72-10. Initial sale of new MPHUs.

- A. (3) After receiving the offering notice, the Department must notify the [Council] County Administrator of the offering. If the Department finds that the offering notice is complete, it will provide the applicant with the

maximum sale price for each unit and authorize the applicant to offer the MPHUs to eligible buyers during the priority marketing period pursuant to rules established by the Department.

- A. (4) The Department will, with [Council] approval of the County Administrator, establish a selection system that considers household size, length of County residency, length of employment in the County and length of time since the person was certified for the MPHU program. The Department will coordinate with the applicant in the selection of specific eligible buyers identified by the applicant during the applicant's marketing. If there are multiple, equally qualified eligible buyers seeking to buy the same MPHU, the purchaser will be selected by a lottery run by the Department.
- A. (5) The Department, with the approval of the County [Council], Administrator may establish special selection criteria or MPHU allocations to address certain specific housing needs, such as target workforce sectors or economic development initiatives.

§72-14. Phased implementation of provisions; test period.

- D. The County Administrator, in cooperation with the County attorney, shall develop and approve a standard set of agreements and documents to implement all of the requirements of this Ordinance and all applicants and eligible buyers shall be required to execute those documents as a condition of participating in the MPHU Program.

§72-15. Government regulations; enforcement.

- A. The Department must maintain a list of all MPHUs constructed and sold under this program, and [the Sussex County] Council [may, from time to time] hereby authorizes the County Administrator to promulgate and adopt regulations and approve the various agreements and documents necessary to administer this program.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 1941 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 20TH DAY OF NOVEMBER 2007.



**ROBIN A. GRIFFITH
CLERK OF THE COUNCIL**

