

CHAPTER 1267
Moderately Priced Dwelling Units

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CROSS REFERENCES

General provisions and definitions - see P. & Z. Ch. 1240

Nonconforming structures, uses and lots - see P. & Z. Ch. 1266

1267.01 PURPOSE.

This chapter provides for the construction and management of moderately priced housing units under the supervision and approval of the Village or of an approved MPDU partner. This chapter also provides a control period of ten years or more and provides the Village with the authority to issue ongoing regulations and procedures for the construction and operation of these MPDU's.
(Ord. 2000-17. Passed 10-16-00.)

1267.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (a) "Applicant" means any person, firm, partnership, association, joint venture or other entity who seeks to build one or more dwelling units and is subject to the provisions of this chapter.
- (b) "Certified MPDU partner". The Village Manager or his or her designee may certify MPDU partners. A "certified MPDU partner" must be a nonprofit or governmental organization which:
 - (1) Has among its purposes the creation or preservation of affordable housing;
 - (2) Can establish that it can execute all of the functions as certified to perform on a long-term basis; and
 - (3) Has entered into appropriate agreements with the Village to perform certain functions and to allow the Village Manager to assume those functions should the Manager determine that such functions are not being properly executed or upon the request of such organization.

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- A. The Village Manager or designee may certify a MPDU partner to carry out any or all of the following functions:
 - 1. Enter into MPDU occupancy agreements as described in Section 1267.06;
 - 2. Certify buyers or renters to be eligible persons as defined in division (g) of this section;
 - 3. Establish and conduct a process to prioritize and select eligible persons to buy or rent an MPDU.
 - B. A certified MPDU partner may be the developer of an MPDU, and may purchase or lease MPDU's.
 - C. A certified MPDU partner shall submit documentation of its activities thereafter. The Manager shall at least annually report on the activities of each certified MPDU partner to the Village Council.
- (c) "Control period" means the time an MPDU is subject to either resale price controls and owner occupancy requirements or maximum rental limits, as provided in Section 1267.04. The "control period" is ten years or more for sale units and ten years or more for rental units, and begins on the date of initial sale or rental. If a rental MPDU is sold to an eligible person within ten years after its initial rental, the unit must be treated as a new sale MPDU and a new control period must begin on the date of the sale.
- (d) "Date of original rental" means the date the first lease agreement for a moderately priced dwelling unit takes effect.
- (e) "Date of original sale" means the date of settlement for purchase of a moderately priced dwelling unit.
- (f) "Designee" means a person or organization inside or outside the Village administration identified by the Village Manager.
- (g) "Eligible person" means a person or household whose combined income does not exceed eight percent of the median household income for the Village for such number of persons, as determined from time to time by the Department of Housing and Urban Development (HUD) or any successor thereto.
- (1) When changes in conditions affect the ability of low and moderate income households to buy or rent housing, the Manager may propose to Council revisions to these standards.
 - (2) The Manager or his or her designee shall periodically establish a reasonable asset ceiling to be used in determining who is an "eligible person". The ceiling shall be set so that only those in need of assistance are considered eligible persons. Further, only those assets which are income producing or liquid will be considered. Non-liquid assets will not be included in the eligibility investigation.
 - (3) In addition, such person and members of that person's household must not have owned any residential property during the previous three years. The Manager may waive this restriction for good cause.

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- (h) "Housing Initiative Fund" means a fund established by the Village to encourage the maintenance and creation of affordable housing in the Village. Such fund shall be operated by a five-person Housing Initiative Fund Committee appointed by the Village Council pursuant to guidelines, which shall be adopted by the Council.
- (i) "Moderately priced dwelling unit (MPDU)" means a dwelling unit which is offered for sale or rental to eligible persons and sold or rented under this chapter or sold or rented under a government program designed to assist the construction or occupancy of housing for families of low or moderate income and designated by the Manager as an MPDU.
(Ord. 2000-17. Passed 10-16-00.)

1267.03 CONSTRUCTION OF MPDU'S.

(a) Before any building permits will be issued, the builder or developer of a MPDU, whether it is going to be for sale or rental, shall submit for approval to the Village Manager, or his or her designee, all construction plans and estimated costs or written information which establishes that such MPDU when completed will be affordable to eligible persons. If submissions under this division (a) are not acted upon in thirty days, they shall be deemed to be approved.

(b) The required MPDU agreement and restrictive covenants shall begin to be developed in cooperation with the Village Manager or Manager designate, for final approval by the Village at the time construction and economic plans are presented to the Village Manager.

(Ord. 2000-17. Passed 10-16-00.)

1267.04 PROVISIONS OF SALE OR RENTAL OF MPDU'S.

(a) An MPDU may only be sold or leased to an eligible person and every buyer or tenant of an MPDU must occupy the unit as his or her primary residence during the control period. Each buyer or renter must certify before taking occupancy that he or she is an "eligible person" pursuant to this section and will occupy the unit as his or her primary residence during the control period.

(b) The sale price of an MPDU, including closing costs and brokerage fees, must not exceed an applicable maximum sale price established from time to time by the Manager or the Manager's designee.

(c) The maximum sale prices must be set at a level that will enable eligible persons to buy housing and should be based on the necessary and reasonable costs required to build and market various kinds of MPDU's by private industry.

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(d) In adopting such prices and rents, the Manager must seek appropriate information, such as current general market and economic conditions and the current minimum sale prices of private market housing in the Village, and may consult with necessary real estate, construction, banking, or other consultants as well as citizen groups such as the Greene County Metropolitan Housing Authority to obtain information which may assist in arriving at the sale or rental prices.

(e) Sale prices for any succeeding year must be based on a new finding of cost and changes in income levels of eligible persons, or on the prior year's maximum MPDU price adjusted by the percentage change in the relevant cost elements indicated in the Consumer Price Index.

(f) The rent, excluding utilities when paid by the tenant, for any MPDU must not exceed a maximum rent for the dwelling unit established by the Manager or the Manager's designee. The Manager shall also establish rents for units where utility costs are paid by the owner and included in rent. Such maximum rent must be set at a level that will enable eligible persons to rent the MPDU.

(g) In adjusting the annual rent to be paid by eligible renters in years subsequent to the initial year, the Manager shall consider the increase in cost-of-living, the fair market value of allowable capital improvements and other relevant information.

(h) The maximum price and rents of moderately priced dwelling units must not be sold or rented at prices or rents that exceed the maximum prices or rents established under this section.

(Ord. 2000-17. Passed 10-16-00.)

1267.05 HOUSING INITIATIVE FUND AND COMMITTEE.

(a) The Village Manager is directed to establish a Housing Initiative Fund (HIF) to encourage the maintenance and creation of affordable housing in the Village. The HIF shall receive funding primarily from the resale of the properties as set out herein or from such other sources, which may become available.

(b) A Housing Initiative Fund Committee is hereby established for the purposes of overseeing the management of the Housing Initiative Fund. The Housing Initiative Fund Committee shall be made up of five persons who shall be appointed by the Village Council pursuant to guidelines which shall later be adopted by the Village Council.

(Ord. 2000-17. Passed 10-16-00.)

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1267.06 MODERATELY PRICED DWELLING UNIT AGREEMENT.

(a) All properties upon which MPDU's are built under this chapter shall be subject to an MPDU agreement; such agreement shall be between the applicant and the Village or a certified MPDU partner. Where a certified MPDU partner is also the applicant, the MPDU agreement shall be with the Village. The Village shall have the authority to approve or disapprove the terms of all proposed agreements. If an agreement cannot be entered into in regard to a proposed property, then no building permit shall be issued under this chapter.

(b) Each MPDU agreement shall provide for all of the following:

- (1) That if a single family MPDU owner/occupant dies, at least one heir, legatee, or other person taking title by will or operation of law must occupy the MPDU during the control period or the owner of record must sell the MPDU as provided in Section 1267.08.
- (2) That all MPDU's resold during the control period be sold only to eligible persons at a price that is affordable for eligible persons.
- (3) That all MPDU's rented or re-rented during the control period be rented only to eligible persons at a rent that is affordable for eligible persons.
- (4) That there be a fair process established for choosing among applicants to purchase or rent each MPDU. Such process may consider Village residency, employment in the Village, and family size. The process for choosing applicants shall comply with the Village's Equal Housing Opportunity Law, Chapter 626.
- (5) That when an MPDU is sold or resold after its control period ends, upon the first sale of the unit the seller must pay to the Housing Initiative Fund or to the certified MPDU partner one-half of the excess of the total resale price over an amount that reasonably reflects that amount the unit would sell for if it were still in the control period. One-half of the windfall profit goes to the certified MPDU partner for the construction and maintenance of affordable housing in the Village. If the MPDU partner no longer exists or is unable to fulfill this requirement, that sum should be paid to the Village's Housing Initiative Fund.
- (6) That provides that no party achieve an advantage from a foreclosure and that any remaining balances after payment of superior liens in a foreclosure are paid into the Housing Initiative Fund.
(Ord. 2000-17. Passed 10-16-00.)

1267.07 RESTRICTIVE COVENANTS.

(a) The applicant for an MPDU must execute and record covenants assuring that the restrictions of this chapter and applicable MPDU agreement runs with the land for the entire period of control; said restrictive covenants must be approved by the Village.

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(b) The covenants will bind the applicant, any assignee, mortgagee, or buyer, and all other parties that receive title to the property. These covenants must be senior to all instruments securing permanent financing.

(c) The grantor must state, in any deed or in any instrument conveying title to an MPDU, that the conveyed property is an MPDU and is subject to the restrictions contained in the covenants required under this chapter during the control period until the restrictions are released.

(Ord. 2000-17. Passed 10-16-00.)

1267.08 TRANSFER OF MPDU'S.

At the time they are offered for sale or rental, all MPDU's must be advertised for at least three consecutive weeks or until sold or rented, in a newspaper of general local circulation including the Yellow Springs News and must be listed with the Village Manager and all other approved MPDU partners for a prior marketing period of ninety days. During this priority-marketing period the MPDU may be sold or rented only to eligible persons. If after ninety days the property has not been able to be sold or rented to an eligible person, the owner or MPDU partner may apply directly to the Village Manager for a modification of the MPDU agreement and/or the restrictive covenant. The Village Manager is granted the authority to make such modifications as are fair and reasonable.

(Ord. 2000-17. Passed 10-16-00.)

1267.09 DEVELOPMENT OF SPECIFIC REGULATIONS.

(a) The Manager may develop such specific rules and regulations for the operation of MPDU's as the Manager deems necessary. Said additional rules and regulations shall be presented to Council and upon Council's approval, go into immediate effect. The Manager shall maintain said current rules and regulations in separate files and shall make them available to all current participants in the MPDU plan.

(b) Each MPDU applicant and participant shall agree to be subject to any new regulations that may apply; however, such new regulations shall not be applicable to pre-existing participants if they relate to existing basic construction of the units or restrictive covenants affecting those specific properties.

(Ord. 2000-17. Passed 10-16-00.)

1267.10 ENFORCEMENT.

(a) The Manager or the Manager's designee shall maintain a list of all moderately priced dwelling units constructed, sold or rented under this chapter; and the Manager may, from time to time, adopt policies necessary to administer this chapter, promote compliance and prevent practices that evade controls on rents and sales of MPDU's.

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(b) This chapter applies to all agents, successors and assigns of an applicant. A building permit shall not be issued, and shall not be approved unless it meets the requirements of this chapter. The Manager may deny, suspend or revoke any building or occupancy permit upon finding a violation of this chapter. An occupancy permit shall not be issued for any building to any applicant, or a successor or assignee of any applicant, for any construction which does not comply with this chapter.

(c) The Manager may take legal action to stop or cancel any transfer of an MPDU if any party to the transfer does not comply with all requirements of this chapter. The Manager may recover any funds improperly obtained from any sale or rental of an MPDU in violation of this chapter.

(d) In addition to or instead of any other available remedy, the Manager may take legal action to enjoin an MPDU owner to prevent the violation of this chapter, or any covenant signed or order issued under this chapter, from continuing the violation; or require any owner to sell an MPDU owned or occupied in violation of this chapter to an eligible buyer.

(Ord. 2000-17. Passed 10-16-00.)

1267.99 PENALTY.

Whoever violates any provision of this chapter or regulation adopted hereunder shall be guilty of a minor misdemeanor on the first violation and a misdemeanor of the fourth degree on any subsequent violation.

(Ord. 2000-17. Passed 10-16-00.)

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