

Bill No. 34-17
Concerning: Housing – Moderately Priced Dwelling Units (MPDUs) - Amendments
Revised: 07/24/2018 Draft No. 8
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Enacted: July 24, 2018
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Ch. 20, Laws of Mont. Co. 2018

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Floreen
Co-Sponsor: Councilmember Rice

AN ACT to:

- (1) clarify certain provisions of law related to moderately priced dwelling units (MPDUs);
- (2) amend certain provisions of law related to the satisfaction of MPDU requirements;
- (3) amend certain provisions of law related to the sale and rental of MPDUs; and
- (4) generally amend the laws governing moderately priced housing

By amending

Montgomery County Code
Chapter 25A, Housing – Moderately Priced
Sections 25A-1, 25A-2, 25A-3, 25A-4, 25A-5, 25A-5A, 25A-5B, 25A-6, 25A-7, 25A-8, 25A-9, and 25A-12

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec 1. Sections 25A-1, 25A-2, 25A-3, 25A-4, 25A-5, 25A-5A, 25A-5B,**
2 **25A-6, 25A-7, 25A-8, 25A-9, and 25A-12 are amended as follows:**

3 **25A-1. Legislative findings.**

4 [The County Council hereby finds that a severe housing problem exists within
5 the County with respect to the supply of housing relative to the need for housing for
6 residents with low and moderate incomes. Specifically, the County Council finds
7 that:

8 (1) The County is experiencing a rapid increase in residents of or
9 approaching retirement age, with consequent fixed or reduced incomes;
10 young adults of modest means forming new households; government
11 employees in moderate income ranges; and mercantile and service
12 personnel needed to serve the expanding industrial base and population
13 growth of the County;

14 (2) A rising influx of residents into higher priced housing in the County
15 with resultant demands for public utilities, governmental services, and
16 retail and service businesses has created an increased need for housing
17 for persons of low and moderate income who are employed in the stated
18 capacities;

19 (3) The supply of moderately priced housing was inadequate in the mid-
20 1960's and has grown since then at a radically slower pace than the
21 demand for such housing;

22 (4) The inadequate supply of housing in the County for persons of low and
23 moderate income results in large-scale commuting from outside the
24 County to places of employment within the County, thereby overtaxing
25 existing roads and transportation facilities, significantly contributing to
26 air and noise pollution, and engendering greater than normal personnel
27 turnover in the businesses, industry and public agencies of the County,

- 28 all adversely affecting the health, safety and welfare of and resulting in
29 an added financial burden on the citizens of the County;
- 30 (5) A careful study of market demands shows that approximately one-third
31 of the new labor force in the County for the foreseeable future will
32 require moderately priced dwelling units;
- 33 (6) Demographic analyses indicate that public policies which permit
34 exclusively high-priced housing development discriminate against
35 young families, retired and elderly persons, single adults, female heads
36 of households, and minority households; and such policies produce the
37 undesirable and unacceptable effects of exclusionary zoning, thus
38 failing to implement the Montgomery County housing policy and the
39 housing goal of the general plan for the County;
- 40 (7) Experience indicates that the continuing high level of demand for more
41 luxurious housing, with a higher profit potential, discourages developers
42 from offering a more diversified range of housing; and the production of
43 moderately priced housing is further deterred by the high cost of land,
44 materials, and labor;
- 45 (8) Actual production experience in the County indicates that if land costs
46 can be reduced, houses of more modest size and fewer amenities can be
47 built to be sold at a profit in view of the existing ready market for such
48 housing;
- 49 (9) Every indication is that, given the proper incentive, the private sector is
50 best equipped and possesses the necessary resources and expertise
51 required to provide the type of moderately priced housing needed in the
52 County;

- 53 (10) Rapid regional growth and a strong housing demand have combined to
 54 make land and construction costs very high and to have an effect on the
 55 used housing market by causing a rise in the prices of those units;
- 56 (11) In past years efforts have been made to encourage moderately priced
 57 housing construction through zoning incentives permitting greater
 58 density and through relaxation of some building and subdivision
 59 regulations. Very little moderately priced housing had resulted; and
- 60 (12) In some instances existing housing for persons of low and moderate
 61 income is substandard and overcrowded.]
- 62 (a) The County enacted the Moderately Priced Dwelling Unit (MPDU) law
 63 in 1973 to:
- 64 (1) help meet the goal of providing a full range of housing choices
 65 for all incomes, ages and household sizes;
- 66 (2) meet the existing and anticipated need for low and moderate-
 67 income housing;
- 68 (3) ensure that moderately priced housing is dispersed throughout the
 69 County consistent with the General Plan and area master plans;
 70 and
- 71 (4) encourage the construction of moderately priced housing by
 72 allowing optional increases in density including the MPDU
 73 density bonus to offset the cost of construction.
- 74 (b) In 2004, the County Council amended the MPDU program to:
- 75 (1) Reduce the loss of MPDUs by extending the control period for
 76 for-sale MPDUs from 10 years to 30 years and for rental MPDUs
 77 from 20 years to 99 years;
- 78 (2) Allow different income eligibility standards in recognition of the
 79 higher cost of construction of certain types of housing;

80 (3) Increase the number of developments required to provide
81 MPDUs by lowering the base requirement from any development
82 with 35 or more units to 20 or more units; and

83 (4) Place additional requirements and structure on the approval of an
84 alternative payment made to the Housing Initiative Fund in place
85 of providing MPDUs.

86 (c) In ~~[[2017]] 2018, the County Council finds that:~~

87 (1) The availability of affordable housing continues to be a problem
88 for low and moderate-income households.

89 (2) The 2015 report “The Greater Washington Region’s Housing
90 Needs 2023” projects that Montgomery County will need 14,960
91 new housing units for households earning less than 80% of area
92 median income.

93 (3) The 2017 Montgomery County Rental Housing Study reports that
94 68% of households with incomes between 50% and 80% of area
95 median income report paying more than 30% of income for rent
96 and 15% report being extremely rent burdened, paying more than
97 50% of income for rent.

98 (4) The creation of income-restricted affordable housing through
99 construction and preservation is critical as market rents continue
100 to increase. The American Community Survey reports that there
101 were 9,189 fewer rental units with rents between \$750 and
102 \$1,499 from 2010 to 2014.

103 (5) MPDUs are one important element for providing income-
104 restricted affordable housing. There were ~~[[681]] 664~~ new
105 MPDUs offered for sale or rent in 2015 and 2016. As of 2017
106 there are about 5,300 MPDUs county-wide.

- 107 (6) Additional density can offset the cost of constructing MPDUs. It
 108 is appropriate to consider different base requirements for MPDUs
 109 in conjunction with the approval of different densities and heights
 110 in master plans and sector plans.
- 111 (7) There is unmet demand for MPDUs with two, three, and four
 112 bedrooms. Providing flexibility that allows MPDU agreements
 113 based on floor area or square footage, rather than requirements
 114 based on the number of bedrooms in market rate units, can help
 115 to address this need.
- 116 (8) Appropriate alternative payments to the Housing Initiative Fund
 117 can, in certain circumstances, be used to create more MPDUs in
 118 the same [[Policy]] Planning Area than providing the MPDUs on
 119 site.
- 120 (9) Montgomery County is committed to its policy of providing
 121 affordable housing in all areas of the County to provide
 122 opportunity to households of all incomes in each [[Policy]]
 123 Planning Area.
- 124 (10) MPDUs can be used in partnership with other housing supports to
 125 provide affordable housing to households with very low incomes
 126 such as those with incomes below 50% or 30% of area median
 127 income.

128 **25A-2. Declaration of public policy.**

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

- 131 [(1) Implement the Montgomery County housing policy and the general plan
 132 goal of providing for a full range of housing choices, conveniently

- 133 located in a suitable living environment, for all incomes, ages and
 134 family sizes;
- 135 (2) Provide for low- and moderate-income housing to meet existing and
 136 anticipated future employment needs in the County;
- 137 (3) Assure that moderately priced housing is dispersed within the County
 138 consistent with the general plan and area master plans;
- 139 (4) Encourage the construction of moderately priced housing by allowing
 140 optional increases in density in order to reduce land costs and the costs
 141 of optional features that may be built into such moderately priced
 142 housing;
- 143 (5) Require that all subdivisions of 35 or more dwelling units include a
 144 minimum number of moderately priced units of varying sizes with
 145 regard to family needs, and encourage subdivisions with fewer than 35
 146 units to do the same;
- 147 (6) Ensure that private developers constructing moderately priced dwelling
 148 units under this Chapter incur no loss or penalty as a result thereof, and
 149 have reasonable prospects of realizing a profit on such units by virtue of
 150 the MPDU density bonus or public benefit provisions of Chapter 59
 151 and, in certain zones, the optional development standards; and
- 152 (7) Allow developers of residential units in qualified projects more
 153 flexibility to meet the broad objective of building housing that low- and
 154 moderate-income households can afford by letting a developer, under
 155 specified circumstances, comply with this Chapter by contributing to a
 156 County Housing Initiative Fund.]
- 157 (1) encourage and maintain a wide choice of housing types and
 158 neighborhoods for people of all incomes, ages, lifestyles, and physical

- 159 capabilities at appropriate locations and densities and to implement
 160 policies to bridge housing affordability gaps;
- 161 (2) make housing that is affordable to low, moderate, and middle-income
 162 households a priority in all parts of the County;
- 163 (3) ensure that all master plan and sector plan amendments address the need
 164 for housing for low, moderate, and middle-income households and
 165 promote specific strategies to meet that need including height and
 166 density incentives and flexibility;
- 167 (4) implement policies that increase the long-term supply of rental housing
 168 affordable to low and moderate-income households, particularly in areas
 169 that are easily accessible to transit;
- 170 (5) require that all subdivisions of 20 or more dwelling units include a
 171 minimum number of moderately priced dwelling units on-site, or under
 172 certain specified circumstances, provide appropriate units off-site or
 173 make a payment to the Housing Initiative Fund; [[and]]
- 174 (6) allow the Department of Housing and Community Affairs and
 175 developers flexibility to enter into affordable housing agreements that
 176 address the needs for housing units of different sizes and bedroom
 177 counts to better meet the needs of low and moderate-income
 178 households; and
- 179 (7) allow developers of residential units more opportunity to comply with
 180 this Chapter and meet the County's objective of building housing
 181 affordable to low and moderate-income households by contributing to
 182 the Housing Initiative Fund, alternative location agreements, and
 183 flexible development standards that promote production and diversity of
 184 housing units.

185 **25A-3. Definitions.**

186 The following words and phrases, as used in this Chapter, have the following
187 meanings:

188 Age-restricted unit means a dwelling unit, the occupancy of which is
189 conditioned on at least one resident being ~~[[a certain]]~~ age 55 or older.

190 Area median income means the median household income for
191 ~~[[Montgomery County]]~~ the Washington, DC metropolitan area as
192 estimated by the U.S. Department of Housing and Urban Development.

193 [(a)] *Applicant* means any person, firm, partnership, association, joint
194 venture, ~~[[corporation]]~~ business entity, or any other entity or
195 combination of entities, and any transferee of all or part of the land at
196 one location.

197 [(b)] *At one location* means all adjacent land of the applicant if:

198 (1) The property lines are contiguous or nearly contiguous at any
199 point; or

200 (2) The property lines are separated only by a public or private street,
201 road, highway or utility right-of-way, or other public or private
202 right-of-way at any point; or

203 (3) The property lines are separated only by other land of the
204 applicant which is not subject to this Chapter at the time of any
205 permit, site plan, development or subdivision application by the
206 applicant.

207 [(c)] *Available for building development* means all land:

208 (1) Owned by, or under contract to, the applicant;

209 (2) Zoned for any type of residential development to which an
210 optional density bonus provision applies;

211 (3) Which will use public water and sewerage; and

- 212 (4) Which is already subdivided or is ready to be subdivided for
 213 construction or development.
- 214 [(d)] *Closing costs* means statutory charges for transferring title, fees for
 215 obtaining necessary financing, title examination fees, title insurance
 216 premiums, house location survey charges and fees for preparation of
 217 loan documents and deed of conveyance.
- 218 [(e)] *Commission* means the Housing Opportunities Commission of
 219 Montgomery County.
- 220 [(f)] *Consumer Price Index* means the latest published version of the
 221 Consumer Price Index for All Urban Consumers (CPI-U) for the
 222 Washington-Arlington-Alexandria Core Based Statistical Area (CBSA),
 223 as published by the United States Department of Labor, Bureau of
 224 Labor Statistics, or any similar index selected by the County Executive.
- 225 [(g)] *Control period* means the time an MPDU is subject to either resale price
 226 controls and owner occupancy requirements or maximum rental limits,
 227 as provided in ~~[[Section]]~~ Sections 25A-8 and 25A-9. The control
 228 period is 30 years for sale ~~[[units]]~~ MPDUs and 99 years for rental
 229 ~~[[units]]~~ MPDUs, and begins on the date of ~~[[initial]]~~ original sale or
 230 rental. If a sale MPDU is sold ~~[[to an eligible]]~~ [person] ~~[[household]]~~
 231 within 30 years after its ~~[[initial]]~~ original sale, and if (in the case of a
 232 sale MPDU that is not bought and resold by a government agency) the
 233 ~~[[unit]]~~ MPDU was originally offered for sale after March 1, 2002, the
 234 ~~[[unit]]~~ MPDU must be treated as a new sale MPDU and a new control
 235 period must begin on the date of the sale.
- 236 [(h)] *Date of original sale* means the date of settlement for purchase of ~~[[a~~
 237 moderately priced dwelling unit]] an MPDU.

- 238 [(i)] *Date of original rental* means the date [[the first lease agreement for a
 239 moderately priced dwelling unit takes effect]] that MPDU rental
 240 covenants are recorded on the property.
- 241 [(j)] *Department* means the Department of Housing and Community Affairs.
 242 *Designated agency* means a non-governmental housing development
 243 agency or nonprofit business entity designated by the County Executive
 244 as eligible to purchase or lease MPDUs under Section 25A-8, following
 245 standards established in Executive regulation.
- 246 [(k)] *Director*, except as otherwise indicated, means the head of the
 247 Department of Housing and Community Affairs, or the Director's
 248 designee.
- 249 [(l)] *Dwelling unit* means a building or part of a building that provides
 250 complete living facilities for one [[family]] household, including at a
 251 minimum, facilities for cooking, sanitation and sleeping.
- 252 [(m)] *Eligible [person] household* means a [person or] household whose
 253 income qualifies the [person or] household to participate in the MPDU
 254 program, and who [holds a valid certificate of eligibility from the
 255 Department which entitles the person or household] is eligible to buy
 256 [or rent] or rent an MPDU during the priority marketing period.
- 257 [(n)] *Housing Initiative Fund* means a fund established by the County
 258 Executive to achieve the purposes of Section 25B-9.
- 259 [(o)] *Low income* means levels of income within the income range for “very-
 260 low income families” established from time to time by the U.S.
 261 Department of Housing and Urban Development for the Washington
 262 metropolitan area, under federal law, or as defined by executive
 263 regulations.

264 [(p)] *Moderate income* means those levels of income, established in
 265 executive regulations, which prohibit or severely limit the financial
 266 ability of [[persons]] households to buy or rent housing in Montgomery
 267 County. Moderate income levels must not exceed the “low income”
 268 limits set by the U.S. Department of Housing and Urban Development
 269 to determine eligibility for assisted housing programs.

270 [(q)] *Moderately priced dwelling unit* or *MPDU* means a dwelling unit which
 271 is:

- 272 (1) offered for sale or rent to eligible [persons] households through
 273 the Department, and sold or rented under this Chapter; or
- 274 (2) sold or rented under a government program designed to assist the
 275 construction or occupancy of housing for [[families]] households
 276 of low or moderate income, and designated by the Director as an
 277 MPDU. When such a dwelling unit is designated as an MPDU,
 278 the income limits and other requirements of that particular
 279 housing program must apply during the compliance period for
 280 that program rather than the requirements set forth herein. If the
 281 compliance period for that program is shorter than the MPDU
 282 control period, the MPDU requirements must apply for the
 283 balance of the MPDU control period, unless the Director
 284 determines that the affordability term of the other program is
 285 equivalent to the MPDU requirement.

286 Multi-family dwelling unit means a dwelling unit in an apartment,
 287 condominium, or mixed-use building type.

288 [(r)] *Optional density bonus provision* means any increase in density under
 289 Chapter 59, in a zoning classification that allows residential
 290 development, above the amount permitted in the base or standard

291 method of development, whether by exercise of the optional provisions
 292 of Chapter 59 or by any special exception or conditional use.

293 Planning Area means one of 37 subareas of the County defined in the
 294 earliest planning documents by the Maryland-National Capital Park and
 295 Planning Commission and whose boundaries have not changed over
 296 time.

297 [(s)] Planning Board means the Montgomery County Planning Board of the
 298 Maryland-National Capital Park and Planning Commission.

299 [(t)] Priority marketing period is the period an MPDU must be offered
 300 exclusively for sale or rent to eligible [persons] households, as provided
 301 in Section 25A-8.

302 Single-family dwelling unit means a single-family detached dwelling
 303 unit or single-family attached dwelling unit, such as a townhouse or
 304 duplex.

305 **25A-4. [Income] Household income and eligibility standards.**

306 (a) The County Executive must set and annually revise standards of
 307 eligibility for the MPDU program by regulation. These standards must
 308 specify moderate-income levels for varying sizes of households which
 309 will qualify a person or household to buy or rent an MPDU. The
 310 Executive must set different income eligibility standards for buyers and
 311 renters. The Executive may set different income eligibility standards for
 312 buyers and renters of higher-cost or age-restricted [housing] [[units]]
 313 MPDUs, as defined by regulation.

314 (b) In establishing standards of eligibility and moderate-income levels, the
 315 Executive must consider:

316 (1) [the price established for the sale or rental of MPDUs under this
 317 Chapter,] income levels relative to area median income; and

- 318 (2) [the term and interest rate that applies to the financing of
 319 MPDUs,
 320 (3) the estimated levels of income necessary to carry a mortgage on
 321 an MPDU, and
 322 (4)] [[family]] household size and number of dependents.
- 323 (c) A [[person who]] household that rents an MPDU and lawfully occupies
 324 it when the [[unit]] MPDU is offered for sale may buy the [[unit]]
 325 MPDU, regardless of the [[person's]] household's income at the time of
 326 sale, if the [[person]] household met all eligibility standards when the
 327 [[person]] household first rented the [[unit]] MPDU.
- 328 (d) A [[person who] household that rents an MPDU after meeting all
 329 eligibility standards may continue to occupy the [[unit]] MPDU for the
 330 term of the lease even if the [[person]] household ceases to meet the
 331 income eligibility standards.
- 332 (e) A [[person who] household that buys an MPDU after meeting all
 333 eligibility standards may retain ownership of the MPDU even if the
 334 [[person]] household ceases to meet income eligibility standards during
 335 the [[term]] time that the household owns the MPDU.
- 336 (f) To be eligible to buy or rent an MPDU other than an age-restricted unit,
 337 [[a person and]] members of [[that person's]] a household must not have
 338 owned any residential property during the previous [5] five years. The
 339 Director may waive this restriction for good cause.

340 **25A-5. Requirement to build MPDUs; payment to Housing Initiative Fund;**
 341 **agreements.**

- 342 (a) The requirements of this Chapter to provide MPDUs apply to any
 343 applicant who:

- 344 (1) submits for approval or extension of approval a preliminary plan
 345 of subdivision under Chapter 50 which proposes the development
 346 of a total of 20 or more dwelling units at one location in one or
 347 more subdivisions, parts of subdivisions, resubdivisions, or stages
 348 of development, regardless of whether any part of the land has
 349 been transferred to another party;
- 350 (2) submits to the Planning Board or to the Director of Permitting
 351 Services a plan of housing development for any type of site
 352 review or development approval required by law, which proposes
 353 construction or development of 20 or more dwelling units at one
 354 location; [[or]]
- 355 (3) submits to the Planning Board or to the Director of Permitting
 356 Services a plan to convert an existing property from non-
 357 residential use to residential use for any type of site review or
 358 development approval required by law, which results in the
 359 development of 20 or more dwelling units at one location; or
- 360 (4) with respect to land in a zone not subject to subdivision approval
 361 or site plan review, applies for a building permit to construct a
 362 total of 20 or more dwelling units at one location, including a
 363 conversion from non-residential to residential use.
- 364 (b) An applicant for an approval or permit identified in subsection (a) who
 365 proposes development of ~~[[fewer than 20]]~~ between 11 and 19 dwelling
 366 units is not required to provide MPDUs, but must make a payment to
 367 the Housing Initiative Fund, as provided by regulation.
- 368 (c) In calculating whether a development contains a total of 20 or more
 369 dwelling units for the purposes of this Chapter, the development
 370 includes all land at one location in the County available for building

371 development under common ownership or control by an applicant,
 372 including land owned or controlled by separate ~~[[corporations]]~~ business
 373 entities in which any stockholder or family of the stockholder owns 10
 374 percent or more of the stock. An applicant must not avoid this Chapter
 375 by submitting piecemeal applications or approval requests for
 376 subdivision plats, site or development plans, floating zone plans, or
 377 building permits. Any applicant may apply for a preliminary plan of
 378 subdivision, site or development plan, floating zone plan, record plat, or
 379 building permit for fewer than 20 dwelling units at any time; but the
 380 applicant must agree in writing that the applicant will comply with this
 381 Chapter when the total number of dwelling units at one location reaches
 382 20 or more.

383 ~~[(b)]~~(d) Any applicant subject to subsection (a), in order to obtain a
 384 building permit, must submit to the Department of Permitting Services[,
 385 with the application for a permit,] a written MPDU agreement approved
 386 by the Director and the County Attorney. Each agreement must require
 387 that:

- 388 (1) a specific number of MPDUs must be constructed on an
 389 approved time schedule;
- 390 (2) in subdivisions with single-family dwelling [unit subdivisions]
 391 units, ~~[[including townhouses,]]~~ each MPDU must have ~~[[3]]~~
 392 three or more bedrooms, unless this requirement is waived by the
 393 Director in a subdivision with only two-bedroom market rate
 394 units; [[and]]
- 395 (3) in subdivisions with multi-family dwelling [unit subdivisions]
 396 units, the [number] ~~[[ratio of efficiency]]~~ [and one- bedroom]
 397 bedroom mix of the MPDUs ~~[[to total MPDUs]]~~ [each] must

398 ~~[[not exceed the ratio]] [that] match the bedroom mix of~~
 399 ~~[[market-rate efficiency]] [and one-bedroom] [[units]]~~
 400 ~~[respectively] [bear] [[to]] [the] [[total]] [number of] the market-~~
 401 ~~rate units in the subdivision unless the Director approves an~~
 402 ~~MPDU agreement that does not increase the number of MPDUs~~
 403 ~~required, but approximates the total floor area for the MPDUs~~
 404 ~~required, and alters the bedroom mix of the MPDUs or the~~
 405 ~~number of MPDUs; and~~

406 (4) in subdivisions with both single-family and multi-family
 407 dwelling units, the ratio of single-family MPDUs to total MPDUs
 408 must not be less than the ratio of market-rate single-family units
 409 to total market-rate units in the subdivision, unless the Director
 410 finds that:

411 (A) offering more multi-family MPDUs in that subdivision
 412 would advance the purpose of the County housing policy
 413 and the objectives of any applicable land use plan, be
 414 consistent with local housing market conditions, and avoid
 415 excessive mandatory condominium or homeowners'
 416 association fees or other costs that would reduce the
 417 affordability of sale MPDUs; and

418 (B) if rental MPDUs are proposed, the applicant has
 419 demonstrated that it is qualified to manage rental housing.

420 ~~[[The Director]] [must not] [[may approve an MPDU agreement that]]~~
 421 ~~[reduces the number of bedrooms required by this subsection in any~~
 422 ~~MPDU] [[does not increase the number of MPDUs required, but~~
 423 ~~approximates the total floor area for the]] [[units]] [[MPDUs required,]]~~

424 ~~[[but]] [[and alters the bedroom mix of the]] [[units]] [[MPDUs or the~~
 425 ~~number of]] [[units]] [[MPDUs.]]~~

426 [(c)](e) When [the] a development ~~[[with more than]] of 20 units or more~~
 427 at one location is in a zone where a density bonus is allowed under
 428 Chapter 59; and

429 (1) is covered by a plan of subdivision;

430 (2) is covered by a plan of development, site plan, or floating zone
 431 plan; or

432 (3) requires a building permit to be issued for construction,
 433 the required number or residential floor area of [moderately priced
 434 dwelling units] MPDUs is a variable percentage that is not less than a
 435 base requirement of 12.5% of the total number of dwelling units or
 436 ~~[[equivalent]]~~ residential floor area at that location, not counting any
 437 workforce housing units built under Chapter 25B. The Council may
 438 establish a higher base requirement, up to 15% of the total number of
 439 dwelling units or ~~[[equivalent]]~~ residential floor area at a location, as
 440 part of a master plan approval. The required number or residential floor
 441 area of MPDUs must vary according to the amount by which the
 442 approved development exceeds the normal or standard density for the
 443 zone in which it is located. Chapter 59 may permit bonus densities over
 444 the presumed base density where MPDUs are provided. ~~[[If the use of~~
 445 ~~the optional MPDU development standards does not result in an~~
 446 ~~increase over the base density, the Director must conclude that the base~~
 447 ~~density could not be achieved under conventional development~~
 448 ~~standards, in which case the required number~~ or residential floor area of
 449 MPDUs must not be less than the 12.5% or higher base requirement
 450 established by the Council, of the total number of units in the

451 subdivision. To obtain a density bonus, an applicant must provide at
 452 least one more MPDU than would have been required if there was no
 453 density bonus.]] [[The amount of density bonus achieved in the
 454 approved development determines the percentage of total units that
 455 must be MPDUs, as follows:]]
 456 [[

<i>Achieved Density Bonus</i>	<i>MPDUs Required</i>		<i>Achieved Density Bonus</i>	<i>MPDUs Required</i>
Zero	[12.5%] <u>Base requirement</u>		Up to 11%	[13.6%] <u>Base plus 1.1%</u>
Up to 1%	[12.6%] <u>Base plus 0.1%</u>		Up to 12%	[13.7%] <u>Base plus 1.2%</u>
Up to 2%	[12.7%] <u>Base plus 0.2%</u>		Up to 13%	[13.8%] <u>Base plus 1.3%</u>
Up to 3%	[12.8%] <u>Base plus 0.3%</u>		Up to 14%	[13.9%] <u>Base plus 1.4%</u>
Up to 4%	[12.9%] <u>Base plus 0.4%</u>		Up to 15%	[14.0%] <u>Base plus 1.5%</u>
Up to 5%	[13.0%] <u>Base plus 0.5%</u>		Up to 16%	[14.1%] <u>Base plus 1.6%</u>
Up to 6%	[13.1%] <u>Base plus 0.6%</u>		Up to 17%	[14.2%] <u>Base plus 1.7%</u>
Up to 7%	[13.2%] <u>Base plus 0.7%</u>		Up to 18%	[14.3%] <u>Base plus 1.8%</u>
Up to 8%	[13.3%] <u>Base plus 0.8%</u>		Up to 19%	[14.4%] <u>Base plus 1.9%</u>

Up to 9%	[13.4%] <u>Base plus 0.9%</u>	Up to 20%	[14.5%] <u>Base plus 2.0%</u>
Up to 10%	[13.5%] <u>Base plus 1.0%</u>	Up to 22%	[15.0%] <u>Base plus 2.5%</u>

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]]

458

[(d)] [(f)(1) Notwithstanding subsection] [(c)] [(e), the Director may allow

459

fewer or no MPDUs to be built in a development with more than

460

20 but fewer than 50 units at one location if:

461

(A) the Planning Board, in reviewing a subdivision or site plan

462

submitted by the applicant and based on the lot size,

463

product type, and other elements of the plan as submitted,

464

finds that achieving a bonus density of 20 percent or more

465

at that location:]]

466

[(A)] [(i) would not allow compliance with applicable

467

environmental standards and other regulatory

468

requirements]] [,]] [; or]]

469

[(B)] [(ii) would significantly reduce neighborhood

470

compatibility; and

471

(B) the applicant makes a payment to the Housing Initiative

472

Fund, as provided by regulation, based on the square

473

footage of MPDU units that would otherwise have been

474

required.

475

(2) If the Planning Board approves a density bonus of at least 20

476

percent for a development which consists of 20 or more but fewer

477

than 50 units at one location, the number of]] [MPDU's]

478

[[MPDU]s required must be governed by subsection] [(c)] [(e)

479

unless the formula in subsection] [(c)] [(e) would not allow the

480 development to have one bonus market rate unit. In that case, the
 481 Board must reduce the required number of]] [MPDU's]
 482 [[MPDU]s by one unit and approve an additional market rate
 483 unit.]]

484 [(e)]~~[(g)]~~[(f)]The Director may determine whether an MPDU requirement may
 485 be satisfied by an alternative payment or location agreement, and may
 486 approve an MPDU agreement that:

- 487 (1) allows an applicant to reduce the number of MPDUs in a
 488 subdivision only if the agreement meets all requirements of
 489 Section 25A-5A for an alternative payment agreement; or
- 490 (2) allows an applicant to build the MPDUs at another location only
 491 if the agreement meets all requirements of Section 25A-5B for an
 492 alternative location agreement.

493 [(f)]~~[(h)]~~[(g)](1) An applicant may satisfy this Section by obtaining
 494 approval from the Director to transfer land to the County before
 495 applying for a building permit. [The applicant must sign a written
 496 land transfer agreement approved by the Director and by the
 497 County Attorney. For the Director to consider the request and
 498 take timely action, a written notice of the applicant's intent to
 499 submit an agreement should be served upon the Director at least
 500 90 days before the application for a building permit is filed. The
 501 land transfer agreement must covenant that so much of the land,
 502 designated in the approved preliminary plan or site plan as land to
 503 which the optional zoning provisions for MPDUs apply, as is
 504 necessary in order to construct the number of MPDUs required
 505 by subsection (a) will be transferred, as finished lots, to
 506 Montgomery County or to the County's designee before the

507 building permit is issued, so that the County might cause MPDUs
 508 to be constructed on the transferred land. After the submission of
 509 supporting documentation and review and approval by the
 510 County for the transfer of finished lots, the County must
 511 reimburse the applicant for the costs the applicant actually
 512 incurred, which are directly attributable to the finishing of the
 513 MPDU lots so transferred. Reimbursable costs include but are not
 514 limited to engineering costs; clearing, grading, and paving streets,
 515 including any required bonds and permits; installation of curbs,
 516 gutters and sidewalks; sodding of public right-of-way; erection of
 517 barricades and signs; installation of storm sewers and street
 518 lighting; and park and other open space and recreational
 519 development directly benefiting the MPDU lots transferred. The
 520 County must not reimburse an applicant for the cost or value of
 521 the transferred lots.]

522 (2) [If an applicant transfers land to the County under this subsection
 523 and no funds have been appropriated to reimburse the applicant
 524 for his finishing costs, the County may accept from the applicant
 525 undeveloped land rather than finished lots, or the applicant may
 526 transfer the finished lots to the County without requiring payment
 527 for finishing the lots.] The Director may only approve a transfer
 528 of land under this subsection after making a written determination
 529 that the value of the land transferred is at least equal to the value
 530 of the MPDUs not constructed by the applicant.

531 (3) [Notwithstanding any other provisions of the subsection, the
 532 County may reject an election by an applicant to transfer land to
 533 the County in whole or in part whenever the public interest would

534 best be served thereby. Any rejection and the reasons for the
 535 rejection may be considered by the Planning Board or the
 536 Director of Permitting Services in deciding whether to grant the
 537 applicant a waiver of this Chapter under Section 25A-7(b).] The
 538 Executive must establish procedures for transferring land under
 539 this subsection by method (1) regulation.

540 [(4) Any transfer of land to the County hereunder is not subject to
 541 Section 11B-33, and any land so transferred is not property
 542 subject to Section 11B-31A regulating the disposal of surplus
 543 land. The Director may dispose of the lots in a manner that
 544 furthers the objectives of this Chapter.]

- 545 (4) When land is transferred to the County under this Section:
- 546 (A) the land must be used to produce or preserve MPDUs; or
 - 547 (B) if sold, proceeds from the sale must be allocated to the
 548 Affordable Housing Acquisition and Preservation CIP
 549 portion of the Housing Initiative Fund; and
 - 550 (C) the Director must notify the Council within 30 days of
 551 approving a land transfer under this subsection.

552 [(g)]~~[(i)]~~[(h)]The MPDU agreements must be signed by the applicant and all
 553 other parties whose signatures are required by law for the effective and
 554 binding execution of contracts conveying real property. [[The
 555 agreements must be executed in a manner that will enable them to be
 556 recorded in the land records of the County.]] If the applicant is a
 557 ~~[[corporation]]~~ business entity, the agreements must be signed by the
 558 ~~[[principal officers]]~~ authorized signatories of the ~~[[corporation]]~~
 559 business entity individually and on behalf of the ~~[[corporation]]~~ business
 560 entity. Partnerships, associations or ~~[[corporations]]~~ business entities

561 must not evade this Chapter through voluntary dissolution. The
 562 agreements may be assigned if the County approves, and if the
 563 assignees agree to fulfill the requirements of this Chapter.

564 ~~[(h)]~~~~[(j)]~~(i) The Department of Permitting Services must not issue a building
 565 permit in any subdivision or housing development in which MPDUs are
 566 required until the applicant submits a valid MPDU agreement which
 567 applies to the entire ~~[[subdivision or development]]~~ preliminary plan or
 568 site plan, unless the property within the preliminary plan or site plan has
 569 multiple owners, in which case the development may have more than
 570 one MPDU agreement. The applicant must also file with the first
 571 application for a building permit a statement of all land the applicant
 572 owns in the County that is available for building development. In later
 573 applications, the applicant need only show additions and deletions to the
 574 original landholdings available for building development.

575 ~~[(i)]~~~~[(k)]~~(j) The MPDU agreement ~~must include the number, type, location,~~
 576 ~~and plan for staging construction of all dwelling units and such other~~
 577 ~~information as the Department requires to determine the applicant's~~
 578 ~~compliance with this Chapter.~~ MPDUs must be reasonably dispersed
 579 throughout the development, and the ~~[[The]]~~ MPDU staging plan must
 580 be consistent with any applicable land use plan, subdivision plan, or site
 581 plan. The staging plan included in the MPDU agreement for all
 582 dwelling units must be sequenced so that:

- 583 (1) MPDUs are built along with or before other dwelling units;
- 584 (2) no or few market rate dwelling units are built before any MPDUs
 585 are built;
- 586 (3) the pace of MPDU production must reasonably coincide with the
 587 construction of market rate units; and

588 (4) the last building built must not contain only MPDUs.
 589 This subsection applies to all developments, including any development
 590 covered by multiple preliminary plans of subdivision.

591 ~~[(j)]~~~~[(1)]~~~~(k)~~ The MPDU agreement must provide for any requirement of age-
 592 restricted ~~[[units]]~~ MPDUs to be offered for sale to be satisfied by a
 593 payment to the Housing Initiative Fund under Section 25A-5A(b).

594 ~~[(m)]~~~~(l)~~ If an applicant does not build the MPDUs contained in the
 595 staging plan along with or before other dwelling units, the Director of
 596 Permitting Services must withhold any later building permit to that
 597 applicant until the MPDUs contained in the staging plan are built.

598 ~~[(k)]~~~~[(n)]~~~~(m)~~ The applicant must execute and ~~[[record]]~~ provide to the
 599 Department in recordable form, covenants assuring that:

- 600 (1) The restrictions of this Chapter run with the land for the entire
- 601 period of control;
- 602 (2) The County may create a lien to collect:
 - 603 (A) that portion of the sale price of an MPDU which exceeds
 - 604 the approved resale price; and
 - 605 (B) that portion of the foreclosure sale price of an MPDU
 - 606 which exceeds the approved resale price; and
- 607 (3) The covenants will bind the applicant, any assignee, mortgagee,
- 608 or buyer, and all other parties that receive title to the property.
- 609 These covenants must be senior to all instruments securing
- 610 permanent financing.

611 ~~[(l)]~~~~[(o)]~~~~(n)~~ An applicant must not establish a condominium or homeowners'
 612 association consisting solely of MPDUs.

613 ~~[(p)]~~~~(o)~~ (1) In any purchase and sale agreement and any deed or
 614 instrument conveying title to an MPDU, the grantor must clearly

615 and conspicuously state, and the grantee must clearly and
 616 conspicuously acknowledge, that:

617 (A) the conveyed property is [a] an MPDU and is subject to the
 618 restrictions contained in the covenants required under this
 619 Chapter during the control period until the restrictions are
 620 released; and

621 (B) any MPDU owner, other than an applicant, must not sell
 622 the MPDU until:

623 (i) the owner has notified the Department under
 624 Section 25A-8 or 25A-9, as applicable, that the
 625 ~~[[unit]]~~ MPDU is for sale;

626 (ii) the Department and, where applicable, the
 627 Commission, have notified the owner that they do
 628 not intend to buy the ~~[[unit]]~~ MPDU; and

629 (iii) The Department has notified the owner of the
 630 ~~[[unit's]]~~ MPDU's maximum resale price.

631 (2) Any deed or other instrument conveying title to an MPDU during
 632 the control period must be signed by both the grantor and grantee.

633 (3) When a deed or other instrument conveying title to an MPDU is
 634 recorded in the land records, the grantor must cause to be filed in
 635 the land records a notice of sale for the benefit of the County in
 636 the form provided by state law.

637 ~~[(m)]~~~~[[q]]~~~~[(p)]~~ Nothing in this Chapter prohibits an applicant from
 638 voluntarily building MPDUs, as calculated under subsection ~~[(c)]~~~~[(e)]~~, in
 639 a development with fewer than 20 dwelling units at one location, and in
 640 so doing from qualifying for an optional method of development under
 641 Chapter 59. A development with fewer than 20 dwelling units where an

642 applicant voluntarily builds MPDUs must comply with any procedures
 643 and development standards that apply to a larger development under
 644 this Chapter and Chapter 59. Sections 25A-5A[[,]] and 25A-5B[[, and
 645 25A-6(b)]] do not apply to an applicant who voluntarily builds
 646 [MPDU's] MPDUs under this subsection and in so doing qualifies for
 647 an optional method of development.

648 [[r)](q) Upon request by the applicant, the Director may provide an applicant
 649 and the Planning Board with a letter indicating the Director's
 650 preliminary agreement on how the applicant will meet its MPDU
 651 requirements, including:

652 (1) the conditions of the agreement; and

653 (2) the time period that the agreement is valid.

654 **25A-5A. Alternative payment agreement.**

655 (a) The Director may approve an MPDU agreement that allows an
 656 applicant, instead of building some or all of the required [[number of]]
 657 for-sale MPDUs in [[the]] a proposed subdivision or conversion of
 658 existing property from non-residential use to residential use, to pay to
 659 the Housing Initiative Fund an amount computed under subsection (b)[,
 660 only if an Alternative Review Committee composed of the Director, the
 661 Commission's Executive Director, and the Director of Park and
 662 Planning, or their respective designees, by majority vote finds] upon a
 663 finding that:

664 (1) either:

665 (A) an indivisible package of services and facilities available to
 666 all residents of the proposed subdivision would cost
 667 MPDU buyers so much that it is likely to make the
 668 MPDUs effectively unaffordable by eligible buyers; [[or]]

669 (B) [environmental constraints at a particular site would render
 670 the building of all required MPDUs at that site
 671 economically infeasible] regulatory development
 672 constraints at a particular site would render the building of
 673 approved density and all required MPDUs at that site
 674 infeasible; or

675 (C) the public benefit of providing affordable housing
 676 throughout the County outweighs the value of locating
 677 MPDUs in each subdivision throughout the County; and

678 (2) [the public benefit of additional affordable housing outweighs the
 679 value of locating MPDUs in each subdivision throughout the
 680 County, and] accepting the payment will further the objective of
 681 providing a broad range of housing opportunities throughout the
 682 County.

683 (b) [Any payment to the Housing Initiative Fund under this Section must
 684 equal or exceed 125% of the imputed cost of land for each unbuilt
 685 MPDU. Except as further defined by Executive regulation, the imputed
 686 land cost must be calculated as 10% (for high-rise units) or up to 30%
 687 (for all other housing units) of the actual sale price charged for each
 688 substituted unit. If the substituted unit will be a rental unit, the Director
 689 must calculate an imputed sale price under applicable regulations, based
 690 on the rent actually charged.] A payment under this section in full
 691 satisfaction of MPDU requirements must be [[calculated as provided in
 692 method (1) regulation]] three percent of the sale price of each market
 693 rate unit in the development. A payment made in partial satisfaction of
 694 MPDU requirements must be adjusted based on the percentage of
 695 required MPDUs provided.

- 696 (c) [Any] A payment to the Housing Initiative Fund under this Section:
- 697 (1) must not be used to reduce the annual County payment to the
- 698 Fund; ~~[[and]]~~
- 699 (2) must be deposited into the Affordable Housing Acquisition and
- 700 Preservation CIP project; and
- 701 (3) ~~[[may]]~~ must be used ~~[only]~~ only to buy, ~~[[or]]~~ build, or preserve
- 702 more MPDUs, or more bedrooms in the same number or fewer
- 703 MPDUs, in ~~[the same planning policy area]~~ ~~[[a Policy Area]]~~ the
- 704 same Planning Area ~~[[as defined in the County]]~~ ~~[Growth]~~
- 705 ~~[[Subdivision Staging Policy]]~~ ~~[as]~~ ~~[[other than that of]]~~ as the
- 706 development for which the payment was made ~~[[only after]]~~
- 707 unless:
- 708 (A) the payment is used in a Planning Area designated by the
- 709 Planning Board in which at least 45% of the United
- 710 States Census Tracts have a median household income of
- 711 at least 150% of the County-wide median household
- 712 income; or
- 713 (B) the Director first provides the Council ~~[[is first provided]]~~
- 714 with:
- 715 (i) notice of the intent to use the payment in a different
- 716 Planning Area ~~[[is provided to the Council]]~~ that
- 717 does not meet the requirement in subparagraph (A);
- 718 ~~[[and]]~~
- 719 (ii) ~~[[a compelling reason]]~~ good cause for the use of the
- 720 payment in ~~[[a]]~~ the different Planning Area; and
- 721 ~~[[B]]~~ (iii) ~~[[the Council is given]]~~ at least 30 days to comment.

722 [and must not be used to reduce the annual County payment to the
 723 Fund.]

724 [(d) Any subdivision for which a payment is made under this Section is not
 725 eligible for any density bonus for which it would otherwise be eligible
 726 under Chapter 59.]

727 (d) The Director must notify the Council in writing within ten days of
 728 approving an alternative payment agreement under this Section.

729 **25A-5B. Alternative location agreement.**

730 (a) The Director may approve an MPDU agreement that allows an
 731 applicant for development of a high-rise residential building, instead of
 732 building some or all of the required number of MPDUs on-site, to
 733 provide [at least the same number of] MPDUs at another location [[in
 734 the same]] [planning policy area] [[Policy Area]], only if the Director
 735 finds that:

736 (1) the public benefit of locating MPDUs at the proposed alternative
 737 location outweighs the value of locating MPDUs in each
 738 subdivision throughout the County; [and]

739 (2) building the MPDUs at the proposed alternative location will
 740 further the objective of providing a broad range of housing
 741 opportunities throughout the County; and

742 (3) the alternative location agreement will increase:

743 (A) the number of MPDUs; or

744 (B) the number of bedrooms in the same number or fewer
 745 MPDUs, provided as a result of the development.

746 (b) The alternative location must be in the same Planning Area unless:

747 (1) the alternative location is in a Planning Area designated by the
 748 Planning Board in which at least 45% of the United States

749 Census Tracts have a median household income of at least
 750 150% of the County-wide median household income; or
 751 (2) the Director first provides the Council ~~[[is first provided]]~~ with:
 752 (A) notice of the intended alternative location in a different
 753 Planning Area that does not meet the requirement in
 754 paragraph (b); ~~[[and]]~~
 755 (B) ~~[[a compelling reason]]~~ good cause for the alternative
 756 location in ~~[[a]]~~ the different Planning Area; and
 757 ~~[[2]]~~ (C) ~~[[the Council is given]]~~ at least 30 days to comment.
 758 ~~[[b]]~~ (c) To satisfy the requirements of this Section, an applicant may:
 759 (1) build, or convert from non-residential use, the required number or
 760 percentage of residential floor area of new MPDUs at a site
 761 approved by the Director;
 762 (2) buy, encumber, or transfer, and rehabilitate as necessary, existing
 763 market rate housing units that meet all standards for use as
 764 MPDUs; or
 765 (3) return to MPDU use, and rehabilitate as necessary, existing
 766 MPDUs for which price or rent controls have expired.
 767 ~~[[c]]~~ (d) Each agreement under this Section must include a schedule,
 768 binding on the applicant, for timely completion or acquisition of the
 769 required number of MPDUs.
 770 (e) The Director must notify the Council in writing within ten days of
 771 approving an alternative location agreement under this Section.

772 **25A-6. Optional zoning provisions[; waiver of requirements].**

773 [(a) *Optional zoning provisions.*] The County Council, sitting as a District
 774 Council for the Maryland-Washington Regional District within the
 775 County, to assist in providing moderately priced housing has enacted

776 zoning standards in Chapter 59, establishing in certain zones optional
777 density bonus provisions which increase the allowable residential
778 density above the maximum base density of the zoning classification
779 and permit alternative dwelling unit types other than those allowed
780 under the standard method of development. Land upon which the
781 applicant must build MPDUs may, at the applicant's election, be subject
782 to optional zoning provisions. If the applicant elects the optional density
783 provisions, permitting the construction of an increased number of
784 dwelling units or increased percentage of residential floor area, the
785 ~~[[requisite percentage and number of MPDUs]]~~ MPDU requirement
786 must apply to the total number of dwelling units or percentage of
787 residential floor area as increased by application of the optional density
788 provisions or by the approval of a special exception that increases the
789 density above the otherwise permitted density of the zoning
790 classification in which the property is situated.

791 [(b) *Waiver of requirements.* Any applicant who presents sufficient evidence
792 to the Director of Permitting Services in applying for a building permit,
793 or to the Planning Board in submitting a preliminary plan of subdivision
794 for approval or requesting approval of a site or other development plan,
795 may be granted a waiver from part or all of Section 25A-5. The waiver
796 must relate only to the number of MPDUs to be built, and may be
797 granted only if the Director of Permitting Services or the Board, after
798 consulting with the Department of Housing and Community
799 Development Affairs, finds that the applicant cannot attain the full
800 density of the zone because of any requirements of the zoning ordinance
801 or the administration of other laws or regulations. When any part of the
802 land that dwelling units cannot be built on for physical reasons is used

803 to compute permitted density, the applicant's inability to use the
804 optional density bonus provisions is not in itself grounds for waiving the
805 MPDU requirements. Any waiver must be strictly construed and
806 limited.]

807 **25A-7. Maximum prices and rents.**

808 [[Moderately priced dwelling units]] MPDUs must not be sold or rented at
809 prices or rents that exceed the maximum prices or rents established under this
810 Section.

811 (a) *Sales.*

812 (1) The sale price of any MPDU, including closing costs and
813 brokerage fees, must not exceed an applicable maximum sale
814 price established from time to time by the County Executive in
815 regulations adopted under method (1).

816 (2) [The County Executive in issuing MPDU sale price regulations
817 must seek appropriate information, such as current general
818 market and economic conditions and the current minimum sale
819 prices of private market housing in the County, and must consult
820 with the building industry, employers, and professional and
821 citizen groups to obtain statistical information which may assist
822 in setting a current maximum sale price. The County Executive
823 must, from time to time, consider changes in the income levels of
824 persons of low and moderate income and their ability to buy
825 housing. The County Executive must also consider the extent to
826 which, consistent with code requirements, the cost of housing can
827 be reduced by the elimination of amenities, the use of cost-
828 reducing building techniques and materials, and the partial

829 finishing of certain parts of the units.] The regulations adopted to
 830 implement this Section must allow the Director to:

831 (A) restrict those conditions of the design, construction,
 832 pricing, or amenity package of an MPDU project that will
 833 impose excessive mandatory homeowner or condominium
 834 fees or other costs that reduce the affordability of the
 835 MPDUs; and

836 (B) approve an increase of up to 10[[%]] percent over the base
 837 sale price of an MPDU upon a finding that the increase is
 838 justified to cover the cost of a modification of the external
 839 design of the MPDU necessary to reduce excessive
 840 marketing impact of the MPDU on the market rate units in
 841 the subdivision.

842 [(3) The County Executive must issue maximum sale prices for
 843 MPDUs which continue in effect until changed by later
 844 regulation. The maximum sale prices must be based on the
 845 necessary and reasonable costs required to build and market the
 846 various kinds of MPDUs by private industry. The sale prices for
 847 any succeeding year must be based on a new finding of cost by
 848 the County Executive, or on the prior year's maximum MPDU
 849 price adjusted by the percentage change in the relevant cost
 850 elements indicated in the Consumer Price Index.

851 (4) The County Executive may make interim adjustments in
 852 maximum MPDU sale prices when sufficient changes in costs
 853 justify an adjustment. Any interim adjustment must be based on
 854 the maximum MPDU sale prices previously established, adjusted

855 by the percentage change in the relevant cost elements indicated
856 in the Consumer Price Index.

857 (5) If the Director finds that other conditions of the design,
858 construction, pricing, or amenity package of an MPDU project
859 will lessen the ability of eligible persons to afford the MPDUs,
860 the Director, under executive regulations, may restrict those
861 conditions that will impose excessive mandatory homeowner or
862 condominium fees or other costs that reduce the affordability of
863 the MPDUs.

864 (6) The Director may let an applicant increase the sale price of a
865 MPDU when the Director, under executive regulations, finds in
866 exceptional cases that a price increase is justified to cover the cost
867 of modifying the external design of the MPDUs when a
868 modification is necessary to reduce excessive marketing impact
869 of the MPDUs on the market rate units in the subdivision. The
870 Director must approve the amount of any increase for this
871 purpose, which must not exceed 10 percent of the allowable base
872 price of the unit.]

873 (b) *Rents.*

874 [(1)] The rent, including surface parking but excluding utilities when
875 they are paid by the tenant, for any MPDU must not exceed a
876 maximum rent for the [[dwelling unit]] MPDU set by Executive
877 regulations. Different rents must be set for [[units]] MPDUs
878 when utility costs are paid by the owner and included in the rent.
879 Different rents may be set for age-restricted [[units]] MPDUs.
880 Different rents also may be set for high-rise rental [[units]]
881 MPDUs [, but those rents must not apply unless the Director

882 finds that no other reasonable means is available to finance the
883 building of all required MPDUs at a specific development].

884 [(2) The County Executive, in setting the maximum rent, must
885 consider the current cost of building MPDUs, available interest
886 rates and debt service for permanent financing, current market
887 rates of return or investments in residential rental properties,
888 operating costs, vacancy rates of comparable properties, the value
889 of the MPDU at the end of the control period, and any other
890 relevant information. The County Executive must consult with
891 the rental industry, employers and professional and citizen groups
892 to obtain statistical information and current general market and
893 economic conditions which may assist in setting a current
894 maximum rent. The County Executive must consider the extent
895 to which, consistent with County codes and housing standards,
896 the cost of rental housing can be reduced by the elimination of
897 amenities. The County Executive must also consider from time to
898 time changes in the income levels of persons of low and
899 moderate income and their ability to rent housing.]

900 **25A-8. Sale or rental of [[units]] MPDUs.**

901 (a) Sale or rental to government agencies or [[nonprofit corporations]]
902 designated agencies.

903 (1) The Department, the Commission, or any other [[housing
904 development]] government agency or [[nonprofit corporation
905 designated by the County Executive]] designated agency may
906 buy or lease, for its own programs or programs administered by
907 it, up to 40 percent of all MPDUs which are not sold or rented
908 under any other federal, state, or local program.

909 (2) The Department or Commission may buy or lease up to 33.3
 910 percent of the MPDUs not sold or rented under any other federal,
 911 state, or local program.

912 (3) Any other government agency or designated agency [[or
 913 corporation]] may buy or lease:

914 (A) any MPDU in the first 33.3 percent that the Department or
 915 Commission has not bought or leased; and

916 (B) the remainder of the 40 percent specified in subsection
 917 (a)(1).

918 This option may be assigned to [[persons who]] households that
 919 are clients of the Department of Health and Human Services or to
 920 [[persons of]] low or moderate-income households who are
 921 eligible for assistance under any federal, state, or local program
 922 identified in Executive regulation.

923 (4) The Executive must, by regulation, adopt standards and priorities
 924 [[for designating nonprofit corporations]] to approve designated
 925 agencies under this subsection. These standards must require the
 926 [[corporation]] agency to demonstrate its ability to operate and
 927 maintain MPDUs satisfactorily on a long-term basis.

928 (5) The Department must notify the Commission, other government
 929 agency, or [[other]] designated agency [[or corporation]]
 930 promptly after receiving notice from the applicant under
 931 subsection (b) of the availability of MPDUs. If the Department,
 932 the Commission, or any other designated agency [[or
 933 corporation]] exercises its option, it must submit to the applicant,
 934 within 21 calendar days after the Department notifies the
 935 Commission under this subsection, a notice of intent to exercise

936 its option for specific MPDUs covered by this option. Any
 937 MPDUs not bought or leased under this subsection must be sold
 938 or rented only to eligible households under subsection (b) during
 939 the priority marketing period for eligible households to buy or
 940 lease.

941 (6) In exercising this option, the Department, the Commission, and
 942 any government agency or designated agency [[or corporation]]
 943 must [[designate]] reserve the [[units]] MPDU by reference to
 944 number, type, size and amenities of the units selected if the
 945 designation does not result in any type of unit exceeding by more
 946 than 40 percent the total units of that type which are sold or
 947 rented under this Section, unless the Department and the
 948 applicant [[agrees otherwise]] agree to a different selection. The
 949 notice required under subsection (a)(5) must state which MPDUs
 950 are to be offered for sale and which are to be offered for rent, and
 951 the Department, the Commission, and any government agency or
 952 designated agency [[or corporation]] may buy only units which
 953 are offered for sale and may lease only units which are offered
 954 for rent. The Department, the Commission, and any government
 955 agency or designated agency [[or corporation]] must decide
 956 whether it will exercise its option within 45 days [[after it
 957 receives the original notice]] of the date of the notice provided
 958 under subsection (a)(5).

959 (7) If more than one government agency or [[nonprofit corporation]]
 960 designated agency files a notice of intent under subsection (a)(5)
 961 with respect to a particular MPDU:

962 (A) the Department prevails over any other buyer or renter;

- 963 (B) The Commission prevails over any buyer or renter other
- 964 than the Department;
- 965 (C) any other government agency prevails over any [[nonprofit
- 966 corporation]] designated agency;
- 967 (D) the first government agency to file a notice prevails over
- 968 any later agency; and
- 969 (E) the first [[nonprofit corporation]] designated agency to file
- 970 a notice prevails over any later [[corporation]] designated
- 971 agency.

972 (8) Any [[unit]] MPDU purchased by the Commission, a government

973 agency, or a designated agency under this subsection that is

974 offered for [[sale]] resale within five years after [[initial]] original

975 purchase must first be offered for sale to the Department at the

976 [[initial]] purchase price paid by the Commission, government

977 agency, or designated agency [[to the Department]] in accordance

978 with Executive regulation. The Department may assign its right

979 to purchase the MPDU to an eligible household or to a designated

980 agency.

981 (b) Sale or rental to [[general public]] eligible households.

982 (1) Every [[moderately priced dwelling]] MPDU unit required under

983 this Chapter must be offered to [[the general public]] eligible

984 households for sale or rental to a good-faith purchaser or renter to

985 be used for his or her own residence, except [[units]] MPDU

986 sold or rented under subsection (a) or offered for sale or rent with

987 the assistance of, and subject to the conditions of, a subsidy under

988 a federal, state or local government program, identified in

989 [[regulations adopted]] [by the County Executive] [[under

- 990 method (1)]] Executive regulation, whose purpose is to provide
 991 housing for [[persons of]] low or moderate income households.
- 992 (2) Before offering any [[moderately priced dwelling units]] MPDUs
 993 for sale or rent, the applicant must [[notify]] submit and receive
 994 approval of an agreement notifying the Department of the
 995 proposed offering and the date on which the applicant will be
 996 ready to begin the marketing to eligible [persons] households.
 997 The [[notice]] agreement must set forth the number of [[units]]
 998 MPDUs offered, the bedroom mix, the floor area for each [[unit]]
 999 MPDU type, a description of the amenities offered in each
 1000 [[unit]] MPDU and a statement of the availability of each [[unit]]
 1001 MPDU for sale or rent, including information regarding any
 1002 mortgage financing available to buyers of the designated [[unit]]
 1003 MPDU. The applicant must also give the Department a vicinity
 1004 map of the offering, a copy of the approved development,
 1005 subdivision or site plan, as appropriate, and such other
 1006 information or documents as the Director finds necessary. The
 1007 Department must maintain a list of eligible households [persons
 1008 of moderate income and] for sale MPDUs and, in accordance
 1009 with procedures established by the County Executive, must notify
 1010 eligible [persons] households of [[the offering]] sale or rental
 1011 offerings.
- 1012 (3) After [[receiving]] approving the [[complete]] offering [[notice]]
 1013 agreement, the Department must notify the Commission of the
 1014 offering. [If the Department finds that the offering notice is
 1015 complete, it must decide whether the offering of the units to
 1016 eligible persons will be administered by lottery or by another

1017 method that will assure eligible persons an equitable opportunity
 1018 to buy or rent a MPDU.] The Department must notify the
 1019 applicant of the method by which the MPDUs will be offered and
 1020 when the 90-day priority marketing period for the MPDUs may
 1021 begin.

1022 (4) The Executive may by regulation establish a buyer and renter
 1023 selection system which considers household size, County
 1024 residency, employment in the County, and length of time since
 1025 the ~~[[person]]~~ household was certified for the MPDU program.
 1026 ~~[[Each eligible]] [person] [[household must]]~~ Eligible households
 1027 will be notified ~~[[of the availability of any MPDU which would~~
 1028 ~~meet that]]~~ ~~[[person's]]~~ ~~[[household's housing needs,]]~~ when
 1029 MPDUs are available for sale or rent and will be given an
 1030 opportunity to buy or rent an MPDU during the priority
 1031 marketing period in the order of ~~[[that person's]]~~ their selection
 1032 priority ranking.

1033 (5) The priority marketing period for new ~~[[units]]~~ MPDUs ends not
 1034 less than 90 days after the initial offering date approved by the
 1035 Department. The priority marketing period for resold or rented
 1036 ~~[[units]]~~ MPDUs ends not less than 60 days after the Department
 1037 notifies the seller of the approved resale price or vacancy of the
 1038 rental unit. The Department may extend a priority marketing
 1039 period when eligible ~~[persons]~~ households are interested in
 1040 buying or renting a unit, or may reduce the priority marketing
 1041 period for resold MPDUs for good cause.

1042 (6) ~~[[Moderately priced dwelling units, except those built, sold, or~~
 1043 ~~rented under a federal, state, or local program designated by~~

1044 regulation, must not be offered for rent by an applicant during the
1045 priority marketing period, except in proportion to the market rate
1046 rental units in that subdivision as follows:

1047 (A) In a subdivision containing only single-family dwellings,
1048 the proportion of rental MPDUs must not exceed the
1049 proportion of market rate rental units to all market rate
1050 units.

1051 (B) In a subdivision containing both single-family and
1052 multiple-family dwellings, the proportion of rental single-
1053 family MPDUs to all one-family MPDUs must not exceed
1054 the proportion of market rate rental single-family units to
1055 all market rate single-family units; and the proportion of
1056 rental multiple-family MPDUs to all multiple-family
1057 MPDUs must not exceed the proportion of market rate
1058 rental multiple-family units to all market rate multiple-
1059 family units.

1060 (C) The Director may allow an applicant to offer a higher
1061 proportion of multiple-family MPDUs for rent in a
1062 subdivision if the Director finds that:

1063 (i) offering more rental MPDUs in that subdivision
1064 would advance the purpose of the County housing
1065 policy and the objectives of any applicable land use
1066 plan, be consistent with local housing market
1067 conditions, and avoid excessive mandatory
1068 condominium or homeowners' association fees or
1069 other costs that would reduce the affordability of
1070 sale MPDUs; and

1071 (ii) the applicant has demonstrated that it is qualified to
 1072 manage rental housing]] [and has submitted an
 1073 effective management plan for the rental units in
 1074 that subdivision][[.]

1075 Applicants must make a good-faith effort to enter into contracts
 1076 with eligible [persons] households during the priority marketing
 1077 period and for an additional period necessary to negotiate with
 1078 eligible [persons] households who indicate a desire to buy or rent
 1079 an MPDU during that period.

1080 (7) Every buyer or renter of an MPDU must occupy the [[unit]]
 1081 MPDU as his or her primary residence during the control period.
 1082 Each buyer and renter must certify before taking occupancy that
 1083 he or she will occupy the [[unit]] MPDU as his or her primary
 1084 residence during the control period. The Director may require an
 1085 owner who does not occupy the [[unit]] MPDU as his or her
 1086 primary residence to offer the [[unit]] MPDU for resale to an
 1087 eligible [person] household under the resale provisions of Section
 1088 25A-9.

1089 (8) An owner of an MPDU, except the Commission or a [[housing
 1090 agency or nonprofit corporation designated by the Director]]
 1091 government agency or designated agency, must not rent the
 1092 [[unit]] MPDU to another party unless the Director finds
 1093 sufficient cause to allow temporary rental of the [[unit]] MPDU
 1094 under applicable regulations, which may include maximum rental
 1095 levels. [Any MPDU owner who is allowed to rent a unit
 1096 temporarily must agree to amend the applicable MPDU

1097 covenants to extend the control period for a time equal to the
1098 temporary rental period.]

1099 (9) Any rent obtained for an MPDU that is rented without the
1100 Director's authorization must be paid into the Housing Initiative
1101 Fund by the owner within 90 days after the Director notifies the
1102 owner of the rental violation. Any amount unpaid after 90 days is
1103 grounds for a lien against the [[unit]] MPDU[,]. [and the] The
1104 Director may obtain a judgment and record the lien or may
1105 reduce the resale price of the MPDU by the amount owed to the
1106 Housing Initiative Fund, or pursue other remedies provided by
1107 law.

1108 (10) An applicant must not sell or lease any [unit] MPDU without first
1109 [obtaining a certificate of] obtaining a certificate of eligibility
1110 from the prospective buyer or verifying the eligibility [from] of
1111 the prospective [[buyer or]] lessee. [[A]] For sale MPDUs, a
1112 copy of each certificate must be furnished to the Department and
1113 maintained on file by the Department. Before the sale by an
1114 applicant or by the Commission, [[or]] a government agency, or a
1115 designated [[housing]] agency [[or nonprofit corporation]] to any
1116 buyer of any MPDU who does not possess a certificate of
1117 eligibility, the applicant, the Commission, or the agency, [[or
1118 corporation]] must [[ask the Department]] determine whether
1119 [[the certificates on file show that]] the proposed buyer had
1120 previously [[bought]] owned another MPDU. [[A person]] The
1121 proposed buyer must not [[buy a second MPDU unless]]
1122 participate in the MPDU program a second time unless the
1123 proposed buyer meets the household income criteria and no

1124 longer owns an MPDU, and there is no first-time buyer ~~[[is]]~~
 1125 qualified to buy that ~~[[unit]]~~ MPDU. The Director may waive
 1126 this restriction for good cause.

1127 (11) If an MPDU owner dies, at least one heir, legatee, or other person
 1128 taking title by will or by operation of law must occupy the
 1129 MPDU during the control period under this Section, or the owner
 1130 of record must sell the MPDU as provided in Section 25A-9.

1131 ~~[(b) *Sale or rental to government agencies or nonprofit corporations.*~~

1132 (1) In view of the critical, long-term public need for housing for
 1133 families of low and moderate income, the Department, the
 1134 Commission, or any other housing development agency or
 1135 nonprofit corporation designated by the County Executive may
 1136 buy or lease, for its own programs or programs administered by
 1137 it, up to 40 percent of all MPDUs which are not sold or rented
 1138 under any other federal, state, or local program. The Department
 1139 or Commission may buy or lease up to 33 percent of the MPDUs
 1140 not sold or rented under any other federal, state, or local program.
 1141 Any other designated agency or corporation may buy or lease (A)
 1142 any MPDU in the first 33 percent that HOC has not bought or
 1143 leased, and (B) the remainder of the 40 percent. This option may
 1144 be assigned to persons of low or moderate income who are
 1145 eligible for assistance under any federal, state, or local program
 1146 identified in regulations adopted by the Executive. The Executive
 1147 must, by regulation, adopt standards and priorities for designating
 1148 nonprofit corporations under this subsection. These standards
 1149 must require the corporation to demonstrate its ability to operate
 1150 and maintain MPDUs satisfactorily on a long-term basis.

- 1151 (2) The Department must notify the Commission or other designated
1152 agency or corporation promptly after receiving notice from the
1153 applicant under subsection (a) of the availability of MPDUs. If
1154 the Department, the Commission, or any other designated agency
1155 or corporation exercises its option, it must submit to the
1156 applicant, within 21 calendar days after the Department notifies
1157 the Commission under subsection (b), a notice of intent to
1158 exercise its option for specific MPDUs covered by this option.
1159 Any MPDUs not bought or leased under this subsection must be
1160 sold or rented only to eligible persons under subsection (b) during
1161 the priority marketing period for eligible persons to buy or lease.
- 1162 (3) In exercising this option, the Department, the Commission, and
1163 any designated agency or corporation must designate the units by
1164 reference to number, type, size and amenities of the units selected
1165 if the designation does not result in any type of unit exceeding by
1166 more than 40 percent the total units of that type which are sold or
1167 rented under this Section, unless the applicant agrees otherwise.
1168 The notice required under subsection (b)(2) must state which
1169 MPDUs are to be offered for sale and which are to be offered for
1170 rent, and the Department, the Commission, and any designated
1171 agency or corporation may buy only units which are offered for
1172 sale and may lease only units which are offered for rent. The
1173 Department, the Commission, and any designated agency or
1174 corporation must decide whether it will exercise its option within
1175 45 days after it receives the original notice.

- 1176 (4) If more than one government agency or nonprofit corporation
 1177 files a notice of intent under subsection (b)(2) with respect to a
 1178 particular MPDU:
 1179 (A) the Department prevails over any other buyer or renter;
 1180 (B) The Commission prevails over any buyer or renter other
 1181 than the Department;
 1182 (C) any other government agency prevails over any nonprofit
 1183 corporation;
 1184 (D) the first government agency to file a notice prevails over
 1185 any later agency; and
 1186 (E) the first nonprofit corporation to file a notice prevails over
 1187 any later corporation.]

1188 **25A-9. Control of rents and resale prices; foreclosures.**

- 1189 (a) *Resale price and terms.* Except for foreclosure proceedings, any MPDU
 1190 constructed or offered for sale or rent under this Chapter must not be
 1191 resold or refinanced during the control period for a price greater than the
 1192 original selling price plus:
 1193 (1) [A] a percentage of the [[unit's]] MPDU's original selling price
 1194 equal to the increase in the cost of living since the [[unit]] MPDU
 1195 was first sold, as determined by the Consumer Price Index or
 1196 other index as identified in Executive regulation;
 1197 (2) [The fair market value of] an allowance for capital improvements
 1198 made to the [[unit]] MPDU between the date of original sale and
 1199 the date of resale;
 1200 (3) [An] if approved by the Director, an allowance for closing costs
 1201 which were not paid by the [[initial]] original seller, but which

1202 will be paid by the [[initial]] original buyer for the benefit of the
 1203 later buyer; and

1204 (4) [A] a reasonable sales commission [[if the]] [[unit]] [[MPDU is
 1205 not sold during the priority marketing period to an eligible]]
 1206 [person] [[household from the Department's eligibility list]].

1207 In determining the amount of the allowance for improvements under
 1208 paragraph (2), the Director may disallow the value of [[improvements
 1209 determined to be unnecessary for]] costs attributable solely to the
 1210 maintenance and upkeep of the [[unit]] MPDU, or for luxury items. The
 1211 resale price of an MPDU may be reduced if the physical condition of
 1212 the unit reflects abnormal wear and tear because of neglect, abuse, or
 1213 insufficient maintenance. Any personal property transferred in
 1214 connection with the resale of an MPDU must [[be sold at its fair market
 1215 value]] not be included in the resale price of the MPDU. [In calculating
 1216 the allowable resale price of an MPDU which was originally offered for
 1217 rent, the Department must estimate the price for which the unit would
 1218 have been sold if the unit had been offered for sale when it was first
 1219 rented.] The Executive must establish procedures for calculating the
 1220 allowable resale price of an MPDU under this subsection by method (1)
 1221 regulation.

1222 (b) *Resale requirements during the control period.*

1223 (1) Any MPDU offered for resale during the control period must first
 1224 be offered exclusively for up to 60 days to the Department and
 1225 the Commission, in that order. The Department or the
 1226 Commission may buy [[a unit]] an MPDU when funds are
 1227 available. The Department may buy [[a unit]] an MPDU, or may
 1228 assign its right to buy an MPDU to a designated agency, when

1229 the Director finds that the Department's or a designated [[agency
 1230 or corporation's]] agency's buying and reselling the [[unit]]
 1231 MPDU will increase opportunities for eligible [persons]
 1232 households to buy the [[unit]] MPDU. If the Department or the
 1233 Commission does not buy the [[unit]] MPDU, the Department
 1234 must notify eligible [persons] households of the availability of a
 1235 resale MPDU. The [[unit]] MPDU may be sold through either of
 1236 the following methods:

1237 (A) The Department may [by lottery] establish a priority order
 1238 under which eligible [persons] households who express
 1239 interest in buying the [[unit]] MPDU may buy it at the
 1240 approved resale price.

1241 (B) The Department may notify the MPDU owner that the
 1242 owner may sell the [[unit]] MPDU directly to any eligible
 1243 [person] household under the resale provisions of this
 1244 Chapter.

1245 (2) The Commission may purchase resale MPDUs in a particular
 1246 development only if it did not previously purchase its full
 1247 allotment of units at the initial offering. In no case may the
 1248 Commission own more than 33.3 percent of the MPDUs in a
 1249 particular development.

1250 (3) A resale MPDU may be offered for sale to [[the general public]]
 1251 non-eligible households only after:

1252 (A) the priority marketing period expires; and

1253 (B) all eligible [persons] households who express an interest in
 1254 buying it have been given an opportunity to do so.

- 1255 ~~[(3)]~~(4) The Executive by regulation may adopt requirements for
 1256 reselling MPDUs. The regulations may require a seller to submit
 1257 to the Department for approval:
- 1258 (A) a copy of the proposed sales contract~~[[, including a list and~~
 1259 the price of any personal property included in the sale]]];
- 1260 (B) a signed copy of the settlement sheet; and
- 1261 (C) an affidavit signed by the seller and buyer attesting to the
 1262 accuracy of all documents and conditions of the sale.
- 1263 ~~[(4)]~~(5) A transfer of an MPDU does not comply with this Chapter
 1264 until all required documents and affidavits have been submitted
 1265 to and approved by the Department.
- 1266 (c) Payments to HIF during the control period. During the control period, if
 1267 the Department determines that the design of the MPDU offered for
 1268 resale would no longer comply with requirements for construction of a
 1269 new MPDU or that the allowable resale price and fees associated with a
 1270 multi-family condominium offered for resale would result in a monthly
 1271 payment that is estimated to be at least 20% more than would be
 1272 affordable to the maximum size MPDU household, the Director may
 1273 permit the owner of the MPDU to sell the MPDU at market price, and
 1274 the procedures for resale, including termination of the MPDU controls
 1275 and release of restrictive covenants will be the same as for resale of an
 1276 MPDU after the control period, as described in subsection (d).
- 1277 (d) First sale after control period ends.
- 1278 (1) If an MPDU originally offered for sale or rent after March 21,
 1279 1989, is sold or resold after its control period ends, upon the first
 1280 sale of the ~~[[unit]]~~ MPDU the seller must pay to the Housing

1281 Initiative Fund one-half of the excess of the total resale price over
 1282 the sum of the following:

- 1283 (A) ~~[[The]]~~ the original selling price;
- 1284 (B) ~~[[A]]~~ a percentage of the ~~[[unit's]]~~ MPDU's original selling
 1285 price equal to the increase in the cost of living since the
 1286 ~~[[unit]]~~ MPDU was first sold, as determined by the
 1287 Consumer Price Index or other index as identified in
 1288 Executive Regulation;
- 1289 (C) [The fair market value of] ~~[[An]]~~ an allowance for capital
 1290 improvements made to the ~~[[unit]]~~ MPDU between the
 1291 date of original sale and the date of resale; and
- 1292 (D) ~~[[A]]~~ a reasonable sales commission.

1293 The Director must adjust the amount paid into the fund in each case so
 1294 that the seller retains at least \$10,000 of the excess of the resale price
 1295 over the sum of the items in (A)--(D).

1296 (2) The Director must find that the price and terms of a sale covered
 1297 by subsection ~~[[c]]~~(d)(1) are bona fide and accurately reflect the
 1298 entire transaction between the parties so that the full amount
 1299 required under subsection ~~[[c]]~~(d)(1) is paid to the fund. When
 1300 the Director finds that the amount due the fund is accurate and
 1301 the Department of Finance receives the amount due, the
 1302 Department must terminate the MPDU controls and execute a
 1303 release of the restrictive covenants.

1304 (3) The Department and the Commission, in that order, may buy an
 1305 MPDU at any time during the control period, and may resell the
 1306 ~~[[unit]]~~ MPDU to an eligible [person] household. A resale by the
 1307 Department or Commission starts a new control period.

1308 (4) The Commission and any partnership in which the Commission
 1309 is a general partner need not pay into the Housing Initiative Fund
 1310 any portion of the resale price of any MPDU that it sells.]

1311 ~~[(d)]~~(e) ~~[[Initial]]~~ Original and later rent controls. Unless previously sold
 1312 under subsection ~~[(c)]~~(d)(1), MPDUs built or offered for rent under
 1313 this Chapter must not be rented for 99 years after the original rental at a
 1314 rent greater than that established by Executive regulations. Procedures
 1315 for original rentals of MPDUs are described in Section 25A-8. ~~[[Any]]~~
 1316 After the original rental, any MPDU (other than those built, sold, or
 1317 rented under any federal, state, or local program offered by the
 1318 Commission) offered for rent during the control period must be offered
 1319 exclusively for 60 days to one or more eligible ~~[persons]~~ households, as
 1320 determined by the Department, for use as that ~~[[person's]]~~ household's
 1321 residence~~[[, and to the Commission]]~~. After the original rental, the
 1322 Commission may lease MPDUs in a particular development only if it
 1323 did not previously lease its full allotment of MPDUs at the initial
 1324 offering. In no case may the Commission lease more than 33.3 percent
 1325 of the MPDUs in a particular development. The Commission may
 1326 assign its right to rent such ~~[[units]]~~ MPDUs to ~~[[persons of]]~~ low or
 1327 moderate-income households who are eligible for assistance under any
 1328 federal, state, or local program identified in Executive regulations.

1329 ~~[(e)]~~(f) Foreclosure or other court-ordered sales. If an MPDU is sold
 1330 through a foreclosure or other court-ordered sale, all MPDU covenants
 1331 must be released, and a payment must be made to the Housing Initiative
 1332 Fund as follows:

1333 (1) If the sale occurs during the control period, any amount of the
 1334 foreclosure sale price which exceeds the total of the approved

1335 resale price under subsection (a), reasonable foreclosure costs,
 1336 and liens ~~[[filed under the Maryland Contract Lien Act]]~~ recorded
 1337 against the MPDU among the land records, must be paid to the
 1338 Housing Initiative Fund. ~~[[If the remaining balance under the~~
 1339 ~~original first deed of trust or mortgage exceeds the resale price~~
 1340 ~~under subsection (a), then the difference between the foreclosure~~
 1341 ~~sales price and the balance of the original first deed of trust (plus~~
 1342 ~~reasonable foreclosure costs) must be paid to the Fund.]]~~

1343 (2) If the sale occurs after the control period, and the ~~[[unit]]~~ MPDU
 1344 was originally offered for sale or rent after March 20, 1989, the
 1345 payment to the Fund must be calculated under subsection
 1346 ~~[[c)]](d)~~, less reasonable foreclosure costs and liens recorded
 1347 against the MPDU among the land records.

1348 (3) If the MPDU is a rental unit, the resale price under subsections
 1349 (a) and ~~[[c)]](d)~~ must be calculated [using the maximum sales
 1350 price in effect when the unit was originally offered for rent] as
 1351 provided in regulation.

1352 ~~[[4)]~~ If the MPDU is sold subject to senior liens, the lien balances must
 1353 be included in calculating the sale price.]]

1354 ~~[[All MPDU covenants must be released after the required payment is~~
 1355 ~~made into the Housing Initiative Fund.]]~~

1356 ~~[[f)]](g)~~ *Waivers*. The Director may waive the restrictions on the resale
 1357 and re-rental prices for MPDUs if the Director finds that the restrictions
 1358 conflict with regulations of federal or state housing programs and thus
 1359 prevent eligible [persons] households from buying or renting ~~[[units~~
 1360 ~~under the MPDU program]]~~ MPDUs.

1361 ~~[[g]]~~h *Bulk transfers.* This section does not prohibit the bulk transfer or
1362 sale of all or some of the sale or rental MPDUs in a subdivision within
1363 30 years after the original rental or offering for sale if the buyer is bound
1364 by all covenants and controls on the MPDUs.

1365 ~~[[h]]~~i *Compliance.* The County Executive must adopt regulations to
1366 promote compliance with this section and prevent practices that evade
1367 controls on rents and sales of MPDUs.

1368 * * *

1369 **25A-12. Annual report.**

1370 Each year by March 15 the Director must report to the Executive and Council,
1371 for the previous calendar year:

- 1372 (a) the number of MPDUs approved and built;
- 1373 (b) each alternative payment agreement approved under Section 25A-5A or
1374 alternative location agreement approved under Section 25A-5B, and the
1375 location and number of MPDUs that were involved in each agreement;
- 1376 (c) [each approval of a different rent for a high-rise rental unit under
1377 Section 25A-7(b)(1)] each land transfer completed under Section [[25A-
1378 5(h)] 25A-5(g); and
- 1379 (d) the use of all funds in the Housing Initiative Fund that were received as
1380 a payment under Section 25A-5A.

1381 * * *

1382 **Sec. 2. Regulations.** The County Executive must submit the regulations
1383 required by Sections 25A-5, 25A-7, 25A-8, and 25A-9, as amended by this Act, to
1384 the Council for approval not later than [[September]] October 15, 2018.

1385 **Sec 3. Effective Date.**

- 1386 (a) This Act takes effect on [[November 1]] October 31, 2018, and except
1387 for an applicant who has submitted a sketch plan that the Planning

1388 Board has accepted as complete before October 31, 2018, applies to any
1389 submission or application under Section 25A(5)(a) accepted as
1390 complete on or after that date.

1391 (b) Unless an applicant elects to be reviewed under the standards and
1392 procedures of Chapter 25A in effect on or after October 31, 2018, any
1393 such application accepted as complete or approved before October 31,
1394 2018 and any sketch plan accepted as complete before October 31,
1395 2018, must be approved or amended in a manner that satisfies Chapter
1396 25A as it existed on October 30, 2018. The approval of any of these
1397 applications, or amendments to these applications, will allow the
1398 applicant to proceed through any other required application or step in
1399 the process within the time allowed by law or plan approval, under the
1400 standards and procedures of Chapter 25A in effect on October 30, 2018.

Approved:

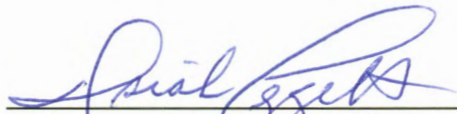


July 26, 2018

Hans D. Riemer, President, County Council

Date

Approved:



Aug 1, 2018

Isiah Leggett, County Executive

Date

This is a correct copy of Council action.



August 2, 2018

Megan Davey Limarzi, Esq., Clerk of the Council

Date