



City of Annapolis

Planning Commission
Department of Planning & Zoning
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August 1, 2019

To: Annapolis City Council
From: Planning Commission
Re: Findings for Ordinance O-21-19: Moderately Priced Dwelling Units

SUMMARY

This ordinance makes three main changes to the Moderately Priced Dwelling Unit (MPDU) section of the City Code. These changes are:

- Extending the required occupancy period for MPDUs
- Providing that the required number of MPDUs is 15 percent of the approved development density
- Deleting the fee-in-lieu of providing MPDUs.

The ordinance also includes a grandfathering provision, which provides that applications filed before the effective date of the ordinance are evaluated based on Chapter 20.30 as it existed at the time of the application.

ANALYSIS

The City's Moderately Priced Dwelling Unit Program was first passed by City Council in 2004. Since then, there have been occasional tweaks to the original ordinance. The program was established to ensure that housing choices are available for people with moderate income in the City of Annapolis. "Moderate income" means the annual income for persons or households making approximately 100% or less of the Baltimore area median income. The sale price or rent of MPDUs is below the market rate for other units in the same development. The existing law requires that 12% of the houses for sale in new subdivisions of 10 or more units or 6% of the rental units be MPDUs.

To be eligible for a MPDU, applicants must meet the following requirements:

- Do not own a home
- City resident or City employee who has been employed for at least the past twelve months prior to applying for a certificate of eligibility.
- Teacher or staff member in an elementary, middle, high school within the City limits or in any school that is included in the Annapolis Senior High School district as defined by Anne Arundel County Public Schools.
- Person who has been employed within the United States Naval Academy or the Annapolis Naval Base for at least the past twelve months prior to applying for a certificate of eligibility.

Since its inception, the program has produced 18 rental units at Bell Annapolis (formerly 1901 West Street and ten for-sale units—two at Sailor’s Quay, three at Uptown Murray Hill, four at Boucher Place and one at Washington Square. Eleven developers have paid a fee-in-lieu. Currently, only four developments will produce future MPDUs.

The City’s Housing and Community Development Committee met in March 2019 to discuss ways to improve the MPDU program. Staff researched both national and Maryland MPDU programs to determine ways the City could amend the MPDU legislation to produce better results, i.e. generating more MPDUs and increasing the length of time units remain MPDU so the inventory of affordable housing is not lost. After reviewing legislation of several jurisdictions in the state including Montgomery County, the committee decided on the key changes to improve the city’s program and generate more affordable housing.

Nationally, over 90% of programs require affordability of 30 years or longer (only 9% of rental programs reporting and 12% of homeownership programs reported affordability controls of fewer than 30 years). Permanent affordability (including life of improvements) is the requirement for 27% of rental programs and 34% of homeownership programs. (Thaden & Wang, 2017). The average duration of the affordability requirements across the country is trending upwards as new programs are created; the average rental term of affordability in programs created since 2007 is 46 years, up from 43 years for older programs.

The average homeownership term of affordability is 44 years in newer programs, up from 39 years in older programs (Thaden & Wang, 2017). Looking at these trends, the Housing and Community Development Committee decided to lengthen the City’s required occupancy period. The ordinance changes the occupancy period for for-sale units from 10 to 30 years and the occupancy period of rental units required from 20 to 99 years which brings the Annapolis MPDU terms into better alignment with other jurisdictions.

The Committee also found that the program was not yielding as many MPDUs as had been expected, and as is typical in other jurisdictions, especially of rental properties. Therefore, the ordinance proposes to raise the required number of MPDUs to 15% of the total units; for-sale units required from 12% to 15% and rental units required from 6% to 15%.

Over the past six years, the department has collected almost a million dollars in fee-in-lieu funds that have been used to pay for settlement assistance for new homebuyers. Unfortunately, there is not enough money in the trust fund to build affordable housing, nor does the city have the means to do so. Therefore, the ordinance proposes eliminating the fee-in-lieu option, which will increase the stock of affordable dwelling units.

Other changes in the legislation:

- The reference to ensuring that private developers constructing MPDUs “incur no loss or penalty” as a result of the construction is deleted because there may be some loss of profit when every development subject to the chapter must include MPDUs.
- The applicability of the chapter to developments of 10 or more dwelling units is removed from the definition of “applicant” and placed in Section 20.30.030.

- The definition of an MPDU is modified to provide that a MPDU may be offered for sale or rent to eligible persons, but the ability to offer it to the Department of Planning and Zoning is deleted.
- Section B of 20.30.050 is deleted as redundant. 20.30.040 includes the contents of the required agreement, and it does so in far more detail than deleted section
- There are additional style changes throughout.

PROPOSED AMENDMENTS

Amendment One

The Planning Commission offers two amendments to rename the title of the “Homeownership Assistance Trust Fund” to the “Housing Trust Fund,” which more accurately represents the purpose of the fund. The amendment would also remove confusing and redundant language from Section 20.30.070.

Currently Proposed:

Section 20.30.020 - Definitions.

F. "Homeownership assistance trust fund" means a THE fund established under ~~this chapter in order to achieve the purposes of~~ Section 20.30.070 OF THIS CHAPTER ~~to be administered by the Department of Planning and Zoning.~~

20.30.070- Homeownership assistance trust fund.

- A. The homeownership assistance trust fund shall be used to provide homeownership opportunities to eligible persons or households under Section 20.30.020.
- B. The fund shall be administered by the Department of Planning and Zoning in accordance with this chapter and funds shall only be available for use by government agencies who may contract with nonprofit developers;
- C. Any homeownership assistance trust fund monies received shall be placed in a segregated account and shall be used to provide funds governmental agencies to:
 1. Purchase land and or buildings for other affordable housing that would be provided to persons that meet the eligibility criteria for purchasing or renting MPDUs;
 2. Provide settlement expense, down payment and mortgage write down assistance to eligible persons or households;
 3. Construct for-sale housing units;
 4. Purchase and or rehabilitate rental housing for conversion to homeownership;
 5. Rehabilitate residential units including owner occupied residential units;
 6. Provide funds to match other State or Federal homeownership programs;
 7. Provide funds for administrative costs; ~~or~~
 8. Contract with nonprofit developers for development of housing units for sale to eligible low or moderate income buyers.

Recommended Amednment:

Section 20.30.020 - Definitions.

F. "~~Homeownership assistance~~ Housing trust fund" means a THE fund established under ~~this chapter in order to achieve the purposes of~~ Section 20.30.070 OF THIS CHAPTER ~~to be administered by the Department of Planning and Zoning.~~

20.30.070- Homeownership assistance Housing trust fund.

- D. The ~~homeownership assistance~~ housing trust fund shall be used to provide ~~homeownership housing~~ opportunities to eligible persons or households under Section 20.30.020.
- E. The fund shall be administered by the Department of Planning and Zoning in accordance with this chapter ~~and funds shall only be available for use by government agencies who may contract with nonprofit developers;~~
- F. Any ~~homeownership assistance~~ trust fund monies received shall be placed in a segregated account and shall be used to provide funds ~~governmental agencies~~ to:
 - 1. Purchase land and or buildings for other affordable housing that would be provided to persons that meet the eligibility criteria for purchasing or renting MPDUs;
 - 2. Provide settlement expense, down payment and mortgage write down assistance to eligible persons or households;
 - 3. Construct for sale housing units;
 - 4. Purchase and or rehabilitate rental housing for conversion to homeownership;
 - 5. Rehabilitate residential units including owner occupied residential units;
 - 6. Provide funds to match other State or Federal ~~homeownership~~ housing programs;
 - 7. Provide funds for administrative costs; ~~or~~
 - 8. Contract with nonprofit developers for development of housing units for sale to eligible low or moderate income buyers.

Part of this amendment to rename this fund is to replace “Homeowner Assistance Trust Fund” with “Housing Trust Fund” throughout Title 20. If the fee-in-lieu option is eliminated, no new monies will be coming into the fund, but it will still apply to the balance of the account.

Amendment Two

Currently Proposed:

20.30.030 - Applicability.

- A. THIS CHAPTER APPLIES TO PLANS FOR THE DEVELOPMENT OR REDEVELOPMENT OF 10 OR MORE DWELLING UNITS, IN ONE OR MORE STAGES OF DEVELOPMENT AND REGARDLESS OF WHETHER ANY LAND HAS BEEN TRANSFERRED TO ANOTHER PARTY. COMPLIANCE WITH THIS CHAPTER IS REQUIRED AS A CONDITION OF APPROVAL.
- B. THIS CHAPTER DOES NOT APPLY TO: ~~Compliance with the provisions of this chapter shall be required as a condition of approval for all residential development except that compliance with the provisions of this chapter shall not be required as a condition of approval for:~~
 - 1. A planned development, or any residential development which requires special exception approval; AND for which special exception approval has been WAS obtained on or before the effective date of Ordinance No. O-7-03; ~~or~~

2. A residential development not requiring special exception approval and for which record plat approval ~~has been~~ WAS obtained on or before the effective date of Ordinance O-7-03; OR
 3. ~~Any~~ THE conversion ~~from~~ OF a residential rental property to a condominium property ~~for which~~ IF THE condominium approval ~~has been~~ WAS REGISTERED WITH THE SECRETARY OF STATE obtained prior to March 13, 2006. ~~As used herein "condominium approval" means when a condominium property has been registered with the Secretary of the State, as set forth under Section 11-127 of the Real Property Article of the Maryland Code.~~
- B. An applicant may not avoid this chapter by submitting phasing of new development in increments below the thresholds established in Section 20.30.050, the first PHASE being after the effective date of this chapter.
- C. An applicant may submit a request for residential development below the thresholds set forth in Section 20.30.050, but the applicant must agree in writing that ~~when~~ IF unit thresholds are reached, the applicant will meet the requirements of this chapter.

Recommended Amednment:

20.30.030 - Applicability.

- A. THIS CHAPTER APPLIES TO PLANS FOR THE DEVELOPMENT OR REDEVELOPMENT OF 10 OR MORE DWELLING UNITS, IN ONE OR MORE STAGES OF DEVELOPMENT AND REGARDLESS OF WHETHER ANY LAND HAS BEEN TRANSFERRED TO ANOTHER PARTY. COMPLIANCE WITH THIS CHAPTER IS REQUIRED AS A CONDITION OF APPROVAL.
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 1. A planned development, or any residential development which requires special exception approval, AND for which special exception approval ~~has been~~ WAS obtained on or before the effective date of Ordinance No. O-7-03; ~~or~~
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 4. The development shall set aside, for so long as the project exists, affordable dwelling units ("Exempt Affordable Units") in accordance with the minimum income standards of the section 42 of the Federal IRS regulations and the development shall have an affordable housing covenant recorded in the land records of Anne Arundel County.

~~C. B.~~ An applicant may not avoid this chapter by submitting phasing of new development in increments below the thresholds established in Section 20.30.050, the first PHASE being after the effective date of this chapter.

~~D. C.~~ An applicant may submit a request for residential development below the thresholds set forth in Section 20.30.050, but the applicant must agree in writing that ~~when~~ IF unit thresholds are reached, the applicant will meet the requirements of this chapter.

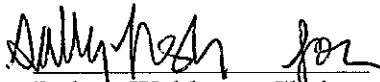
RECOMMENDATIONS

On June 19, 2019, the Planning Commission held a public hearing on O-21-19 and subsequently moved to recommend that the City Council adopt the ordinance with the proposed amendments. The recommendation was approved with a vote of 4 to 1.

Two additional recommendations were made:

1. As noted above in Amendment One, the Housing Trust Fund will eventually deplete. As a result, the City should explore other revenue streams to replenish the Housing Trust Fund. The recommendation was approved with a vote of 5-0.
2. The MPDU legislation as written currently does not include institutions for care of the aged. The City should explore whether and what types of age restricted housing might be added to the MPDU legislation. The recommendation was approved with a vote of 4-1.

Adopted this 1st day of August, 2019


Robert Waldman, Chair