



**City of Annapolis**  
Planning Commission  
Department of Planning & Zoning  
145 Gorman Street, 3<sup>rd</sup> Floor  
Annapolis, MD 21401-2535

410-263-7961 • Fax 410-263-1129 • [www.annapolis.gov](http://www.annapolis.gov)  
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March 20, 2019

**To: Annapolis City Council**  
**From: Planning Commission**  
**Re: Findings for O-44-18: MPDU Density Bonus**

### **Summary**

The purpose of Ordinance 44-18 is to establish review criteria for the granting of density bonus tolerances for developments required to provide Moderately Priced Dwelling Units. The Ordinance also clarifies that developments with structures over forty-five feet must follow the Planned Development process.

### **Analysis**

Chapter 20.30.160, Density Bonus, provides incentives for applicants to provide Moderately Priced Dwelling Units (MPDU). Applicants are entitled to a fifteen percent density bonus for for-sale housing and ten percent density bonus for rental housing. In order to achieve those densities, the chapter also provides up to a twenty percent tolerance of the requirements outlined in Title 21 (bulk, height, lot size etc.).

This ordinance proposes to modify the density bonus requirements for residential developments that provide Moderately Price Dwelling Units (MPDU). The changes include establishing criteria that an applicant must satisfy in order to receive any tolerances to Title 21, up to twenty percent. Currently the regulation states that the Director of Planning and Zoning “shall” provide up to twenty percent tolerance if MPDU’s are provided, regardless of the situation. The legislation grants the Director of Planning & Zoning discretion to grant or not grant the tolerance and provides criteria to direct his decision.

The proposed ordinance also includes changes to Chapter 21.38, Regulations Applicable to All Districts. Currently, the chapter requires any project application that exceeds 45 feet or a floor area ratio that exceed 2 must follow the Planned Development Use process. The proposed ordinance stipulates that any tolerances given under Chapter 20.30.160, Density Bonus must follow the Planned Development process. Therefore, any application that includes a proposal that exceeds 45 feet or a floor area ratio 2 must complete a Planned Development application, be reviewed under those criteria, and include a process that requires approval by the Planning Commission even if the application utilizes the tolerances given under Chapter 20.30.

### **Proposed Amendments**

The Planning Commission offers the following specific amendments to clarify the standards and make the language consistent:

Amendment 1

**Original proposed:**

**Title 20 – SUBDIVISIONS**

**Chapter 20.30 - MODERATELY PRICED DWELLING UNITS**

**Section 20.30.160 - Density bonus.**

- A. An applicant who complies with Section 20.30.050 of this chapter shall be entitled to a density bonus for for-sale housing of fifteen percent above the maximum amount permitted in a zone, provided that the development complies with all other provisions of Title 21.
- B. An applicant who complies with Section 20.30.050 of this chapter shall be entitled to a density bonus for rental housing of ten percent above the maximum amount permitted in a zone, provided that the development complies with all other provisions of Title 21.
- C. In order to effectuate the purpose of this chapter stated in Section 20.30.010(E) and in order to ensure that the density bonuses established by Subsections A and B of this section may be realized, the Director of the Department of Planning and Zoning shall may allow a tolerance up to twenty percent of the requirements in Title 21 that are applicable to a development entitled to a density bonus, which requirements, may include, but are not limited to, lot size, yards, height, building bulk, parking and loading. The Director shall determine whether to grant a density bonus tolerance, and the amount of any tolerance granted, based on his/her findings that each of the following review criteria have been met:

- (1) the tolerance shall result in a building that is consistent with the scale, height, bulk and character of other buildings in the surrounding community;
- (2) the tolerance shall not be detrimental to the public welfare or injurious to other buildings or improvements in the neighborhood in which the building is located; and
- (3) the tolerance shall not impair an adequate supply of light and air to adjacent buildings, substantially increase the congestion of the public streets, increase the danger of fire, endanger the public safety, or alter the essential character of the neighborhood or district in which the building is located.

**Recommended**

**Title 20 – SUBDIVISIONS**

**Chapter 20.30 - MODERATELY PRICED DWELLING UNITS**

**Section 20.30.160 - Density bonus.**

- A. An applicant who complies with Section 20.30.050 of this chapter ~~shall be entitled to~~ MAY EARN a density bonus for for-sale housing of UP TO fifteen percent above the maximum amount permitted in a zone, provided that the development complies with all other provisions of Title 21.
- B. An applicant who complies with Section 20.30.050 of this chapter ~~shall be entitled to~~ MAY EARN a density bonus for rental housing of UP TO ten percent above the maximum amount permitted in a zone, provided that the development complies with all other provisions of Title 21.
- C. In order to effectuate the purpose of this chapter stated in Section 20.30.010(E) and in order to ensure that the density bonuses established by Subsections A and B of this section may be realized, the Director of the

Department of Planning and Zoning shall ~~may~~ allow a tolerance up to twenty percent of the requirements in Title 21 that are applicable to a development entitled to a density bonus, which requirements, may include, but are not limited to, lot size, yards, height, building bulk, parking and loading. The Director shall determine whether to grant a density bonus tolerance, and the amount of any tolerance granted, based on PROVIDED THAT his/her HE/SHE MAKE findings that each of the following review criteria have been met:


- (1) the tolerance shall result in a building that is consistent with the scale, height, bulk and character of other buildings in the surrounding community;
- (2) the tolerance shall not be detrimental to the public welfare or injurious to other buildings or improvements in the neighborhood in which the building is located; and
- (3) the tolerance shall not impair an adequate supply of light and air to adjacent buildings, substantially increase the congestion of the public streets, increase the danger of fire, endanger the public safety, or alter the essential character of the neighborhood or district in which the building is located.

### RECOMMENDATION

In addition, the Planning Commission strongly encourages the City Council to address the retroactivity of this legislation. Specifically, the City Council should clarify to which current applications the legislation applies and the date on which the legislation is effective. The Planning Commission recommends that the City Council explore the option of deleting the review criteria in this legislation and instead, replace them with references to the respective sections of the Code from which they are drawn.

On February 7, 2019, the Planning Commission held a public hearing on O-44-18 and subsequently moved to recommend that the City Council adopt ordinance O-44-18 with the above noted amendments and comments. The recommendation was approved with a vote of 7 to 0.

Adopted this 8<sup>th</sup> day of April, 2019



Robert Waldman, Chair