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Title: Moderately Priced Dwelling Unit Amendments - For the purpose of ensuring that the construction of Moderately Priced Dwelling Units is consistent with their community, limiting fees in lieu of constructing Moderately Priced Dwelling Units, and improving sales of Moderately Priced Dwelling Units.

Sponsors: Joe Budge, Sheila Finlayson, Ross Arnett, Rhonda Pindell Charles

Indexes: Affordable Housing and Community Equity Development Commission, Rules and City Government Committee

Code sections:

Attachments: 1. O-32-17 MPDU Amendments.pdf, 2. O-32-17 Staff Report.pdf, 3. O-32-17 Fiscal Impact.pdf, 4. O-32-17 Alan Hyatt Email accepted into the record 6-19-17.pdf, 5. O-32-17 Budge Proposed Amendment.pdf, 6. O-32-17 Budge Second Proposed Amendment.pdf, 7. O-32-17 SIGNED.pdf

Date	Ver.	Action By	Action	Result
7/31/2017	1	City Council	adopt on second reader	Pass
7/31/2017	1	City Council	amendment(s) approved	Pass
7/31/2017	1	City Council	amendment(s) approved	Pass
7/31/2017	1	City Council	amended	Pass
7/31/2017	1	City Council	adopt on third reader	Pass
7/31/2017	1	City Council		
7/18/2017	1	Housing and Human Welfare Committee		
7/18/2017	1	Housing and Human Welfare Committee		
7/11/2017	1	Rules & City Government Committee		
6/19/2017	1	City Council	declare the public hearing closed	
6/12/2017	1	City Council	refer	
6/12/2017	1	City Council	refer	
6/12/2017	1	City Council	adopt on first reader	Pass

Moderately Priced Dwelling Unit Amendments - For the purpose of ensuring that the construction of Moderately Priced Dwelling Units is consistent with their community, limiting fees in lieu of constructing Moderately Priced Dwelling Units, and improving sales of Moderately Priced Dwelling Units.

CITY COUNCIL OF THE City of Annapolis

Ordinance 32-17 Amended

**Introduced by: Alderman Budge, Alderwoman Finlayson, Alderman Arnett
and Alderwoman Pindell Charles**

**Referred to
Rules and City Government Committee
Housing and Community Development Committee**

AN ORDINANCE concerning

Moderately Priced Dwelling Unit Amendments

FOR the purpose of ensuring that the construction of Moderately Priced Dwelling Units is consistent with their community, limiting fees in lieu of constructing Moderately Priced Dwelling Units, and improving sales of Moderately Priced Dwelling Units.

BY repealing and re-enacting with amendments the following portions of the Code of the City of Annapolis, 2016 Edition

- Section 20.30.010
- Section 20.30.020
- Section 20.30.040
- Section 20.30.060
- Section 20.30.090
- Section 20.30.100
- Section 20.30.110
- Section 20.30.130
- Section 20.30.140
- Section 20.30.160

WHEREAS, the 2009 Annapolis Comprehensive Plan established the City’s policy to “support development of housing affordable to workforce or middle income households”; and

WHEREAS, the Annapolis City Council finds that diversity encouraged by Moderately Priced Dwelling Units is beneficial to our community; and

WHEREAS, the Annapolis City Council encourages property developers to construct Moderately Priced Dwelling Units rather than paying fees in lieu; and

WHEREAS, the Annapolis City Council believes that Moderately Priced Dwelling Units should be consistent with other dwelling units in a development.

SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that the Code of the City of Annapolis shall be amended to read as follows:

TITLE 20 - SUBDIVISIONS

CHAPTER 20.30 - MODERATELY PRICED DWELLING UNITS

Section 20.30.010 - Purpose and intent.

The purpose of this chapter is to implement the housing goals of the City of Annapolis by:

- A. Requiring that developers of new residential developments provide moderately priced dwelling units (MPDUs) as a part of the development's approval ~~and by providing an expedited review and approval process for any planned residential development containing MPDUs in conformance with Section 20.30.050;~~
- B. Ensuring that housing options continue to be available to low and moderate income residents;
- C. Retaining opportunities for people that work in the City to live in the City;
- D. Amending the development regulations to include requirements for moderately priced dwelling units;
- E. Ensuring that private developers constructing MPDUs under this chapter incur no loss or penalty as a result thereof, and have reasonable prospects of realizing a profit on such units by providing density bonuses and incentives;
- F. Encouraging the redevelopment and improvement of existing buildings by using these structures for moderately priced housing.

Section 20.30.020 Definitions.

In general, in this chapter, unless another meaning is plainly intended, the following words have the meanings indicated.

"Applicant" means any person, firm, partnership, association, joint venture, corporation, or any other entity or combination of entities, who either submits for subdivision approval for a residential "for sale" project under this chapter or is developing rental property, and which plan provides for the development of a total of ten or more dwelling units in one or more stages of development regardless of whether any land has been transferred to another party.

~~"At one location" means all adjacent land of the applicant if:~~

- ~~1. The property lines are contiguous or nearly contiguous at any point;~~
- ~~2. The property lines are separated only by a public or private street, road, highway or utility right-of-way, or other public or private right-of-way at any point; or~~
- ~~3. The property lines are separated only by other land of the applicant which is not subject to this chapter at the time of any permit, site plan, development, or subdivision application by the applicant.~~

"Certificate of eligibility" means a certificate issued by the Department of Planning and Zoning and signed by the person seeking to own or rent an MPDU and the Planning and Zoning Director that certifies that the person is qualified to buy or rent an MPDU.

~~"Consumer Price Index" means the latest published version of the Consumer Price Index for All Urban Consumers (CPI-U) of the U.S. Department of Labor for the Baltimore metropolitan area.~~

"Date of original rental" means the date of the first lease agreement for a MPDU.

"Date of original sale" means the date of settlement for purchase of a MPDU.

"Eligible person" means THE HOLDER OF A CURRENT CERTIFICATE OF ELIGIBILITY GRANTED UNDER THIS CHAPTER. ~~a person or household;~~

1. Whose income is one hundred percent or less than the family median income for the Baltimore Metropolitan Statistical Area (MSA), with adjustments for household size, as reported by the United States Department of Housing and Urban Development (HUD);
2. Who holds a valid certificate of eligibility that entitles the person or household to buy or rent an MPDU;
3. Who does not currently own a home; and
 - (a) Is a City resident or has been employed within the City for at least the past twelve months prior to applying for a certificate of eligibility under Section 20.30.100, or
 - (b) Is in the employ of the City of Annapolis beyond their probationary period, or
 - (c) Is a teacher or staff member in an elementary, middle or 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, OR
 - (d) Is and 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 under Section 20.30.100, OR
 - (e) Is a resident of either the City of Annapolis or Anne Arundel County and is under a disability as defined in the list of impairments promulgated by the Social Security Administration, codified at C.F.R.T. 20, Ch. III, Pt. 404, Subpt. p, App. 1; however, a resident of Anne Arundel County, who is under a disability as described herein, shall not be considered for a rental or purchase under this chapter until ninety (90) days have passed from the date of issuance of the notice requirement in Section 20.30.130.C.

"Expedited review process" means an application for a planned residential development containing MPDUs in conformance with Section 20.30.050 shall be processed as a priority review project consistent with Section 20.30.010. Prior to the submittal of a preliminary or final plan, the applicant and the Director of Planning and Zoning shall agree to a proposed schedule for both the applicant's submittals of plans and the Department of Planning and Zoning's reviews of those submittals. The schedule shall establish reasonable timelines for all parties and all parties will endeavor in good faith to meet the timelines.

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

"HUD" MEANS THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

HUD's "fair market rents" (FMRs) shall mean the FMRs for the Baltimore MSA METROPOLITAN STATISTICAL AREA as published from time to time by HUD.

"Moderately priced dwelling unit," or "MPDU," means a dwelling unit which:

1. Is offered for sale or rent to eligible persons or to the Department of Planning and Zoning and sold or rented under this chapter;
2. Is offered for a maximum sales price to be determined by the Department of Planning and Zoning under Section 20.30.110 of this chapter;
3. Is offered for a monthly rental price of:
 - a. One hundred percent of HUD's fair market rents if the landlord pays all utilities (heat, water, sewer, electric, and trash); or
 - b. Eighty percent of Baltimore MSA, HUD fair market rents if the landlord does not pay all

utilities (heat, water, sewer, electric, and trash).

4. ~~And, the monthly rental price of which shall be recalculated each year by the Department of Planning and Zoning based on HUD's recalculation of fair market rents.~~

"MARKETING PERIOD" MEANS A PERIOD BEGINNING ON THE DATE THE DEPARTMENT OF PLANNING AND ZONING PROVIDES THE APPLICANT AN APPROVED LIST OF ELIGIBLE CERTIFICATE HOLDERS TO WHOM THE UNIT MAY BE MARKETING AND DURING WHICH THE MPDU IS AVAILABLE EXCLUSIVELY TO PERSONS HOLDING A CERTIFICATE OF ELIGIBILITY UNDER THE PROGRAM.

"Occupancy period" means the time an MPDU is subject to either THE resale price controls and owner occupancy requirements or THE ~~maximum~~ rental limits OF THIS CHAPTER. The occupancy period is ten years for sale units and twenty years for rental units, and begins on the date of initial sale or rental. ~~If a sale or rental MPDU is sold to an eligible person within ten years after its initial sale or rental, the unit must be treated as a new MPDU and a new control occupancy period must begin on the date of the sale or rental.~~

"Residential development" includes:

1. All proposed subdivisions, rental property, condominiums, cooperatives, and new mixed use developments with a residential component;
2. A development that is a rehabilitation of an existing multiple family residential structure that increases the number of residential units from the number of units in the existing structure by four or more dwelling units;
3. Part of the conversion of a rental property to a condominium or cooperative; and
4. A development that will change the use of an existing building from a nonresidential to a residential use.

Section 20.30.040 - Application and inclusionary housing plan.

- A. If compliance with the provisions of this chapter is required under Section 20.30.030(A), a final subdivision plan may not be approved, a final subdivision plat may not be signed, or a building permit be issued unless the requirements of this chapter are met.
- B. Before a covered development that will contain MPDUs may be approved by the Director of Planning and Zoning, an applicant shall enter into an agreement with the City that:
 1. Requires a specific number of MPDUs to be constructed on a time schedule approved by the Director of Planning and Zoning;
 2. Requires each single-family MPDU have two or more bedrooms;
 3. Requires that the number of efficiency and one-bedroom MPDUs in a covered development of multi-family dwelling units may not exceed the ratio that market-rate efficiency and one-bedroom units respectively bear to the total number of market rate dwelling units in the development;
 4. Details the number, location and sequencing plan for all of the MPDUs in order to insure that:
 - a. The number of MPDUs which are either for sale or rent are built at the same rate as the market eased dwelling units, and
 - b. The MPDUs are spread throughout the development and not clustered in one or more areas;
 5. Requires that the MPDUs be OF SIMILAR FLOOR AREA AND BE architecturally compatible and similar in general exterior appearance and scale with market rate dwelling units constructed in the development;
 6. Allows the applicant to reduce the interior amenity level of the MPDUs, provided:

- a. The units conform to applicable housing and building codes,
- b. The reduction to the interior amenity level does not include improvements related to energy efficiency, including mechanical equipment, plumbing, insulation, windows, heating and cooling systems;
7. Requires compliance with the requirements of this title and the agreement for the occupancy period;
8. Runs with the land for the occupancy period;
9. Contains any other information the Director of Planning and Zoning determines to be necessary to ensure the applicant's compliance with this title; and
10. Is noted on the final subdivision plat and is recorded in the land records of the City.

Section 20.30.060 - Contribution in lieu of developing MPDUs.

- A. In exceptional circumstances, the Director of Planning and Zoning may permit an applicant to make a contribution to the homeownership assistance trust fund or donate land in lieu of developing MPDUs.
- B. An applicant shall:
 1. Apply to the Director of Planning and Zoning for permission to make a contribution authorized by Subsection A of this section;
 2. Provide any information on or documents that the Department of Planning and Zoning deems necessary in order to determine whether to grant permission; and
 3. Prove to the satisfaction of the Director of Planning and Zoning that exceptional circumstances exist.
- C. For the purposes of this section, "exceptional circumstance" means:
 1. In a proposed subdivision or development, an individual package of resident services and facilities to be provided to all households would cost the occupants of the MPDUs so much that it is likely to make the MPDUs effectively unaffordable by eligible households;
 2. Because of topography or other physical features, or existing land use laws, ordinances and regulations, the provision of the MPDUs required by this title would make the development of the subdivision or development economically infeasible; or
- D. In lieu of constructing MPDUs the City may:
 1. Accept a fee of four percent of the total value of construction costs of the dwelling units as evidenced by the SUM OF THE dollar amountS on the building permit AND GRADING PERMIT applicationS AND THE ASSOCIATED PERMIT FEES for a residential development to be paid by an applicant to the homeownership assistance trust fund; and/or
 2. Accept donations of land in fee simple, on or off-site, that the Department of Planning and Zoning determines are suitable for the construction of MPDUs. The value of donated land shall be equal to or be greater than the value of the fee in lieu payment required by this chapter or the combination of the value of land and fee shall be equal to or be greater than the value of the fee in lieu payment required by this chapter.
 3. In the event that an applicant cannot take advantage of the bonus density provisions of this chapter, such event shall be considered as an "exceptional circumstance" entitling the applicant to satisfy the requirements of this chapter by payment of a "fee in lieu" of providing MPDU units.
- E. The Department of Planning and Zoning may require, prior to accepting land as satisfaction of the requirements of this chapter, that the applicant submit appraisals of the land in question, as well as other

data relevant to the determination of equivalent value.

F. The land shall be donated into the homeownership assistance trust fund.

Section 20.30.090 - Constructions of MPDUs.

A. Integration.

1. MPDUs within market rate developments shall be integrated with the overall development plan and shall be ~~generally consistent~~EQUIVALENT in FLOOR AREA, exterior design, scale and appearance with other units in the proposed development. The following criteria may be considered in determining whether the requirements of this paragraph have been met:
 - a. No existing or proposed physical barriers may be located between market rate units and MPDUs.
 - b. The MPDUs shall be located within reasonable proximity of proposed market-rate units.
 - c. The MPDUs of a particular housing type (e.g., multi-family or single-family) shall be reasonably blended with market rate units of the same type.
2. Consistent with the purpose and intent of this chapter, the Department of Planning and Zoning may authorize an applicant to increase the sale price of a MPDU by no more than ten percent. However, no increase shall be allowed unless the Department of Planning and Zoning finds, in exceptional cases, that a price increase is necessary to achieve compliance with Subsection (A)(1) of this section.

B. Phasing. Where feasible, MPDUs shall be provided coincident to the development of market-rate units, but in no event shall the development of MPDUs be delayed beyond the schedule below.

Percentage of Market Rate Units	Percentage of MPDUs
Up to 30%	None required
30% plus 1 unit	At least 10%
Up to 50%	At least 30%
Up to 75%	At least 50%
Up to 90%	100%

Section 20.30.100 - Certificate of eligibility.

A. The Department of Planning and Zoning shall grant a certificate of eligibility to any person ~~who meets the definition of eligible person:~~

1. WHOSE INCOME IS ONE HUNDRED PERCENT OR LESS THAN THE FAMILY MEDIAN INCOME FOR THE BALTIMORE METROPOLITAN STATISTICAL AREA (MSA), WITH ADJUSTMENTS FOR HOUSEHOLD SIZE, AS REPORTED BY HUD; AND
2. WHO DOES NOT CURRENTLY OWN A HOME; AND
 - (A) IS A CITY RESIDENT OR HAS BEEN EMPLOYED WITHIN THE CITY FOR AT LEAST THE PAST TWELVE MONTHS PRIOR TO APPLYING FOR A CERTIFICATE OF ELIGIBILITY, OR
 - (B) IS IN THE EMPLOY OF THE CITY OF ANNAPOLIS BEYOND THEIR PROBATIONARY PERIOD, OR

- (C) IS A TEACHER OR STAFF MEMBER IN AN ELEMENTARY, MIDDLE OR 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, OR
- (D) IS AND 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, OR
- (E) IS A RESIDENT OF ANNE ARUNDEL COUNTY AND IS UNDER A DISABILITY AS DEFINED IN THE LIST OF IMPAIRMENTS PROMULGATED BY THE SOCIAL SECURITY ADMINISTRATION, CODIFIED AT C.F.R.T. 20, CH. III, PT. 404, SUBPT. P, APP. 1.; HOWEVER, A RESIDENT OF ANNE ARUNDEL COUNTY, WHO IS UNDER A DISABILITY AS DESCRIBED HEREIN, SHALL NOT BE CONSIDERED FOR A RENTAL OR PURCHASE UNDER THIS CHAPTER UNTIL NINETY (90) DAYS HAVE PASSED FROM THE DATE OF ISSUANCE OF THE NOTICE REQUIREMENT IN SECTION 20.30.130.C.

B. A CERTIFICATE OF ELIGIBILITY IS VALID FOR A PERIOD OF ONE YEAR.

BC. An occupant of a rental MPDU shall submit annually verification of annual household income and any other information that the Department of Planning and Zoning may deem necessary to verify continued eligibility.

CD. The Department of Planning and Zoning shall annually monitor occupants of rental MPDUs created pursuant to this chapter AND RE-ISSUE CERTIFICATES OF ELIGIBILITY TO OCCUPANTS WHO MEET THE CRITERIA OF PARAGRAPH A OF THIS SECTION. AN OCCUPANT WHO OTHERWISE MEETS THE CRITERIA OF PARAGRAPH A BUT WHOSE INCOME IS ONE HUNDRED TWENTY PERCENT OR LESS THAN THE FAMILY MEDIAN INCOME FOR THE MSA, WITH ADJUSTMENTS FOR HOUSEHOLD SIZE, AS REPORTED BY HUD SHALL BE GRANTED A CERTIFICATE OF ELIGIBILITY THAT IS VALID FOR RENTAL RENEWAL ONLY.

E. Where the Department of Planning and Zoning determines that an occupant OF A RENTAL UNIT no longer qualifies as an eligible person FOR A CERTIFICATE OF ELIGIBILITY, the Department of Planning and Zoning shall notify the person that subject to the terms and conditions of the tenant's existing lease, the rental MPDU shall be vacated within six months of notification in order to make the unit available to an eligible person.

Section 20.30.110 - Establishment of ~~initial sales price~~S AND RENTAL RATES of MPDUs.

A. The initial sales price of the MPDUs shall be set annually within thirty days of the publication of the updated information for the ~~SMSA~~ BALTIMORE METROPOLITAN STATISTICAL AREA (MSA). The sales price may not exceed the affordability of a ~~family of four~~ PERSON OR HOUSEHOLD OF APPROPRIATE SIZE FOR A PARTICULAR MPDU based on eighty percent of ~~the~~ THAT HOUSEHOLD'S median income for the MSA, assuming market rate interest with no more than thirty percent of the annual gross household income being applied toward the cost of housing.

B. THE MAXIMUM ALLOWABLE RENTAL RATES FOR MPDU'S ARE:

1. ONE HUNDRED PERCENT OF HUD'S FAIR MARKET RENTS IF THE LANDLORD PAYS ALL UTILITIES (HEAT, WATER, SEWER, ELECTRIC, AND TRASH); OR
2. EIGHTY PERCENT OF HUD'S FAIR MARKET RENTS IF THE LANDLORD DOES NOT PAY

ALL UTILITIES (HEAT, WATER, SEWER, ELECTRIC, AND TRASH).

- C. MPDU RENTAL RATES SHALL BE RECALCULATED EACH YEAR BY THE DEPARTMENT OF PLANNING AND ZONING BASED ON HUD'S RECALCULATION OF FAIR MARKET RENTS.

Section 20.30.130 - Procedures for sale and rental of MPDUs.

- A. Every MPDU required under this chapter shall be sold or rented to eligible persons to be used for his or her or their own residence EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION.
- B. Before offering any MPDU for sale or rent, the applicant shall notify the Department of Planning and Zoning of the proposed offering and the date on which the applicant will be ready to begin marketing to eligible persons. The notice shall include:
1. The address of each MPDU offered for sale or rent;
 2. Identification of which MPDUs shall be sold and which shall be offered for rent;
 3. The number of bedrooms in each MPDU offered;
 4. The floor area for each MPDU;
 5. A description of the amenities in each MPDU;
 6. A vicinity map of the offering; and
 7. Other information or documents as the Department of Planning and Zoning finds necessary for compliance with this chapter. ~~This notice by the Department of Planning and Zoning shall be issued within thirty days of the date from which the applicant first submitted its notice to commence marketing.~~
- C. The Department of Planning and Zoning shall maintain a list of eligible persons and shall send written notice to ~~notify~~ SOLICIT INTEREST FROM eligible persons of an MPDU offering by mail and by newspaper prior to the start of the marketing period. THIS SOLICITATION BY THE DEPARTMENT OF PLANNING AND ZONING SHALL BE ISSUED WITHIN THIRTY DAYS OF THE DATE ON WHICH THE APPLICANT PROVIDED ITS NOTICE TO COMMENCE MARKETING PURSUANT TO PARAGRAPH B OF THIS SECTION.
- D. ~~An applicant shall not sell or rent any MPDU to an eligible person as defined in this chapter until such person has obtained a certificate of eligibility issued by the Department of Planning and Zoning.~~ THE DEPARTMENT OF PLANNING AND ZONING WILL DEVELOP A LIST OF ELIGIBLE PERSONS INTERESTED IN THE MPDU'S AND FORWARD SAID LIST TO THE APPLICANT OR THE APPLICANT'S SALES AGENT. IF THERE IS SUFFICIENT INTEREST, THE DEPARTMENT OF PLANNING AND ZONING WILL PICK 2 TO 2.5 TIMES AS MANY NAMES AS THERE ARE MPDUS AVAILABLE. SHOULD THE APPLICANT HAVE MPDUS AVAILABLE FOR SALE OR RENT AFTER CONTACTING ALL NAMES ON THE LIST PROVIDED, THE APPLICANT SHALL CONTACT THE DEPARTMENT OF PLANNING AND ZONING FOR MORE NAMES.
- E. THE MARKETING PERIOD SHALL END 180 DAYS AFTER THE DEPARTMENT OF PLANNING AND ZONING HAS FORWARDED THE NAMES OF ALL ELIGIBLE PERSONS INTERESTED IN THE MPDU'S TO THE APPLICANT. THE DEPARTMENT OF PLANNING AND ZONING SHALL SUPPLY THE APPLICANT WITH WRITTEN NOTICE OF THE MARKETING PERIOD END DATE.
- EF. If no eligible person has entered into a contract of sale for any MPDU offered for sale ~~within ninety days after the start of a~~ BY THE END OF THE marketing period, the City may purchase the MPDU at the

purchase price established for the MPDU.

1. If the City purchases an MPDU under these circumstances, the status of the MPDU as a for sale MPDU shall not change. The City shall only sell the City owned MPDU to an eligible person and the City owned MPDU shall be subject to the provisions of this chapter.
2. IF THE CITY DECLINES TO PURCHASE AN MPDU, IT SHALL NOTIFY THE APPLICANT OF ITS DECISION PROMPTLY, AND NO LATER THAN 14 DAYS AFTER THE END OF THE MARKETING PERIOD. A NEW MARKETING PERIOD SHALL COMMENCE UPON THE END OF THE PRIOR MARKETING PERIOD OR THE CITY'S DECLARATION THAT IT WILL NOT PURCHASE THE MPDU, WHICHEVER IS LATER.

FG. The deposit required with the sales contract for the purchase of an MPDU shall not exceed one thousand dollars.

GH. Every buyer or renter of an MPDU shall occupy the MPDU as his or her or their primary residence during the occupancy period. Every buyer and renter shall certify before taking occupancy that he or she or they shall occupy the MPDU as his or her primary residence during any occupancy period. The Director of Planning and Zoning may require an MPDU owner who does not occupy the MPDU as a primary residence to offer the unit for resale under the provisions of this chapter or may require a renter who is not an eligible person to vacate.

HI. An owner of an RENTAL MPDU shall not rent the MPDU unless the renter is an eligible person, and the rental is approved in writing by the Department of Planning and Zoning annually. All annual rental renewals shall be governed by Title 17 of the Annapolis City Code.

IJ. Any MPDU owner who rents an MPDU to an ineligible person shall pay all such rent into the City's Homeownership Assistance Trust Fund thirty days after the Department of Planning and Zoning notifies the owner of the rental violation. The Department of Planning and Zoning may assess the owner a monthly fee that is equal to the HUD fair market rent for the MPDU for each month that rent was charged and received in violation of this chapter.

K. AN APPLICANT OR MPDU OWNER WHO SELLS AN MPDU TO AN INELIGIBLE PERSON SHALL PAY ALL PROCEEDS OF THE SALE INTO THE CITY'S HOMEOWNERSHIP ASSISTANCE TRUST FUND THIRTY DAYS AFTER THE DEPARTMENT OF PLANNING AND ZONING NOTIFIES THE APPLICANT OR OWNER OF THE VIOLATION.

JL. Notwithstanding any other provisions, the City Council may adopt written regulations to address MPDU foreclosure proceedings. If an MPDU is sold in foreclosure proceedings that a lending institution holding a note secured by a mortgage or deed of trust has initiated, then the City shall terminate the MPDU controls and execute a release of the restrictive covenants if any and all proceeds of the sale are paid to the homeowner assistance trust fund. If a foreclosure MPDU sale occurs during the first ten years after the original sale or rental, then any price paid at the foreclosure sale that exceeds the MPDU's original sale price plus any reasonable costs and fees of foreclosure shall be paid into the homeowner assistance trust fund.

Section 20.30.140 - Restrictions on resale and rent.

A. Restrictions on Resale.

During the occupancy period, no MPDU shall be resold except as follows:

1. A person who rents a MPDU and lawfully occupies it when the unit is offered for sale may buy the dwelling unit, regardless of the person's income at the time of sale, if that person was an eligible person when they first rented the unit.
 21. At the time of purchase of an MPDU the Department of Planning and Zoning shall determine the difference in value between the purchase price of the MPDU and the real market value of the MPDU.
 32. At the time of resale of the MPDU the difference in value shall be paid to the City based on the following:
 - a. No monies shall be owed if the purchaser owns and occupies the Property for at least ten years from the date of purchase of the property.
 - b. Upon the sale or transfer of all or any portion of the property within ten years of purchase of the property, the unit shall remain an MPDU and the seller shall keep the net proceeds.
 3. IF A SALE MPDU IS RESOLD WITHIN TEN YEARS AFTER ITS INITIAL SALE, THE SALE MUST BE CONDUCTED PURSUANT TO SECTION 20.30.130 OF THIS CHAPTER. THE UNIT MUST BE TREATED AS A NEW MPDU AND A NEW OCCUPANCY PERIOD BEGINS ON THE DATE OF THE RESALE.
- B. Restriction on Rent. During the occupancy period, no MPDU shall be rented except as an MPDU herein defined.

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 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.
- D. The above Subsection C shall not apply in the Historic District.
- E. AN APPLICANT WHO MAKES A CONTRIBUTION IN LIEU OF DEVELOPING MPDUS PURSUANT TO SECTION 20.30.060 SHALL NOT BE ENTITLED TO A DENSITY BONUS.

SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL THAT ANY DEVELOPMENT APPLICATIONS SUBMITTED PRIOR TO THE EFFECTIVE DATE OF THIS ORDINANCE SHALL BE EVALUATED BASED ON CHAPTER 20.30 AS IT EXISTED AT THE TIME THE APPLICATION WAS SUBMITTED TO PLANNING AND ZONING; AND DEVELOPMENT APPLICATIONS SUBMITTED AFTER THE EFFECTIVE DATE OF THIS ORDINANCE SHALL BE GOVERNED BY CHAPTER 20.30 AS AMENDED BY THIS ORDINANCE.

SECTION III: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that this Ordinance shall take effect from the date of its passage.

EXPLANATION

CAPITAL LETTERS indicate matter added to existing law.

~~Strikethrough~~ indicates matter stricken from existing law.

Underlining indicates amendments.