



Legislation Text

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**Moderately Priced Dwelling Units** - For the purpose of extending the occupancy periods for the sale and rental of Moderately Priced Dwelling Units (“MPDUs”); increasing the minimum requirements for the designation of MPDUs for sale and rental developments; updating definitions; increasing the required number of MPDUs proportionate to the approved development density; removing the contribution in lieu of developing MPDUs option; making stylistic changes; and generally relating to MPDUs.

**CITY COUNCIL OF THE  
City of Annapolis**

**Ordinance 21-19**

**Introduced by: Alderwoman Henson, Alderwoman Tierney,  
Alderman Rodriguez, Mayor Buckley, Alderman Savidge, Alderman Arnett,  
Alderman Paone, Alderwoman Pindell Charles, Alderwoman Finlayson,  
and Alderman Gay**

**Referred to**

Planning Commission  
Rules and City Government Committee

**AN ORDINANCE** concerning

**Moderately Priced Dwelling Units**

**FOR** the purpose of extending the occupancy periods for the sale and rental of Moderately Priced Dwelling Units (“MPDUs”); increasing the minimum requirements for the designation of MPDUs for sale and rental developments; updating definitions; increasing the required number of MPDUs proportionate to the approved development density; removing the contribution in lieu of developing MPDUs option; making stylistic changes; and generally relating to MPDUs.

**BY** repealing and re-enacting with amendments the following portions of the Code of the City of Annapolis, 2019 Edition

20.30.010  
20.30.020  
20.30.030  
20.30.050  
20.30.070  
20.30.160

**BY** repealing the following portion of the Code of the City of Annapolis, 2019 Edition  
20.30.060

**BY** adding the following portion to the Code of the City of Annapolis, 2019 Edition  
20.30.045

**WHEREAS**, Section 7-101 of the Land Use Article of the Annotated Code of Maryland encourages local jurisdictions to enact local laws providing for or requiring affordable housing; and

**WHEREAS**, this legislation is in conformance with the objectives of Section 7-101 of the Land Use Article of the Annotated Code of Maryland; and

**WHEREAS**, the 2009 Annapolis Comprehensive Plan demonstrates that the housing market is affected by the unavailability of land for new development, that new development is increasingly limited to annexation areas, and that housing is increasingly done through the redevelopment and conversion of previously non-residential sites and structures; and

**WHEREAS**, the lack of available housing and land makes it increasingly difficult to provide new housing affordable to the workforce, including moderate and low income households, and this, in turn, forces many households to live an extended distance from work; and

**WHEREAS**, past efforts have been made to encourage moderately priced housing construction through zoning incentives, permitting greater density, and relaxation of some building and subdivision regulations; and

**WHEREAS**, the density bonus has not served as a sufficient incentive to private developers to construct moderately priced dwellings units because site constraints often limit density, thereby making the density bonus difficult to achieve; and

**WHEREAS**, household incomes have not kept pace with the sharp increase in home sales prices, thereby making it difficult or impossible for middle-income families to purchase a new home; and

**WHEREAS**, the objectives of this ordinance are to:

Encourage and maintain wide choices of housing for people of all incomes, ages, lifestyles, and physical capabilities at appropriate locations and densities and to implement policies to bridge housing affordability gaps;

Make housing that is affordable to low, moderate, and middle-income households a priority in all Wards;

Ensure that all sector study amendments and the Comprehensive Plan address the need for housing for low, moderate, and middle-income households;

Implement provisions in the Code that increase the long-term supply of affordable housing to households of low and moderate incomes, particularly in areas that are easily accessible to transit; and

Require all subdivisions of 10 or more dwelling units to include a minimum number of

moderately priced units on-site.

**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**

**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;
- B. Ensuring that housing options continue to be available to low and moderate income residents;
- C. Retaining opportunities for people ~~that~~ WHO 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~~ THE 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.

A. "Applicant" means any person, ~~firm, partnership, association, joint venture, corporation, or any other~~ entity, or combination of entities, ~~who either~~ THAT 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.~~

B. "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, ~~IN WHICH and~~ the Planning and Zoning Director ~~that~~ certifies that the person is qualified to buy or rent an MPDU.

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

D. "Date of original sale" means the date of settlement for THE purchase of aN MPDU.

E. "Eligible person" means the holder of a current certificate of eligibility ~~granted under this chapter.~~

F. "~~Homeownership assistance~~AFFORDABLE 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.~~

G. "HUD" means the United States Department of Housing and Urban Development.

H. HUD's "fair market rents" (FMRs) shall meanS the FMRs for the Baltimore Metropolitan Statistical Area as published from time to time by HUD.

I. "Marketing period" means a period beginning on the date the Department of Planning and Zoning provides the applicant WITH an approved list of eligible certificate holders to whom the unit may be marketed and during which the MPDU is available exclusively to persons holding a certificate of eligibility under the program.

J. "Moderately priced dwelling unit," or "MPDU," means a dwelling unit ~~which~~ is offered for sale or rent to eligible persons ~~or to the Department of Planning and Zoning~~ and sold or rented under this chapter.

K. "Occupancy period" means the time DURING WHICH an MPDU is subject to either the resale price controls and owner occupancy requirements or the 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.~~

L. "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~~ 4 or more dwelling units;
3. ~~Part A DEVELOPMENT THAT of the conversion of~~ CONVERTS, IN WHOLE OR IN PART, 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.

### 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. ; OR~~

4. A DEVELOPMENT THAT SETS ASIDE AFFORDABLE DWELLING UNITS IN ACCORDANCE WITH SECTION 42 OF THE FEDERAL INTERNAL REVENUE CODE, PURSUANT TO WHICH A RESTRICTED COVENANT IS TO BE RECORDED IN THE LAND RECORDS OF ANNE ARUNDEL COUNTY SETTING FORTH INCOME LIMITATIONS OF TENANTS IN ACCORDANCE WITH THE FEDERAL LOW INCOME HOUSING TAX CREDIT PROGRAM IN FAVOR OF THE MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT OR A SUBSIDIARY THEREOF OR OTHER GOVERNMENTAL ENTITY RESPONSIBLE FOR ADMINISTRATION OF THE FEDERAL LOW INCOME HOUSING TAX CREDIT PROGRAM.

BC. 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.

CD. 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.

**SECTION 20.30.045- OCCUPANCY PERIODS.**

A. FOR FOR-SALE MPDU UNITS, THE OCCUPANCY PERIOD IS 30 YEARS, BEGINNING TO RUN FROM THE DATE OF THE INITIAL SALE.

B. FOR RENTAL MPDU UNITS, THE OCCUPANCY PERIOD IS 99 YEARS, BEGINNING TO RUN FROM THE DATE OF THE INITIAL RENTAL.

**Section 20.30.050 - REQUIRED NUMBER OF MPDUs-~~Compliance.~~**

THE REQUIRED NUMBER OF MPDUS IS PROPORTIONATE TO THE APPROVED DEVELOPMENT DENSITY AND IS A VARIABLE PERCENTAGE THAT IS NOT LESS THAN:

1. At least ~~twelve~~15 percent of the TOTAL units in a for-sale residential development subject to this chapter ~~shall be designated as MPDUs and meet all requirements of this chapter.~~ AND

2. At least ~~six~~15 percent of the TOTAL units in a rental development subject to this chapter ~~shall be designated as MPDUs and meet all the requirements of this chapter.~~

~~B. Compliance with this chapter may be achieved as follows:~~

- ~~1. Constructing MPDUs. Compliance may be achieved by constructing MPDUs on the site where the residential development is to occur;~~
- ~~2. The applicant provides covenants, recorded among the land records of Anne Arundel County, that WHICH states that the unit will continue to be an MPDU for the occupancy period, in compliance with this chapter; and~~
- ~~3. The applicant signs a promissory form, which includes a calculation of MPDUs required to comply with this chapter, in which the applicant agrees to meet the requirements of this chapter. This form shall be kept on file at the Department of Planning and Zoning.~~

**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 20.30.070 - Homeownership assistanceAFFORDABLE HOUSING trust fund.**

- A. The homeownership assistanceAFFORDABLE HOUSING 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~~AFFORDABLE HOUSING 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.

**20.30.160 - Density bonus.**

**REVISOR'S NOTE:** In this section, paragraph E is stricken.  
No other changes are made to Section 20.30.160.

- 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. DEVELOPMENT APPLICATIONS SUBMITTED TO THE DEPARTMENT OF PLANNING AND ZONING 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. 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 on the date of its passage.

**Explanation:**

UPPERCASE indicates matter added to existing law.  
~~Strikethrough~~ indicates matter stricken from existing law.  
Underlining indicates amendments.