

Bill No. 4-10  
Concerning: Workforce Housing -  
Voluntary  
Revised: 3-25-10 Draft No. 3  
Introduced: February 2, 2010  
Enacted: April 6, 2010  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Planning, Housing, and Economic Development Committee

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**AN ACT** to:

- (1) modify the requirement for workforce housing to make the provision of workforce housing voluntary; and
- (2) generally amend the law governing the workforce housing program.

By amending

Montgomery County Code  
Chapter 25A, Housing, Moderately Priced  
Section 25A-5

Chapter 25B, Housing Policy  
Sections 25B-23 through 25B-28

|                              |                                                            |
|------------------------------|------------------------------------------------------------|
| <b>Boldface</b>              | <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:*

**Sec. 1. Section 25A-5 is amended as follows:**

**25A-5. Requirement to build [MPDU's] MPDUs; agreements.**

\* \* \*

(c) When the development at one location is in a zone where a density bonus is allowed; and

(1) is covered by a plan of subdivision,

(2) is covered by a plan of development or a site plan, or

(3) requires a building permit to be issued for construction,

the required number of moderately priced dwelling units is a variable percentage that is not less than 12.5 percent of the total number of dwelling units at that location, not counting any workforce housing units [required] built under Chapter 25B.\* \* \*

**Sec. 2. Sections 25B-23 through 25B-28 are amended as follows:**

**25B-23. Definitions.**

In this Article, the following words have the following meanings:

\* \* \*

(j) *Workforce housing project* means a housing or mixed-use project where [at least 10 percent of the] dwelling units[, as computed under Section 25B-24(e),] are sold or rented to households with incomes at or below 120% of the area-wide median income under an agreement between the developer and the Director.

\* \* \*

**25B-24. Workforce housing program.**

\* \* \*

(d) [*Requirement*] Option. A developer of any subdivision with 35 or more market-rate dwelling units at one location, as defined in Section 25A-3(b), [must build the number of] may build workforce housing units [, if

any,] that are expressly [required] allowed in the applicable zone under Chapter 59.

[(e) *Exclusions.* In calculating the number of dwelling units in any subdivision to determine the number of workforce housing units [required] built under this Article, the Department must not count:

- (1) any moderately priced dwelling units (MPDUs) and any resulting bonus density market-rate units;
- (2) any Personal Living Quarters unit built under Section 59-A-6.15, which meets the price or rent eligibility standards for a moderately priced dwelling unit under Chapter 25A;
- (3) any dwelling unit in an Opportunity Housing Project built under Sections 56-28 through 56-32, which meets the price or rent eligibility standards for a moderately priced dwelling unit under Chapter 25A; and
- (4) any other dwelling unit built under a government regulation or binding agreement that limits for at least 15 years the price or rent charged for the unit in order to make the unit affordable to households earning less than 60% of the area median income, adjusted for family size.]]

[(f) *Exemption.* If the total number of units in a subdivision that are not counted under subsection (e)(4) is sufficient to qualify the entire subdivision to receive federal low-income housing tax credits, then no workforce housing units are required in that subdivision.]

[(g)] [(f)] (e) *Regulations.* The County Executive must adopt regulations under method (1) to administer this program. These regulations:

- (1) must set maximum sale prices and annual rent limits, sale price

and rent ranges (which must promote a variety of different prices or rents at each workforce housing location), minimum unit type and bedroom requirements, and income eligibility standards;

(2) must govern notice to the Department of sales and rentals, foreclosures, and other relevant procedural matters; and

(3) should, wherever possible, be similar to or at least consistent with the regulations that govern the MPDU program.

The regulations governing eligibility must include some preference for applicants who either reside in the County or work or have received a job offer in the County.

\* \* \*

**25B-25. Execution of agreement; building permit issuance.**

(a) *Agreement.*

(1) After the developer of a housing project has obtained approval from the Planning Board of a site plan that includes the number of workforce housing units [required] approved under any applicable provision of Chapter 59 and all other necessary regulatory approvals, the Director and the developer must execute an agreement assuring compliance with this Article by the developer and any successor in interest. The Director must attach a copy of the approved site plan to this agreement.

(2) The agreement must incorporate a staging plan for the construction of workforce housing units, the mix of dwelling unit sizes and types, and the maximum selling price or annual rent for each unit. The staging plan must require all workforce housing units to be built before or at the same time as the other dwelling units. Where appropriate, the agreement must reflect conditions

required as part of other regulatory approvals.

- (3) The agreement must require that the number of efficiency and one- bedroom workforce housing units each must not exceed the ratio that market-rate efficiency and one-bedroom units respectively bear to the total number of market-rate units in the subdivision. The Director must not approve an agreement that reduces the number of bedrooms required by this subsection in any workforce housing unit.

- (b) *Issuance of building permit.* The Director of Permitting Services must not issue a building permit for any development where workforce housing units are [required] approved under Chapter 59 until the agreement required by subsection (a) is executed. After an agreement is executed under subsection (a), the Director must certify to the Director of Permitting Services before a building permit is issued that all applicable requirements of this Article have been met. If all workforce housing units are not built before or at the same time as other dwelling units as required in the staging plan, the Director of Permitting Services may:

- (1) withhold any later building permit for any part of the same development until all workforce housing units designated in the staging plan are built;
- (2) issue a stop work order, effective until all workforce housing units designated in the staging plan are built; or
- (3) withhold any use and occupancy permit for other units in the development until all workforce housing units designated in the staging plan are built.

**[25B-26. Alternative location agreement.]**

109 [(a) The Director may approve a workforce housing agreement, in addition  
110 to the agreement required by Section 25B-25, that allows an applicant,  
111 instead of building some or all of the required number of workforce  
112 housing units on-site, to provide at least the same number of units at  
113 another location in the same planning policy area (as defined in the  
114 County Growth Policy), only if the Director finds that:

115 (1) either:

116 (A) the public benefit of locating at the proposed alternative  
117 location is equivalent to the value of locating workforce  
118 housing units in each applicable development; or

119 (B) building a sufficient number of workforce housing units at  
120 the original site would require the applicant to change the  
121 type of building construction used; and

122 (2) building the workforce housing units at the proposed alternative  
123 location will further the objective of providing a broad range of  
124 housing opportunities throughout the County.

125 (b) To satisfy the requirements of this Section, an applicant may:

126 (1) build, or convert from non-residential use, the required number of  
127 new workforce housing units at a site approved by the Director;  
128 or

129 (2) return to workforce housing unit use, and rehabilitate as  
130 necessary, existing workforce housing units for which price  
131 controls have expired.

132 (c) Each agreement under this Section must include a schedule, binding on  
133 the applicant, for timely completion or acquisition of the required  
134 number of workforce housing units. Each agreement under this Section  
135 must also require that each workforce housing unit provided at an

alternative location under this Section must be identical in type of unit and number of bedrooms to the workforce housing units that the applicant would have built on site.]

**[25B-27] 25B-26. Control of sale prices; rent limits; income eligibility; foreclosures.**

\* \* \*

**[25B-28] 25B-27. Compliance.**

\* \* \*

**Sec. 3. Expiration.**

Subsection (c) of Section 3 of Chapter 23, Laws of Montgomery County, 2006 is hereby repealed:

**Sec. 3. Effective date; Applicability; Expiration.**

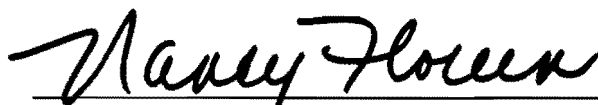
\* \* \*

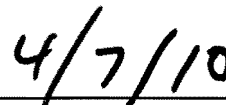
[(c) Article V of Chapter 25B, as inserted by Section 1 of this Act, does not apply to any development for which an application for a local map amendment, development plan, project plan, site plan, or preliminary plan of subdivision is filed after December 1, 2014.]

153 *Approved:*

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Nancy Floreen, President, County Council

Date

156 *Approved:*

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158

Isiah Leggett, County Executive

Date

159 *This is a correct copy of Council action.*

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Linda M. Lauer, Clerk of the Council

Date