

Bill No. 4-10
Concerning: Workforce Housing –
Voluntary
Revised: 3-25-10 Draft No. 3
Introduced: February 2, 2010
Enacted: April 6, 2010
Executive: April 10, 2010
Effective: July 10, 2010
Sunset Date: None
Ch. 11, Laws of Mont. Co. 2010

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Planning, Housing, and Economic Development Committee

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

Boldface	<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

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

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

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

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

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

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

- 55 and rent ranges (which must promote a variety of different prices
 56 or rents at each workforce housing location), minimum unit type
 57 and bedroom requirements, and income eligibility standards;
- 58 (2) must govern notice to the Department of sales and rentals,
 59 foreclosures, and other relevant procedural matters; and
- 60 (3) should, wherever possible, be similar to or at least consistent with
 61 the regulations that govern the MPDU program.

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

65 * * *

66 **25B-25. Execution of agreement; building permit issuance.**

67 (a) *Agreement.*

- 68 (1) After the developer of a housing project has obtained approval
 69 from the Planning Board of a site plan that includes the number
 70 of workforce housing units [required] approved under any
 71 applicable provision of Chapter 59 and all other necessary
 72 regulatory approvals, the Director and the developer must execute
 73 an agreement assuring compliance with this Article by the
 74 developer and any successor in interest. The Director must attach
 75 a copy of the approved site plan to this agreement.
- 76 (2) The agreement must incorporate a staging plan for the
 77 construction of workforce housing units, the mix of dwelling unit
 78 sizes and types, and the maximum selling price or annual rent for
 79 each unit. The staging plan must require all workforce housing
 80 units to be built before or at the same time as the other dwelling
 81 units. Where appropriate, the agreement must reflect conditions

82 required as part of other regulatory approvals.

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

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

100 (1) withhold any later building permit for any part of the same
101 development until all workforce housing units designated in the
102 staging plan are built;

103 (2) issue a stop work order, effective until all workforce housing
104 units designated in the staging plan are built; or

105 (3) withhold any use and occupancy permit for other units in the
106 development until all workforce housing units designated in the
107 staging plan are built.

108 **[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

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

139 **[25B-27] 25B-26. Control of sale prices; rent limits; income eligibility;
140 foreclosures.**

141 * * *

142 **[25B-28] 25B-27. Compliance.**

143 * * *

144 **Sec. 3. Expiration.**

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

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

148 * * *

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

153 *Approved:*

154

155 *Nancy Floreen* 4/7/10
Nancy Floreen, President, County Council Date

156 *Approved:*

157

158 *Isiah Leggett* 4/10/10
Isiah Leggett, County Executive Date

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

160

161 *Linda M. Lauer* 4/19/10
Linda M. Lauer, Clerk of the Council Date