

Bill No. 18-02
Concerning: Moderately Priced
Dwelling Units - Requirements
Revised: 9-27-02 Draft No. 3
Introduced: May 23, 2002
Enacted: October 1, 2002
Executive: October 10, 2002
Effective: January 9, 2003
Sunset Date: None
Ch. 27, Laws of Mont. Co. 2002

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Berlage, Silverman and Denis

AN ACT to:

- (1) revise the requirements for building moderately priced dwelling units in certain zones;
- (2) revise certain provisions of law regulating the initial sale and rental of moderately priced dwelling units; and
- (3) generally amend the law governing moderately priced dwelling units.

By amending

Montgomery County Code
Chapter 25A, Housing, Moderately Priced
Sections 25A-3, 25A-5, and 25A-8

Boldface

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

* * *

Heading or defined term.

Added to existing law by original bill.

Deleted from existing law by original bill.

Added by amendment.

Deleted from existing law or the bill by amendment.

Existing law unaffected by bill.

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Sections 25A-3, 25A-5, and 25A-8 are amended as follows:**

2 **25A-3. Definitions.**

3 The following words and phrases, as used in this Chapter, have the following
4 meanings:

5 (a) *Applicant* means any person, firm, partnership, association, joint
6 venture, corporation, or any other entity or combination of entities, and
7 any transferee of all or part of the land at one location[, who:].

8 [(1) Submits for approval or extension of approval a preliminary plan
9 of subdivision under Chapter 50, which plan provides for the
10 development of a total of 50 or more dwelling units at one
11 location in one or more subdivisions, parts of subdivisions,
12 resubdivisions, or stages of development, regardless of whether
13 any part of the land has been transferred to another party; or

14 (2) Submits to the Planning Board or to the Director of Permitting
15 Services a plan of housing development for any type of site
16 review or development approval required by law, which plan
17 includes construction or development of 50 or more dwelling
18 units at one location; or

19 (3) With respect to all land in zones not subject to subdivision
20 approval or site plan review, applies for a building permit or
21 permits under Chapter 8, which permit is or permits are for the
22 construction of a total of 50 or more dwelling units at one
23 location.

24 In determining whether a development contains a total of 50 or more
25 dwelling units for the purpose of applying this Chapter, all land at one
26 location within the County available for building development under
27 common ownership or control by an applicant, including land owned or

28 controlled by separate corporations in which any stockholder or family
 29 of the stockholder owns 10 percent or more of the stock, must be
 30 included. An applicant must not avoid this Chapter by submitting
 31 piecemeal applications or approval requests for subdivision plats, site or
 32 development plans or building permits. Any applicant may submit a
 33 preliminary plan of subdivision for approval, site or development plans
 34 for approval, record plat or request for building permits for less than 50
 35 dwelling units at any time; but the applicant must agree in writing that
 36 upon the next such application or request the applicant will comply with
 37 this Chapter when the total number of dwelling units at one location has
 38 reached 50 or more. All applicants, with respect to land to which this
 39 Chapter applies, have local official approval to participate in the federal
 40 rent supplement program.]

41 * * *

42 **25A-5. Requirement to build MPDU's; agreements; alternatives.**

43 (a) The requirements of this Chapter to provide MPDU's apply to any
 44 applicant who:

45 (1) submits for approval or extension of approval a preliminary plan
 46 of subdivision under Chapter 50 which proposes the development
 47 of a total of 35 or more dwelling units at one location in one or
 48 more subdivisions, parts of subdivisions, resubdivisions, or stages
 49 of development, regardless of whether any part of the land has
 50 been transferred to another party;

51 (2) submits to the Planning Board or to the Director of Permitting
 52 Services a plan of housing development for any type of site
 53 review or development approval required by law, which proposes
 54 construction or development of 35 or more dwelling units at one

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location: or

(3) with respect to land in a zone not subject to subdivision approval or site plan review, applies for a building permit to construct a total of 35 or more dwelling units at one location.

In calculating whether a development contains a total of 35 or more dwelling units for the purposes of this Chapter, the development includes all land at one location in the County available for building development under common ownership or control by an applicant including land owned or controlled by separate corporations in which any stockholder or family of the stockholder owns 10 percent or more of the stock. An applicant must not avoid this Chapter by submitting piecemeal applications or approval requests for subdivision plats, site or development plans, or building permits. Any applicant may apply for a preliminary plan of subdivision, site or development plan, record plat or building permit for ~~[[less]]~~ fewer than 35 dwelling units at any time; but the applicant must agree in writing that the applicant will comply with this Chapter when the total number of dwelling units at one location reaches 35 or more.

~~[(a)] (b)~~ * * *

~~[(b)] (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, [or]
 - (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. The required number of MPDUs must

82 vary according to the amount by which the approved development
 83 exceeds the normal or standard density for the zone in which it is
 84 located. Chapter 59 permits bonus densities over the presumed base
 85 density where MPDUs are provided. If the use of the optional MPDU
 86 development standards does not result in an increase over the base
 87 density, the Director must conclude that the base density could not be
 88 achieved under conventional development standards, in which case the
 89 required number of MPDUs must not be less than 12.5 percent of the
 90 total number of units in the subdivision. The amount of density bonus
 91 achieved in the approved development determines the percentage of
 92 total units that must be MPDUs, as follows:

93 * * *

94 [(c) *Reserved.*]

95 (d) [*Reserved.*]

96 (1) Notwithstanding subsection (c), the requirements of this Chapter
 97 do not apply to [[an applicant who proposes to build]] a
 98 development with more than 34 but [[less]] fewer than 50 units at
 99 one location if the Planning Board, in reviewing a subdivision or
 100 site plan submitted by the applicant and based on the lot size
 101 product type and other elements of the plan as submitted, finds
 102 that achieving a bonus density of 20 percent or more at that
 103 location:

104 (A) would not allow compliance with applicable
 105 environmental standards and other regulatory
 106 requirements. or

107 (B) would significantly reduce neighborhood compatibility.

108 (2) If the Planning Board approves a density bonus of at least 20

109 percent for a development which consists of more than 34 but
 110 [[less]] fewer than 50 units at one location, the number of
 111 MPDU's required must be governed by subsection (c) unless the
 112 formula in subsection (c) would not allow the development to
 113 have one bonus market rate unit. In that case, the Board must
 114 reduce the required number of MPDU's by one unit and approve
 115 an additional market rate unit.

116 * * *

117 **25A-8. Sale or rental of moderately priced dwelling units.**

118 **(a) Sale or rental to general public.**

119 * * *

120 (6) Moderately priced dwelling units, except those built, sold, or
 121 rented under a federal, state, or local program designated by
 122 regulation, must not be offered for rent by an applicant during the
 123 priority marketing period, except in proportion to the market rate
 124 rental units in that subdivision as follows:

125 (A) In a subdivision containing only single-family dwellings,
 126 the proportion of rental MPDUs must not exceed the
 127 proportion of market rate rental units to all market rate
 128 units.

129 (B) In a subdivision containing both single-family and
 130 multiple-family dwellings, the proportion of rental single-
 131 family MPDUs to all one-family MPDUs must not exceed
 132 the proportion of market rate rental single-family units to
 133 all market rate single-family units; and the proportion of
 134 rental multiple-family MPDUs to all multiple-family
 135 MPDUs must not exceed the proportion of market rate

136 rental multiple-family units to all market rate multiple-
137 family units.

138 (C) The Director may allow an applicant to offer a higher
139 proportion of multiple-family MPDUs for rent in a
140 subdivision if the Director find that:

141 (i) offering more rental MPDUs in that subdivision
142 would advance the purposes of the County housing
143 policy and the objectives of any applicable land use
144 plan, be consistent with local housing market
145 conditions, and avoid excessive mandatory
146 condominium or homeowners' association fees or
147 other costs that would reduce the affordability of
148 sale MPDUs: and

149 (ii) the applicant is qualified to manage rental housing
150 and has submitted an effective management plan for
151 the rental units in that subdivision.

152 * * *

153 **Sec. 2. Applicability.**

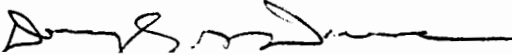
154 The requirements of Chapter 25A, as amended by Section 1 of this Act, do not
155 apply to any subdivision with more than 34 but fewer than 50 units at one location if
156 the applicant applied for a preliminary plan of subdivision before this Act took effect,
157 unless the applicant agrees that the requirements of Chapter 25A as amended should
158 apply to that subdivision.

159 *Approved:*

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Steven A. Silverman, President, County Council

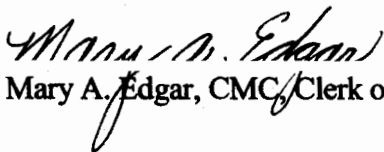
10/03/02
Date

161 *Approved:*

162 
Douglas M. Duncan, County Executive

October 10, 2002
Date

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

164 
Mary A. Edgar, CMC/Clerk of the Council

October 14, 2002
Date