

**COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND**  
**2015 Legislative Session**

Bill No. CB-54-2015

Chapter No. \_\_\_\_\_

Proposed and Presented by Council Members Lehman and Taveras

Introduced by \_\_\_\_\_

Co-Sponsors \_\_\_\_\_

Date of Introduction \_\_\_\_\_

**BILL**

1 AN ACT concerning

2 Moderately Priced Housing Program

3 For the purpose of establishing a Moderately Priced Housing Program for the County; providing  
4 for the applicability of the program, requirements and alternative methods of compliance; and  
5 generally relating to moderately priced housing program in Prince George's County.

6 BY repealing and reenacting with amendments:

7 SUBTITLE 13. HOUSING AND PROPERTY STANDARDS.

8 Sections 13-247 – 13-260,

9 The Prince George's County Code

10 (2011 Edition, 2014 Supplement).

11 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,  
12 Maryland, that Sections 13-247 – 13-260 of the Prince George's County Code be and the same  
13 are hereby repealed and reenacted with amendments:

14 SUBTITLE 13. HOUSING AND PROPERTY STANDARDS.

15 DIVISION 8. MODERATELY PRICED HOUSING.

16 **Sec. 13-247. Statement of Public Policy.**

17 It is the public policy of Prince George's County to promote housing choices, conveniently  
18 located in a suitable living environment, for all ages, income levels, and family sizes  
19 [constellations] as adopted in the County's housing policy and programs and to meet the  
20 County's general plan goals.

21 **Sec. 13-248. Legislative findings.**

1        The County Council finds that there is a continuing shortage of quality low and moderate-  
 2 income affordable housing units in the County, that the County also finds that it seeks to stabilize  
 3 and preserve housing opportunities for low and moderate-income households and that there is  
 4 sufficient basis for the establishment of a Moderately Priced Housing Program in the County.

5 **Sec. 13-249. Definitions.**

6        (a) Definitions in Subtitle 27 of this Code (the Zoning Ordinance) shall apply to this  
 7 Division unless the word or phrase is defined in this Section.

8        (b) The following words and phrases, as used in this Division, have the following  
 9 meanings:

10        (1) **Applicant** means any person, firm, partnership, association, joint venture,  
 11 corporation, or any other entity or combination of entities, and any transferee of all or part of the  
 12 land at one location within Comprehensive Design Zones (CDZ), Mixed Use Town Center Zone  
 13 (M-U-TC), Mixed Use Transportation Oriented Zone (M-X-T), Mixed Use Community (M-X-  
 14 C), Mixed Use – Infill (M-U-I), Transit District Overlay Zone (T-D-O), Residential Planned  
 15 Community (R-P-C), R-80, R-55, R-35, R-20, R-T, R-30, R-30C, R-18, R-18C, R-10A, R-10  
 16 and R-H Zones and C-O Zone (Commercial Office), C-S-C Zone (Commercial Shopping  
 17 Center), and C-M Zone (Commercial Miscellaneous) who submits for approval a preliminary  
 18 plan of subdivision, or detailed site plan that is not pursuant to an approved preliminary plat of  
 19 subdivision, for the development of fifteen (15) or more dwelling units.

20        (2) **At one location** means all adjacent land of the applicant if:

21            (A) the property lines are contiguous or nearly contiguous at any point, or

22            (B) the property lines are separated only by a public or private street, road,  
 23 highway or utility right-of-way or other public or private right-of-way at any point, or

24            (C) the property lines are separated only by other land of the applicant which is  
 25 not subject to this Division at the time the applicant submits for approval a preliminary plan of  
 26 subdivision.

27        (3) **Department** means the Prince George's County Department of Housing and  
 28 Community Development.

29        (4) **Director**, except as otherwise indicated, means the Director of the Department of  
 30 Housing and Community Development, or the Director's designee.

31        (5) **Eligible person** means a person or household whose income qualifies the person

1 | or household to participate in the moderately priced housing unit program.

2 | (6) **Housing Authority** means the Housing Authority of Prince George's County.

3 | (7) **Housing Investment Trust Fund** means the fund established in Division 19 of  
 4 | Subtitle 10 of the County Code.

5 | (8) **Moderately priced housing unit** or "MPHU" means a dwelling or housing unit  
 6 | which is constructed, sold under the requirements of this Division at or below eighty percent  
 7 | (80%) of the Median Family Income (MFI), or rented at or below sixty percent (60% of the  
 8 | Median Family Income.

9 | (9) **Optional density bonus** means any increase in density allowed under Subtitle 27,  
 10 | Part 4A of the Zoning Code

11 | (10) **Redevelopment Authority** means the Redevelopment Authority of Prince George's  
 12 | County.

13 | **Sec. 13-250. Establishment of Moderately Priced Housing Program; percentage of**  
 14 | **moderately priced housing units; determination of eligibility standards.**

15 | (a) There is hereby established the Moderately Priced Housing (MPH) Program.

16 | (b) The goal of the MPH Program is to require, within applicable construction and  
 17 | development of housing units covered under the program, a minimum of, subject to an optional  
 18 | density bonus:

19 | (1) for For-Sale units:

20 | (A) at least twelve and a half percent (12.5%) of density for households with an  
 21 | income within sixty to eighty percent (60%-80%) of the Median Family Income; or

22 | (B) at least seven and a half percent (7.5%) of density of households with an  
 23 | income at or below sixty percent (60%) of the Median Family Income; or

24 | (2) for rental units:

25 | (A) at least twelve and a half percent (12.5%) of density for households with an  
 26 | income within forty to sixty percent (40%-60%) of the Median Family Income; or

27 | (B) at least seven and a half percent (7.5%) of density of households with an  
 28 | income at or below forty percent (40%) of the Median Family Income.

29 | (c) Applicants in the MPH Program shall be eligible for an optional density bonus as  
 30 | permitted under Subtitle 27, Part 4A of the Zoning Ordinance. Pursuant to the regulations  
 31 | adopted in accordance with Section 13-258, the Director shall prescribe a process for applicants

1 to apply for such optional density bonuses.

2 (d) Standards of eligibility for the Moderately Priced Housing Program shall be established  
 3 by program regulations adopted in accordance with Section 13-258.

4 **Sec. 13-251. Applicability, MPHU agreement and requirements.**

5 (a) This Division applies to all construction or development on a lot size of one (1) acre or  
 6 less with fifteen (15) or more dwelling units within Comprehensive Design Zones (C-D-Z),  
 7 Mixed Use Town Center Zones (M-U-TC), Mixed Use Transportation Oriented Zones (M-X-T),  
 8 Mixed Use Community Zones (M-X-C), Mixed Use – Infill Zones (M-U-I), Residential Planned  
 9 Community (R-P-C), R-80, R-55, R-35, R-20, R- T, R-30, R-30C, R-18, R-18C, R-10A, R-10,  
 10 and R-H Zones and C-O Zone (Commercial Office), C-S-C Zone (Commercial Shopping  
 11 Center), and C-M Zone (Commercial Miscellaneous). This Division shall not apply to any  
 12 construction or development of dwelling units within any property placed within a designated  
 13 Historic District.

14 (b) Any applicant shall enter into a written MPHU agreement with the Director. This  
 15 agreement shall include:

16 (1) The number, type, location and plan for staging construction of all dwelling units;

17 (2) a specific number of MPHUs must be constructed on an approved time schedule;

18 (3) in single-family dwelling unit subdivisions, each MPHU must have three (3) or more  
 19 bedrooms, provided that an applicant may indicate units with fewer bedrooms in proportion to  
 20 the market rate units with similar bedroom sizes;

21 (4) in multi-family dwelling unit subdivision, each MPHU must have two (2) or more  
 22 bedrooms, provided that an applicant may indicate the number or efficiency and one (1) bedroom  
 23 units as long as it does not exceed the ratio of market-rate efficiency and one (1) bedroom units  
 24 in the subdivision;

25 (5) any such other information as may be required to determine the applicant's  
 26 compliance with this Subtitle, or a statement that the applicant may utilize the alternative  
 27 methods of compliance set forth in Sec. 13-252; and

28 (6) An affidavit signed by the applicant and all other parties whose signatures are  
 29 required by law for effective and binding execution of contracts covering real property, attesting  
 30 the truth and accuracy of the information submitted by the applicant.

31 (c) Any applicant, in order to obtain a building permit, must submit to the Department of

1 Permitting, Inspection and Enforcement, with the application for a permit, a written MPHU  
 2 agreement approved by the Director.

3 **[Sec. 13-252.] [Capturing Housing Opportunities in Communities Everywhere**  
 4 **("CHOICE") Special Revenue Fund Advisory Board created; membership; terms.**

5 (a) There is hereby created the Capturing Housing Opportunities in Communities  
 6 Everywhere ("CHOICE") Revenue Advisory Board.

7 (b) The Board shall consist of seven (7) County residents who shall be appointed by the  
 8 County Executive and confirmed by the County Council.

9 (c) The Board shall be chaired by the Director. The remaining members shall consist of  
 10 one (1) representative of each of the following: development community; financial community;  
 11 a religious and a nonprofit organization concerned with the need for affordable housing; the  
 12 Prince George's County Municipal Association; and a member from the community at large.

13 (d) Except for the Chairman, the terms of the members shall be for three (3) years. Terms  
 14 of the members shall be staggered. Members shall continue to serve until their successors are  
 15 appointed and qualified.

16 (e) The Board shall review and make recommendation to the County Executive and  
 17 County Council concerning the purposes for which the revenues in the Capturing Housing  
 18 Opportunities in Communities ("CHOICE") Special Revenue Fund may be used.]

19 **Sec. 13-252. Alternative methods of compliance.**

20 (a) Under this Section, instead of building the required number of moderately priced  
 21 housing units onsite, an applicant may offer to do any combination of the following alternatives  
 22 that will produce at least one hundred and twenty five percent (125%) of the number of  
 23 moderately priced housing units that would have been built on-site:

24 (1) convey land to the Department, Redevelopment or Housing Authority, suitable in  
 25 size, location and physical condition for construction of moderately priced housing units, or for  
 26 sale by the Housing Authority, the proceeds of which shall be deposited into the Housing  
 27 Investment Trust Fund; or

28 (2) contribute to the Housing Investment Trust Fund an amount based on the economic  
 29 equivalent of the cost of constructing units required to fulfill the off-site construction alternatives  
 30 by the County; or

31 (3) build or provide moderately priced housing units at one or more other sites in the

1 same or an adjoining planning area; or

2 (4) do any combinations of these alternatives that will result in provide at least one  
 3 hundred and twenty five percent (125%) of the number of moderately priced housing units that  
 4 would have been built on-site.

5 (b) The Director may accept the offer made by the applicant if the Director demonstrates in  
 6 a notification to the County Council that;

7 (1) in the project or subdivision originally proposed by the applicant, an indivisible  
 8 package of resident services and facilities to be provided to all households would cost the  
 9 occupants of the moderately priced housing units so much that it is likely to make the moderately  
 10 priced housing units effectively unaffordable by eligible households;

11 (2) an offer made by an applicant under this Section will achieve at least one hundred  
 12 and twenty five percent (125%) of the number of moderately priced housing units that would  
 13 have been built on-site;

14 (3) the public benefits outweigh the benefit of constructing moderately priced housing  
 15 units in each subdivision throughout the County, and acceptance of the applicant's offer will  
 16 achieve the objective of providing a broad range of housing opportunities throughout the County;

17 (4) the environmental constraints at a particular site would render the building of all  
 18 required MDHUs at the site economically infeasible; or

19 (5) the number of MPHUs to be created is not economically feasible.

20 (c) The procedures for considering and implementing alternative offers shall be established  
 21 by program regulations adopted pursuant to Section 13-258.

22 (d) Notwithstanding any other provisions of this Section, the Director may reject a  
 23 proposal by an applicant to utilize alternative methods of compliance in whole or in part  
 24 whenever the public interest would best be served thereby.

25 **Sec. 13-253. Proceeds of alternative compliance moneys.**

26 (a) All payments made for alternative compliance to the requirement to construct  
 27 moderately priced dwelling units shall be made to the Housing Investment Trust Fund [CHOICE  
 28 Special Revenue Fund]. These proceeds may be utilized by the Department, Redevelopment or  
 29 Housing Authority for any purpose consistent [with those set forth in Section 10-261.01 of] this  
 30 [Code] Division.

31 (b) Once such payments have been received, the Director [of the Department of Housing

1 and Community Development] shall notify the Planning Board for its consideration of all  
 2 applicable [subdivision] applications.

3 **Sec. 13-254. Maximum prices and rents of moderately priced housing units; adjustments**  
 4 **for energy efficiency and transit oriented development units.**

5 (a) Moderately priced housing units may not be sold or rented at prices or rents that exceed  
 6 the maximum prices or rents established in the program regulations adopted pursuant to Section  
 7 13- 258.

8 (b) An applicant shall qualify for an adjustment in the maximum sale price or rental rate up  
 9 to five percent (5%) if the MPHU is:

10 (1) Energy Star certified; or

11 (2) built to Leadership in Energy and Environmental Design – New Construction  
 12 (LEED-NC) standards; or

13 (3) has an on-site renewable energy system of two kilowatts (2KW) or greater; or

14 (4) will be purchased through an Energy Efficient Mortgage.

15 (c) An applicant shall qualify for an adjustment in the maximum sale price or rental rate up  
 16 to five percent (5%) if the MPHUs are within one-half mile (1/2) of the platform of a Metrorail  
 17 station or one-quarter (1/4) mile of a platform of a Maryland Area Regional Commuter (MARC)  
 18 or light rail station.

19 (d) The Director shall establish the procedures and requirements for applying for the  
 20 adjustments in the regulations adopted pursuant to Section 13- 258.

21 **Sec. 13-255. Sale of moderately priced housing units.**

22 (a) The Department, Redevelopment or Housing Authority shall have the right of first  
 23 refusal to buy for its own program or programs administered by it, thirty (30) percent of all  
 24 moderately priced housing units produced in a development under this Division. Any remaining  
 25 units, up to thirty (30) percent of the total, shall be made available to any nonprofit corporation  
 26 designated in accordance with the program regulations adopted in Section 13-258, prior to public  
 27 offering.

28 (b) The Department, Redevelopment or Housing Authority shall have the right of first  
 29 refusal to buy for its own program or programs a moderately priced housing unit to be sold or  
 30 resold after its date of original sale prior to public offering in accordance with the program  
 31 regulations adopted in Section 13-258. The moderately priced housing unit to be sold or resold

1 after its date of original sale shall be made available to any nonprofit corporation designated in  
 2 accordance with the program regulations adopted in Section 13-258, prior to public offering.

3 **Sec. 13-256. Control of rents and subsequent sale prices.**

4 (a) Except for in foreclosure proceedings or other court ordered sales, MPHUs constructed  
 5 or offered for sale under this Division shall not be resold after the date of original sale at a price  
 6 greater than as provided by the program regulations. Date of original sale means the date of  
 7 settlement for purchase of a moderately priced housing unit.

8 (b) MPHUs built or offered for rent under this Division shall not be rented after the date of  
 9 original rent at a rent greater than that established by the program regulations. The date of  
 10 original rental means the date the lease agreement for the MPHU takes effect.

11 (c) If a MPHU is sold or resold after its date of original sale, the maximum sale price  
 12 determined by the Department shall include the following factors:

13 (1) inflation of the Median Family Income (MFI) since the original sale; or

14 (2) any eligible improvements made to the MPHU as established by the program  
 15 regulations.

16 (d) This section does not prohibit the bulk transfer or sale of all or some of the rental  
 17 moderately priced housing units in a development within ninety-nine (99) years after the original  
 18 rental if the buyer is bound by all covenants and controls on the moderately priced housing units.

19 (e) Program regulations shall provide restrictions which provide compliance with this  
 20 section and prevent practices that evade controls on rents and sales of moderately priced housing  
 21 units.

22 **Sec. 13-257. Enforcement.**

23 (a) Owners and renters of moderately priced housing units who falsely swear or execute an  
 24 affidavit knowing the statements contained therein to be false shall be guilty of a misdemeanor  
 25 and shall be subject to a fine of One Thousand Dollars (\$1,000.00). Fines levied pursuant to this  
 26 section shall become liens upon the real property.

27 (b) Renters of moderately priced housing units who falsely swear or execute an affidavit  
 28 knowing the statements contained therein to be false, shall also be subject to lease termination  
 29 and eviction procedures.

30 (c) Owners of moderately priced housing units who falsely swear that they continue to  
 31 occupy their unit as their domicile shall be subject to mandamus or other suit, action or



1 proceeding to require such owner to either sell the unit to someone who meets the eligibility  
 2 requirements or to occupy the unit as a domicile.

3 **Sec. 13-258. Program regulations, third-party agreements.**

4 (a) Program regulations shall be proposed by the Department and adopted by January 1,  
 5 2016. Program regulations shall be revised or amended as required or when changes in  
 6 economic conditions affect the ability of eligible persons to buy or rent moderately priced  
 7 housing

8 (b) The Department may partner with or contract, by written agreement, with a non-profit  
 9 or other third-party entity, with demonstrated experience in managing affordable  
 10 homeownership programs, to help administer the program under this division.

11 **Sec. 13-259. Appeals.**

12 Any party aggrieved by the decision of the Director with respect to this Division may  
 13 appeal such decision to the Circuit Court of Prince George's County, Maryland, pursuant to  
 14 the rules governing appeals from administrative agencies. All appeals shall be on the  
 15 record.

16 **Sec. 13-260. Annual report.**

17 (a) The County Executive or Department shall report to the County Council on activities  
 18 under this subdivision for the prior fiscal year by December 31<sup>st</sup>, including:

19 (1) the number of MPHUs approved and built;

20 (2) each alternative payment agreement approved under Section 13-252 and the

21 location and number of MPHUs that were involved in each agreement;

22 (3) the use of all funds and revenues in the Housing Investment Trust Fund received  
 23 under Section 13-253.

24 SECTION 3. BE IT FURTHER ENACTED that the provisions of this Ordinance shall not  
 25 apply to a preliminary plan of subdivision, or detailed site plan(s) that are not pursuant to a  
 26 preliminary plan of subdivision, for which an application has been filed prior to July 1, 2016, and  
 27 an approval has been granted prior to January 1, 2017. The provisions of this Ordinance shall  
 28 not apply to any construction or development of an approved and permitted dwelling unit(s)  
 29 within any property within a Comprehensive Design Zone (C-D-Z), Mixed Use Town Center  
 30 Zone (M-U-TC), Mixed Use Transportation Oriented Zone (M-X-T), Mixed Use Community  
 31 (M-X-C), Mixed Use – Infill (M-U-I), Recreational Planned Community Zone (R-P-C), Transit

1 District Overlay Zone (T-D-O), and C-O Zone (Commercial Office), C-S-C Zone (Commercial  
2 Shopping Center), and C-M Zone (Commercial Miscellaneous) prior to July 1, 2016.

3 SECTION 4. BE IT FURTHER ENACTED that the provisions of this Act are hereby  
4 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,  
5 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of  
6 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining  
7 words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this  
8 Act, since the same would have been enacted without the incorporation in this Act of any such  
9 invalid or unconstitutional word, phrase, clause, sentence, subparagraph, subsection, or section.

10 SECTION 5. BE IT FURTHER ENACTED that this Act shall take effect on July 1, 2016.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2015.

COUNTY COUNCIL OF PRINCE  
GEORGE'S COUNTY, MARYLAND

BY: \_\_\_\_\_  
Mel Franklin  
Chairman

ATTEST:

\_\_\_\_\_  
Redis C. Floyd  
Clerk of the Council

APPROVED:

DATE: \_\_\_\_\_ BY: \_\_\_\_\_  
Rushern L. Baker, III  
County Executive

KEY:

Underscoring indicates language added to existing law.  
[Brackets] indicate language deleted from existing law.  
Asterisks \*\*\* indicate intervening existing Code provisions that remain unchanged.