

**COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND**

**1996 Legislative Session**

Resolution No. CR-56-1996

Proposed by Chairman (by request - County Executive)

Introduced by Council Members Del Giudice and Bailey

Co-Sponsors

Date of Introduction October 8, 1996

**RESOLUTION**

A RESOLUTION concerning

Moderately Priced Dwelling Unit Program

For the purpose of adopting regulations for the County's Moderately Priced Dwelling Unit Program.

WHEREAS, Section 13-257 of the Prince George's County Code provides that regulations for the County's Moderately Priced Dwelling Unit (MPDU) Program shall be proposed by the County Executive and adopted by the County Council by resolution; and

WHEREAS, previous MPDU regulations have been adopted by resolution in CR-105-1991 and CR-77-1993; and

WHEREAS, the County Executive proposes amending the regulations in order to broaden participation in the program and enhance the market value of homes built through the MPDU Program.

NOW, THEREFORE, BE IT RESOLVED by the County Council of Prince George's County, Maryland, that the regulations for the Moderately Priced Dwelling Unit Program of Prince George's County, Maryland and the proposed amendments, as attached hereto and made a part hereof, be and the same are hereby approved in accordance with the provisions of Section 13-257 of the Prince George's County Code.

BE IT FURTHER RESOLVED that the regulations adopted by the County Council in CR-105-1991 and CR-77-1993 are hereby superseded as of the effective date of this resolution.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 1996.

COUNTY COUNCIL OF PRINCE  
GEORGE'S COUNTY, MARYLAND

BY:

Stephen J. Del Giudice  
Chairman

ATTEST:

Joyce T. Sweeney  
Clerk of the Council

Subject: Moderately Priced Dwelling Unit (MPDU) Program.

Purpose: To establish guidelines for the administration of and requirements for participation in the Moderately Priced Dwelling Unit Program.

Authority: Subtitle 13, Division 8 of the Prince George's County Code

The Director of the Department of Housing and Community Development (DHCD) is responsible for the administration of the MPDU program in compliance with these regulations.

- Scope:
1. Applicability
  2. Definitions
  3. Eligibility
  4. Marketing of MPDU
  5. Occupancy
  6. Sale of MPDUs
  7. Alternative Methods
  8. Rental of MPDUs
  9. MPDU Agreements
  10. Resale of MPDUs
  11. Foreclosures
  12. Sale of MPDUs to the General Public

## 1. Applicability

These regulations apply to residential development under Comprehensive Design Zones, Transit District Overlay Zones, Mixed Use Transportation Zones, and where 50 or more units are developed under R-80, R-55, R-35, R-30, R-30C, R-T, R-20, R-P-C, R-18, R-18C, R-10A, and R-H zoning. These regulations apply to all dwelling units sold or leased through the MPDU Program and to all persons applying for participation in the MPDU Program.

## 2. Definitions

The following terms are defined for use in these regulations.

**Alternative Method of Compliance** means a method other than the construction of moderately priced dwelling units within a development used to fulfill MPDU requirements.

**Applicant** means any person, firm, partnership, association, joint venture, corporation, or any other entity or combination of entities, and any transferee of all or part of the land to which the MPDU Program applies, who submits for approval a preliminary

plan of subdivision or detailed site plan that is not pursuant to an approved preliminary plat of subdivision after January 1, 1991.

Certificate of Eligibility means an affidavit and documentation submitted by a person or household used to determine eligibility requirements for the MPDU.

Chief Administrative Officer means the head of the Executive Branch responsible for the management of County operations.

Department means the Prince George's County Department of Housing and Community Development (DHCD).

Director means the Director of the Department of Housing and Community Development or the Director's designee.

Eligible person means a person or household whose income qualifies for participation in the MPDU Program.

Family means two or more persons sharing residency whose income and other financial resources support the family's maintenance.

Housing Authority means the Housing Authority of Prince George's County, Maryland.

Household means either a family or an individual.

Household Income means total household income from all sources of all permanent residents of a household who are 18 years or older. Permanent residents are household members who have resided in the household for 12 consecutive months prior to the date of application whose income is used by a lender to qualify the household for purchase of a MPDU unit or by a landlord to determine their ability to afford the rent for a rental MPDU.

Income Limit means the maximum income a household can earn and remain eligible under the MPDU Program.

MPDU Agreement means the written agreement entered into between the applicant and the Director which contains information required to determine the applicant's compliance with the MPDU law or the alternative method(s) of compliance that the applicant shall utilize.

Moderately Priced Dwelling Unit (MPDU) means a dwelling unit which is constructed, sold, or rented under the requirements of Subtitle 13, Division 8.

Non-Profit Organization means an entity that is tax exempt pursuant to Section

501(c)(3) of the Internal Revenue Code.

Special Purpose Development Fund means the fund established by Section 10-261.01 of the Prince George's County Code to provide financial assistance to improve the quality of the County's communities.

3. Eligibility Requirements

A. Participation in the MPDU Program requires the following;

1. Household must have continuously resided in Prince George's County in the twelve months preceding the date of execution of a purchase contract or lease for MPDU.
2. Household must have a verifiable source of stable income.
3. Household income must not exceed the 80% of median income for the Washington Metropolitan Area, adjusted for family size.
4. Household must intend to occupy the MPDU as their primary residence for a period of five (5) years.

B. Certification to participate in the MPDU Program requires the following:

1. Fifteen days prior to settlement on their unit or execution of a lease, the MPDU purchaser or renter must submit to DHCD on a form provided by DHCD a notarized affidavit that they meet the above eligibility requirements. Purchasers who knowingly submit false statements shall be subject to the penalties in Section 13-256 of the Prince George's County Code.
2. Fifteen days prior to settlement on a MPDU, the Applicant shall submit to DHCD on a form provided by DHCD, a signed affidavit from the lender who is financing the purchase that states the MPDU purchaser's verified total household income used to qualify them for a mortgage. This affidavit shall be accompanied by appraisal of property stating its fair market value.
3. Settlement on the MPDU unit shall not take place until DHCD has verified in writing that the above affidavits have been received and are in compliance with these regulations and Program requirements.
4. Fifteen days prior to execution of a lease for a MPDU rental unit, the applicant shall submit a signed affidavit or a form provided by the Department that states the MPDU renters total household income used to qualify them for the unit.
5. If DHCD has reason to believe that a MPDU purchaser may not meet Program

eligibility requirements, they shall request such information from the purchaser and the Applicant and third party verification that they deem necessary to determine eligibility.

4. Marketing of Moderate Price Dwelling Units

- A. Applicants shall be solely responsible for marketing MPDUs for sale or rent to County residents who meet eligibility requirements. The Department will assist applicants through referrals and/or by providing a list of eligible persons.

5. Occupancy Requirements

- A. Purchasers of MPDUs are required to occupy their unit as their primary place of residence for a period of five years.
- B. Leases for rented MPDUs shall be for a minimum term of one year. Upon expiration of the one year term, tenants, may continue to lease on a month-to-month basis.
- C. Owners of MPDUs are not permitted to vacate or lease their unit to another party within five (5) years of purchase unless the owner can demonstrate sufficient cause to DHCD for a restriction waiver. Procedures for restriction waivers are the following:

- 1. MPDU owners must prove that the need to rent the MPDU is due to circumstances beyond their control and that extraordinary hardship would result if they did not vacate and rent their unit.

Circumstances beyond their control include, but are not limited to:

- a. Temporary job transfers, including military assignments;
  - b. Institutional confinement for medical reasons; or
  - c. Loss of job or a primary income source.
- 2. A loss of appreciation resulting from the prohibition of renting an MPDU does not constitute a circumstance beyond the owner's control.
  - 3. Owners must certify that they will reoccupy their MPDU no later than 24 months from the date the unit is first rented.

4. If DHCD denies an owner's request to rent temporarily, the owner has the right to appeal to the Chief Administrative Officer or designee. The appeal must be in writing and must be submitted within 30 days of the notice of denial.
  - D. If a request to temporarily rent an MPDU is granted, there shall be no rent control restrictions on the unit.
  - E. If a request to temporarily rent an MPDU is granted, the owner must submit a copy of the lease agreement and the name of the managing agent to the DHCD.
6. Sale of Moderately Priced Dwelling Units
- A. MPDUs shall be sold in accordance with the requirements of Subtitle 13, Division 8. The maximum sales price of a MPDU shall be the lesser of either the maximum sales price of the prototype for the unit shown in Section 6.B with permitted adjustments or the Department's estimated actual construction cost of the MPDU, not including the cost of raw land. If there is not a prototype for the MPDU in Section 6.C, the maximum sales price shall be the Department's estimated actual construction cost of the MPDU, not including the cost of raw land. On the effective date of these regulations and on the anniversary of the effective date each year thereafter, the Director shall annually evaluate the maximum sales prices in Section 6.B for changes in costs of construction. If cost of construction for a prototype is one percent or more greater or one percent or more less than the maximum sales price for a prototype shown in Section 6.B, the Director shall revise the maximum sales price for the prototype to reflect the actual cost of construction, not including the cost of raw land.
  - B. The unadjusted maximum sales prices of MPDUs, including closing costs, sales commissions and fees, are the following:
    1. Detached units with three bedrooms and an area of 1,200 square feet, plus unfinished basement \$97,150
    2. Semi-detached unit with two bedrooms and an area of 1,000 square feet, plus an unfinished basement \$83,560
    3. Townhouse/Fourplex with two bedrooms and 1,144 square feet, plus an unfinished basement \$86,180
    4. Townhouse/Fourplex with three bedrooms and 1,200 square feet, plus an unfinished basement \$95,680
    5. Row townhouse unit with two or three bedrooms \$87,191

and area of 1,200 square feet, plus an unfinished basement

- |    |   |          |
|----|---|----------|
| 6. | Three Story back-to-back townhouse with 3 or 4 bedrooms and 1,400 square feet | \$77,790 |
| 7. | Multi-family (non-elevator) with 1 or 2 bedrooms and 850 square feet          | \$58,260 |
| 8. | Multi-family with 2 or 3 bedrooms and 850 square feet                         |          |

\$72,078

C. The sales prices of MPDUs must be affordable to households with incomes between 50 and 80% of median income. The Director shall reduce the maximum sales price for a MPDU permitted in 6.A whenever it is necessary to meet this affordability standard.

D. Addendum 1 presents the minimum specifications for MPDUs.

E. The costs included in the maximum sales prices in Section 5.B of these regulations are shown below. These allowances shall be included in the Department's estimated actual construction cost of a MPDU.

1. Construction loan expenses;
2. Construction loan placement fee (estimated as 1.5% of the maximum sale price);
3. Legal and closing costs (estimated as 3.5%)
4. Builder's overhead expenses (estimated as 8%)
5. Pre-development costs and contingencies (5%); and
6. Commission (estimated as 3.5%)

F. Permitted adjustments to the maximum sales prices are shown below. Documentation for all adjustments must be submitted to DHCD by the Applicant with their proposed MPDU Agreement. Adjustments must be approved by the Director in the MPDU Agreement.



1. Units larger than the listed square footage area may increase the price by an amount equal to half the square footage cost for the area in excess, based upon the unit type square footage costs as shown in Addendum 2.
2. The price of units smaller than the listed square footage cost shall be decreased at an amount equal to half the square footage cost for the area less than the basic size, as shown in Addendum 2.
3. If the construction loan's interest rate exceeds a prime rate of 12% plus two points, then adjustments will be based upon the prime interest rate plus two points at the time of offering.
4. The maximum price of townhouses that are not end units shall be decreased if the corresponding prototype in Section 5 of these regulations is an end unit.
5. The maximum price of townhouses that are end units shall be increased if the corresponding prototype in Section 5 of these regulations is not an end unit.
6. Prices may be increased to reflect the seller's permanent loan origination fees/points in excess of a half percent and buy down fees used to lower the mortgage interest rate below the current market rate. No adjustments are permitted if the buyers secure their own financing.
7. If unfinished space for future bedrooms is provided, adjustments may be made. For each potential bedroom the adjustment may equal the square foot cost for this area, reduced by ten dollars per square foot. The minimum area, height, lighting and ventilation must satisfy Code requirements. Expandable space must include the installation of HVAC duct work, rough electrical wiring, rough plumbing and insulation. Walkout basements will not be considered expandable space.
8. If water and sewer connection fees are not deferred, they may be included in sale price.
9. If gas heating and air-conditioning are provided rather than an electric system, the sales price may be increased to reflect any increased cost.
10. If the unit is modified for handicapped accessibility as consented to by both buyer and seller or as required by law, the seller must obtain prior approval by the Director for this price adjustment prior to execution of the sales contract.
11. Adjustments will be allowed if the applicant can demonstrate to the Director that additional and unusual costs are present which directly attribute to and benefit the MPDUs and which result from the following:

- a. Unusual requirements imposed by a governmental unit as a condition of building permit approvals, such as road club fees.
    - b. Additional fees required as a condition of governmental financing programs; or
    - c. Additional fees imposed by public utilities.
  - 12. Unusual costs due to marginal land, soils or topography shall not be included in price adjustments.
  - 13. In exceptional cases, adjustments may be allowed if the applicant shows excessive costs associated with the external design of the MPDU required to reduce negative impacts to market rate units. Such permitted adjustments, determined on a case by case basis, require the following:
    - a. MPDUs interspersed among market rate units as shown on a site plan.
    - b. Design elements for both MDPUs and market rate units are consistent, including brick facades, roofing material, window and door treatments, walkway materials and similar architectural elements; and
    - c. Cost estimates or construction bids must be submitted.
    - d. Compensation will be based on the cost difference between the required design elements for MPDUs and those design elements the applicant is presenting as exceptional. The approved price increase associated solely with architectural compatibility shall not exceed 10% of the maximum price. Final determination of cost adjustments remains with DHCD.
  - 14. If the State of Maryland Community Development Administration's Homeownership Development Program provides permanent financing to MPDU purchasers, then the applicant must exclude closing costs from the maximum sale price. The resulting price decrease must equal the actual closing costs paid by the MPDU purchaser.
  - 15. The loan amount, but not the sale price, may be increased to cover the cost of amortizing the mortgage insurance premium on FHA and Housing Authority/FHA loans.
- F. Pricing standards and regulations apply to all MPDUs. The maximum sales price is fixed once the MPDU agreement is signed by the Director.

- G. The Director may waive restrictions on the resale price determination if the Director finds that the restrictions conflict with regulations of federal and/or state housing programs.

7. Alternative Methods of Compliance

- A. In lieu of building MPDUs, Applicants may apply for alternative method of compliance. In order to qualify for alternative method of compliance, the Applicant must agree to do one or more of the following:
  - (i) Make a contribution to the Special Purpose Development Fund equal to \$7,500.00 times 15% of the total number of units in the project prior to the issuance of building permits, or
  - (ii) Applicants may convey land to the Housing Authority of Prince George's County, suitable in size, location and physical condition for housing and/or community development or for disposition, the proceeds of which shall be deposited into the Special Purpose Development Fund, or
  - (iii) Applicants may provide alternative methods of compliance by the rehabilitation or new construction of an equivalent number of housing units on another site, provided that those units further the revitalization and community development plans of the County, or
  - (iv) Applicants may provide financial assistance to facilitate the completion of County approved housing and community development efforts being carried out by other public and private interests. Dollar amounts provided under this provision must be at least equivalent to the amount of monetary contribution required in Section (i) above.
- B. If an Applicant agrees to provide exceptional, facilities, amenities and/or design features which significantly further the goal of improving the quality of the housing and/or other community development needs in the County, the contribution to the Special Purpose Development Fund, or the amount of alternative construction provided may be reduced by as much as 75%. The amount of reduction shall depend upon the level, degree and quality of the housing, facilities, amenities and/or design features as determined by the County Executive or his designee.
- C. Applications for Alternative Method of Compliance for subdivision applications submitted after the effective date of these regulations shall be filed with the Director on a form provided by the Department 30 days prior to filing a subdivision application. Applications for Alternate Method of Compliance for subdivision applications submitted prior to the effective date of these regulations may be filed with the Director at any time prior to filing for building permits.

- D. The approval of an alternative method of compliance request shall be made by the Director. If the Director denies the applicant's proposal for an alternative method of compliance, appeals may be made to the Chief Administrative Officer.
- E. Alternative method of compliance payments or the provision of an equivalent number of housing units affordable to low and moderate income persons must be made prior to the issuance of building permits.

8. Rental of Moderately Priced Dwelling Units

- A. Rents for MPDUs must be affordable to households with for a period of 10 years incomes between 50% and 80% of the area median income. No more than 30% of household income shall be paid for rent including utilities.
- B. Landlords shall submit copies of rent contracts and/or leases to DHCD and include certifications regarding the payment of utilities. Copies of all rent increase notices and lease renewals shall be submitted to DHCD.
- C. Maximum rents are to include all operating expenses and utilities. If any or all utilities are paid by the tenant, then a utility allowance approved by the Director shall be subtracted from the maximum rent.
- D. Operating expenses include all costs associated with the operation and maintenance of the rental property. If operating costs are the responsibility of the applicant, yet paid by the tenant, then maximum rents shall be adjusted downward by the Director in accordance with Subtitle 13, Division 8.
- E. Bulk transfers or sales of all or some of the rental MPDUs in a subdivision within ten years after the original rental require subsequent buyers to comply with the MPDU Program. MPDU requirements are controlled by covenants which run with the land. Subsequent buyers of bulk units must agree in writing to lease the MPDUs solely to income eligible households at the MPDU approved rates for the balance of the ten year period.

9. MPDU Agreement Procedures

- A. The Department of Environmental Resources shall not accept building permit applications for projects in which MPDUs are required to be built unless the applicant submits a written MPDU Agreement, approved by the Department of Housing and Community Development and the County Attorney, and a statement regarding the number of total approved units within the subdivision for which building permits have been issued, and the number of permits that have been issued for MPDUs. The latter is not required where MPDUs have been exempted under an

- alternative compliance agreement. (Section 27-254 (c)(3) of the Prince George's County Code).
- B. Applicants for MPDU Agreements must file with the Department of Housing and Community Development on forms provided by the Department a proposed MPDU Agreement which contains:
1. The number and type of MPDUs;
  2. The identifying designation for each MPDU (e.g. subdivision, apartment or condominium name, location, address, lot and block number as applicable);
  3. The sales or rent price for each MPDU; and
  4. A plan for the staging of construction of all dwellings arranged so that MPDUs are constructed along with or preceding other units.
  5. The proposed MPDU Agreement shall be accompanied by outline specifications and itemized cost estimates for the MPDUs on forms provided by the Department, copies of plans and site plans for the units.
- C. Except in Comprehensive Design Zones and the Transit District Overlay Zone, building permits shall not be issued for more than 75% of the total number of approved units in a subdivision until building permits have been issued for all MPDUs.
- D. Except in Comprehensive Design Zones and the Transit Overlay Zone, use and occupancy permits which would allow occupancy of more than 50% of the total number of approved non-MPDUs in the subdivision shall not be issued until use and occupancy permits have been issued for all MPDUs.
- E. MPDU agreement forms may be obtained from DHCD. After completing the agreement, the applicant must submit the agreement to the Director for approval. DHCD will verify that the agreement satisfies the terms of the MPDU law and these regulations.
- F. After the Director has approved the MPDU agreement, it will be forwarded to the Department of Environmental Resources (DER) for those units covered by the agreement.
- G. Any revisions to the agreement must be negotiated between the Director and the applicant.
10. Resale of Owner Occupied Moderately Priced Dwelling Units

- A. There are no limitations on the price at which MPDU owners may resell their units.
  - B. MPDU owners who sell or transfer their units five years or less after settlement on the purchase of their MPDU unit shall pay an amount equal to the following to the Special Purpose Development Fund.
    - 1. Fifty percent of the net profits due the seller upon resale of the unit. Payment shall be made to the Prince George's County Department of Housing and Community Development at the time of settlement on the sale of the unit.
    - 2. The term net proceeds shall mean the difference between the resale price and the sum of the costs of settlement related fees, realtor commissions, and the pay off amount of debts secured by the property that are superior in the chain of title to these MPDU equity recapture provisions.
  - C. These equity recapture provisions shall be enforced by covenants that run with the land or by requiring MPDU purchasers to convey a promissory note and deed of trust to the County at time they settle on the purchase of their MPDU.
  - D. The entire amount required to be paid to the Special Purpose Development Fund in Section 10.B shall be forgiven five years after settlement on the purchase of their MPDU unit and covenants shall be automatically released and terminated.
11. Foreclosures
- A. Prior to the initiation of foreclosure proceedings by a lending institution holding a note secured by a mortgage or deed of trust, the County shall have the right to cure the default and stay acceleration of the mortgage note.
  - B. If a MPDU is sold in foreclosure, then the Director shall terminate MPDU controls. The Director shall execute and file a release of the restrictive covenants once all proceeds of the sale, if any, are paid to the Special Purpose Development Fund as required herein.
  - C. A foreclosure shall constitute a sale or transfer under paragraph 10 of these regulations. The County Attorney shall take appropriate action to protect the County's right of payment to the Special Purpose Development Fund to collect any amounts owed to the Special Purpose Development Fund.
  - D. The County Attorney shall have the authority to negotiate, compromise and enter into repayment agreements for amounts owed to the Special Purpose Development Fund under Section 10 of these regulations.
12. Sale of MPDUs to the General Public

If an Applicant is unable to obtain a contract purchaser for a MPDU within 120 days of the start date for marketing the unit in the approved MPDU Agreement, the Applicant may submit a written request to the Director for authorization to sell the unit to members of the general public at the sales price in the approved MPDU Agreement for the project. The Applicant's request must document good faith efforts to sell the unit to eligible MPDU purchasers. If the Director determines that there was a good faith effort to market the unit to eligible MPDU purchasers, the Applicant may sell the unit to members of general public at the sales price in the approved MPDU Agreement Paragraph 10 and 11 of these regulations shall be applicable to the sale of MPDUs to members of the general public.

13. These regulations are not applicable to MPDU projects for which an MPDU Agreement has been executed prior to the effective date of these regulations. CR-77-1993 and Section 12 of these regulations shall be applicable to MPDU agreements executed prior to the effective date of these regulations.