

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

1996 Legislative Session

Bill No. _____ CB-49-1996

Chapter No. _____ 72

Proposed and Presented by _____ Council Members MacKinnon, Maloney, and Gourdine

Introduced by _____ Council Members MacKinnon, Maloney, and Gourdine

Co-Sponsors

Date of Introduction _____ October 15, 1996

BILL

AN ACT concerning

Moderately Priced Housing

For the purpose of eliminating the Moderately Priced Dwelling Unit Program.

BY repealing and reenacting with amendments:

SUBTITLE 13. HOUSING AND PROPERTY STANDARDS.

Sections 13-248, 13-249, 13-250, 13-251, 13-253, 13-254,
13-255, 13-256, and 13-257,

The Prince George's County Code
(1995 Edition).

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Sections 13-248, 13-249, 13-250, 13-251, 13-253, 13-254, 13-255, 13-256, and 13-257, of the Prince George's County Code be and the same are repealed and reenacted with the following amendments:

SUBTITLE 13. HOUSING AND PROPERTY STANDARDS.

DIVISION 8. MODERATELY PRICED HOUSING.

Sec. 13-248. [Definitions.]

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

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

(1) **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 at one location within Comprehensive Design Zones (CDZ), Mixed Use Transportation Oriented Zone (M-X-T), Transit District Overlay Zone (T-D-O), and development of 50 or more dwelling units in the Recreational Planned 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, and R-H Zones who submits for approval a preliminary plan of subdivision, or Detailed Site Plan that is not pursuant to an approved preliminary plat of subdivision.

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

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

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

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

(3) **Capturing Housing Opportunities in Communities Everywhere ("CHOICE") Special Revenue Fund** means the fund established in Section 10-261.01 of this Code.

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

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

(6) **Eligible person** means a person or household whose income qualifies the person or household to participate in the moderately priced dwelling unit program.

(7) **Household Income** means income from all sources for all residents of a household who are eighteen years of age or older and who have resided in the household for twelve consecutive months prior to the date of application. All income must be fully documented and demonstrated to be stable and consistent.

(8) **Housing Authority** means the Housing Authority of Prince George's County.

(9) **Moderately priced dwelling unit** or **MPDU** means a dwelling unit which is constructed, sold, or rented under the requirements of this Division.

(10) **Nonprofit Housing Organization** means a private corporation or legal entity that is exempt or eligible for exemption from taxation under Section 501(c)(3) of the Internal Revenue Code and is approved by the Director as to financial responsibility.] Reserved.

Sec. 13-249. [Establishment of Moderately Priced Dwelling Unit Program; determination of income and eligibility standards.

(a) There is hereby established the Moderately Priced Dwelling Unit (MPDU) Program.

(b) Standards of eligibility for the Moderately Priced Dwelling Unit Program shall be established by Program Regulations adopted in accordance with Section 13-257.] Reserved.

Sec. 13-250. [Applicability and requirements.

(a) This Division applies to all construction or development of dwelling units within Comprehensive Design Zones (C-D-Z), Mixed Use Transportation Oriented Zone (M-X-T), Transit District Overlay Zone (T-D-O), and development of 50 or more dwelling units in the Recreational Planned 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, and R-H Zones. This Division shall not apply to any construction or development of dwelling units within any property placed within a Comprehensive Design Zone (C-D-Z), Mixed Use Transportation Oriented Zone (M-X-T), Recreational Planned Community Zone (R-P-C), or Transit District Overlay Zone (T-D-O) prior to January 1, 1991.

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

(1) The number, type, location, and plan for staging construction of all dwelling units and such other information as may be required to determine the applicant's compliance with this Subtitle, or a statement that the applicant may utilize the alternative methods of compliance set forth in Sec. 13-251; and

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

Sec. 13-251. [Alternative methods of compliance.]

(a) Under this Section, instead of building the required number of moderately priced dwelling units, an applicant may offer to:

(1) Convey land to the Housing Authority, suitable in size, location and physical condition for construction of moderately priced dwelling units, or for sale by the Housing Authority, the proceeds of which shall be deposited into the Capturing Housing Opportunities in Communities Everywhere ("CHOICE") Special Revenue Fund; or

(2) Contribute to the Capturing Housing Opportunities in Communities Everywhere ("CHOICE") Special Revenue Fund an amount that will produce significantly more moderately priced dwelling units; or

(3) Build or provide significantly more moderately priced dwelling units at one or more other sites in the same or an adjoining planning area; or

(4) Do any combination of these alternatives that will result in providing significantly more moderately priced dwelling units:

(b) The Director may accept the offer made by the applicant if the Director finds that;

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

(2) An offer made by an applicant under this Section will achieve significantly more moderately priced dwelling units;

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

(4) MPDUs cannot be built in a manner compatible with other developed dwellings; or

(5) The number of MPDUs to be created is not economically feasible.

(c) The procedures for considering and implementing alternative offers shall be

established by Program Regulations adopted pursuant to Section 13- 257.

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

Sec. 13-253. [Maximum prices and rents of moderately priced dwelling units.

(a) Moderately priced dwelling units may not be sold or rented at prices or rents that exceed the maximum prices or rents established in Program Regulations adopted pursuant to Section 13--257.] Reserved.

Sec. 13-254. [Sale of moderately priced dwelling units.

(a) The Housing Authority shall have the right of first refusal to buy for its own program, or programs administered by it, thirty percent (30%) of all moderately priced dwelling units produced in a development under this Division. Any remaining units, up to thirty percent (30%) of the total, shall be made available to any nonprofit corporation designated in accordance with the Program Regulations adopted in Section 13-257, prior to public offering.] Reserved.

Sec. 13-255. [Control of rents and subsequent sale prices; foreclosures.

(a) Except for foreclosure proceedings, moderately priced dwelling units constructed or offered for sale under this Division shall not be resold during the first ten (10) years after the date of original sale other than as provided by the Program Regulations. Date of original sale means the date of settlement for purchase of a moderately priced dwelling unit.

(b) If a moderately priced dwelling unit is sold or resold more than ten (10) years after its date of original sale, the restrictions on resale in Subsection (a) hereof shall no longer apply, provided that, for the first sale of a moderately priced dwelling unit more than ten (10) years after the original sale, the seller shall pay to the Prince George's County Capturing Housing Opportunities in Communities Everywhere ("CHOICE") Special Revenue Fund a sum established by Program Regulations.

(c) Moderately priced dwelling units built or offered for rent under this Division shall not be rented for ten (10) years after the date of original rental at a rent greater than that established by the Program Regulations. Date of original rental means the date the first lease agreement for a moderately priced dwelling unit takes effect.

(d) This Section does not prohibit the bulk transfer or sale of all or some of the rental moderately priced dwelling units in a development within ten (10) years after the original rental if the buyer is bound by all covenants and controls on the moderately priced dwelling units.

(e) Program Regulations shall provide restrictions which provide compliance with this Section and prevent practices that evade controls on rents and sales of moderately priced dwelling units.] Reserved.

Sec. 13-256. [Enforcement.

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

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

(c) Owners of moderately priced dwelling units who falsely swear that they continue to occupy their unit as their domicile shall be subject to mandamus or other suit, action, or proceeding to require such owner to either sell the unit to someone who meets the eligibility requirements or to occupy the unit as a domicile.] Reserved.

Sec. 13-257. [Program Regulations.

(a) Program Regulations shall be proposed by the County Executive and adopted by the County Council by Resolution. Amendments to the Program Regulations shall be proposed by January 1 of 1992 and each year thereafter for consideration by the County Council. Program Regulations shall also be revised when changes in economic conditions affect the ability of eligible persons to buy or rent housing.] Reserved.

SECTION 2. BE IT FURTHER ENACTED that any Moderately Priced Dwelling Unit constructed pursuant to a building permit issued prior to the effective date of this Act and not sold to an eligible person may be removed from the conditions and restrictions applicable to Moderately Priced Dwelling Units through the addition of interior and exterior options available

for purchase in non-Moderately Priced (Market Rate) Dwelling Units offered for sale in the same subdivision in the retail value of at least \$10,000 upon the application to and approval of the Director of Housing and Community Development. The Director shall file an appropriate release of the Moderately Priced Dwelling Unit conditions in the Land Records. Any Moderately Priced Dwelling Unit not approved for conversion and release shall be offered for sale to the Department of Housing and Community Development or the Housing Authority for not more than the maximum sales price applicable to the unit. If the Moderately Priced Dwelling Unit is not purchased by the Department of Housing and Community Development or the Housing Authority within 90 days, the owner may sell the Moderately Priced Dwelling Unit to any person without restriction.

SECTION 3. BE IT FURTHER ENACTED that this Act shall take effect on the effective date of CB-48-1996.

Adopted this 12th day of November, 1996.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY:
Stephen J. Del Giudice
Chairman

ATTEST:

Joyce T. Sweeney
Clerk of the Council

APPROVED:

DATE: _____

BY:
Wayne K. Curry

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.