

Introduced _____
Public Hearing _____
Council Action _____
Executive Action _____
Effective Date _____

County Council Of Howard County, Maryland

2013 Legislative Session

Legislative Day No. 8

Bill No. 35 -2013

Introduced by: The Chairperson at the request of the County Executive

AN ACT amending moderate income housing unit provisions to allow certain alternatives to the moderate income housing unit obligation in certain zoning districts; allowing a developer to substitute moderate income housing units by purchasing, rehabilitating, and offering for sale certain existing housing units ~~that are in foreclosure~~ under certain conditions; allowing the substitution of units by offering a certain number of units to certain eligible low-income purchasers who have a certain annual household income; allowing a fee-in-lieu under certain conditions; and generally related to moderate income housing units in Howard County.

Introduced and read first time _____, 2013. Ordered posted and hearing scheduled.

By order _____
Sheila M. Tolliver, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2013.

By order _____
Sheila M. Tolliver, Administrator

This Bill was read the third time on _____, 2013 and Passed ____, Passed with amendments _____, Failed _____.

By order _____
Sheila M. Tolliver, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ___ day of _____, 2013 at ___ a.m./p.m.

By order _____
Sheila M. Tolliver, Administrator

Approved/Vetoed by the County Executive _____, 2013

Ken Ulman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **Section 1. Be It Enacted** by the County Council of Howard County, Maryland, that the Howard
2 County Code is amended as follows:

3 By adding:

4 Title 13 – Housing and Community Development

5 Section 13.402C “Alternatives to Moderate Income Housing Unit Obligation in certain
6 zones”

7
8 **Title 13. Housing and Community Development.**

9 **Subtitle 4. Moderate Income Housing Units.**

10
11 **SECTION 13.402C. ALTERNATIVES TO MODERATE INCOME HOUSING UNIT OBLIGATION IN**
12 **CERTAIN ZONES.**

13 (A) *APPLICATION.* THIS SECTION SHALL APPLY ONLY TO:

14 (1) RESIDENTIAL DEVELOPMENTS OF SINGLE-FAMILY DETACHED HOMES OFFERED FOR
15 SALE IN THE RC, RR, R-ED, R-20, R-12, AND R-SC ZONING DISTRICTS, ~~AND~~

16 (2) AGE-RESTRICTED ADULT HOUSING AND PLANNED SENIOR COMMUNITIES;

17 ~~(3) SINGLE FAMILY ATTACHED HOMES IN R-H-ED; AND~~

18 ~~(4) MIXED USE DEVELOPMENTS IN MXD.~~

19 (B) *ALTERNATIVE COMPLIANCE.* IN THESE DEVELOPMENTS, INSTEAD OF PROVIDING MODERATE
20 INCOME HOUSING UNITS AS REQUIRED BY SECTION 13.402 OF THIS SUBTITLE, THE DEVELOPER MAY
21 PURSUE ONE OR A COMBINATION OF THE ALTERNATIVES SET FORTH IN SUBSECTION (C), (D), OR (E)
22 OF THIS SECTION.

23 (C) ~~UNITS IN FORECLOSURE~~ *SUBSTITUTE UNITS.* THE DEVELOPER MAY SUBSTITUTE UNITS BY
24 PURCHASING, REHABILITATING, AND OFFERING FOR SALE EXISTING HOUSING UNITS THAT ~~ARE IN~~
25 ~~FORECLOSURE AND~~ ARE LOCATED THROUGHOUT THE COUNTY AS FOLLOWS:

26 ~~(1) — A SUBSTITUTE UNIT IS ELIGIBLE UNDER THIS OPTION IF IT:~~

27 ~~(i) — HAS HAD MORTGAGE OR TAX FORECLOSURE PROCEEDINGS INITIATED;~~

28 ~~(ii) — HAS NOT HAD A MORTGAGE OR TAX PAYMENT MADE FOR AT LEAST 90~~
29 ~~DAYS; AND~~

30 ~~(iii) — HAS BEEN OFFERED FOR SALE BY THE OWNER TO THE PUBLIC OR THE~~
31 ~~DEPARTMENT;~~

32 ~~(2)~~ (1) THE DEPARTMENT MUST APPROVE EACH SUBSTITUTE UNIT BEFORE PURCHASE BY
33 THE DEVELOPER, AND SHALL ENSURE THAT THE SUBSTITUTE UNIT PROVIDES THE

1 SAME NUMBER OF BEDROOMS AS PLANNED FOR THE ON-SITE UNIT;

2 ~~(3)~~ (2) THE REHABILITATION OF EACH SUBSTITUTE UNIT SHALL MEET THE DEPARTMENT'S

3 MINIMUM STANDARDS, AS DETERMINED BY REGULATION OF THE DEPARTMENT;

4 ~~(4)~~ (3) UPON COMPLETION OF REHABILITATION, THE DEPARTMENT MUST APPROVE EACH

5 COMPLETED UNIT BEFORE RESALE;

6 ~~(5)~~ (4) A DEVELOPER SHALL PURCHASE AND REHABILITATE THE UNIT AND REQUEST A

7 PRIORITY PERIOD, AS SET FORTH IN SECTION 13.404 OF THIS SUBTITLE, WITHIN ONE

8 YEAR OF THE DEVELOPER'S INITIAL NOTIFICATION OF SALE UNDER SECTION 13.404;

9 ~~(6)~~ (5) THE SALES PRICE FOR A SUBSTITUTE UNIT SHALL BE THE LOWEST OF THE

10 FOLLOWING:

11 (I) THE MODERATE INCOME HOUSING UNIT PRICE DETERMINED BY THE

12 DEPARTMENT AT THE TIME OF THE DEVELOPER'S REQUEST FOR A PRIORITY

13 PERIOD FOR THE SUBSTITUTE UNIT; OR

14 (II) THE DEVELOPER'S ACTUAL COST OF PURCHASING, REHABILITATING, AND

15 SELLING THE SUBSTITUTE UNIT, INCLUDING ACTUAL AND REASONABLE

16 CARRYING COSTS; AND

17 ~~(7)~~ (6) A DEVELOPER SHALL PURCHASE SUBSTITUTE UNITS OF THE FOLLOWING TYPES AND

18 AT THE FOLLOWING RATIO:

TYPE OF REQUIRED MIHU:	TYPE OF SUBSTITUTE UNIT:	RATIO:
APARTMENT	APARTMENT	1:1
APARTMENT	SINGLE-FAMILY, ATTACHED	3:2
APARTMENT	SINGLE-FAMILY, DETACHED	2:1
SINGLE-FAMILY, ATTACHED	APARTMENT	2:3
SINGLE-FAMILY, ATTACHED	SINGLE-FAMILY, ATTACHED	1:1
SINGLE-FAMILY, ATTACHED	SINGLE-FAMILY, DETACHED	3:2
SINGLE-FAMILY, DETACHED	APARTMENT	1:2
SINGLE-FAMILY, DETACHED	SINGLE-FAMILY, ATTACHED	2:3
SINGLE-FAMILY, DETACHED	SINGLE-FAMILY, DETACHED	1:1

20

21 (D) *OFFER TO LOW-INCOME PURCHASERS.* THE DEVELOPER MAY SUBSTITUTE UNITS BY OFFERING

22 ONE-THIRD OF THE MODERATE INCOME HOUSING UNITS REQUIRED UNDER THIS SUBTITLE TO

1 ELIGIBLE LOW-INCOME PURCHASERS WHO SHALL HAVE AN ANNUAL HOUSEHOLD INCOME OF UP TO
2 60 PERCENT OF THE MEDIAN INCOME. THE PURCHASE PRICE FOR THESE UNITS SHALL BE
3 ESTABLISHED IN THE SAME MANNER AS SET FORTH IN SECTION 13.403 OF THIS SUBTITLE, EXCEPT
4 THAT THE BASE PRICE SHALL BE AFFORDABLE TO A PURCHASER WITH A HOUSEHOLD INCOME
5 EQUAL TO THE FOLLOWING PERCENTAGES OF MEDIAN INCOME, ADJUSTED BY FAMILY SIZE
6 APPROPRIATE TO THE SIZE AND NUMBER OF BEDROOMS IN THE UNIT:

7 (1) FIFTY-FIVE PERCENT FOR PROFFERED UNITS AND SINGLE-FAMILY DETACHED
8 HOMES;

9 (2) FIFTY PERCENT FOR SEMI-DETACHED (DUPLEXES) AND SINGLE-FAMILY ATTACHED
10 (TOWNHOMES); AND

11 (3) FORTY-FIVE PERCENT FOR APARTMENTS (CONDOMINIUMS).

12 (E) *FEE-IN-LIEU*. THE DEVELOPER MAY PAY A FEE-IN-LIEU TO THE DEPARTMENT FOR EACH
13 ~~MODERATE INCOME HOUSING UNIT REQUIRED BY THIS SUBTITLE AS FOLLOWS~~ UNIT IN THE
14 DEVELOPMENT OR PORTION OF THE DEVELOPMENT THAT IS NOT PROVIDING MIHUS ONSITE:

15 ~~(1) THE FEE IN LIEU SHALL BE CALCULATED AS THE DIFFERENCE BETWEEN THE~~
16 ~~PREVAILING MARKET PRICE AND THE MODERATE INCOME HOUSING UNIT PRICE OF A~~
17 ~~THREE BEDROOM SINGLE FAMILY ATTACHED UNIT; PROVIDED, HOWEVER, THE FEE-~~
18 ~~IN LIEU SHALL NOT BE LESS THAN SEVEN AND ONE HALF PERCENT OF THE SALE~~
19 ~~PRICE FOR THE MODERATE INCOME HOUSING UNIT;~~

20 ~~(2) THE PREVAILING MARKET PRICE SHALL BE DETERMINED BY A SURVEY OF SALES~~
21 ~~PRICES OF THREE BEDROOM SINGLE FAMILY ATTACHED UNITS SOLD COUNTY WIDE~~
22 ~~WITHIN THE PREVIOUS 6 MONTHS AS REPORTED BY THE METROPOLITAN REGIONAL~~
23 ~~INFORMATION SYSTEM (MRIS);~~

24 ~~(3) SALES OF THE FOLLOWING UNITS SHALL BE EXCLUDED FROM THE SURVEY:~~

25 ~~(i) TOWNHOUSES LESS THAN 1,200 SQUARE FEET AND MORE THAN 2,000~~
26 ~~SQUARE FEET;~~

27 ~~(ii) UNITS IN POOR CONDITION OR IN NEED OF SIGNIFICANT REPAIR OR~~
28 ~~RENOVATION; AND~~

29 ~~(iii) THE THREE HIGHEST AND THREE LOWEST SALES PRICES;~~

30 ~~(4) THE DEPARTMENT SHALL CONDUCT THE SURVEY AS OF JUNE 1 AND DECEMBER 1~~
31 ~~OF EACH YEAR. THE FEE IN LIEU SHALL BE REVIEWED AND APPROVED BY THE~~
32 ~~HOUSING AND COMMUNITY DEVELOPMENT BOARD AND PUBLISHED ON THE~~
33 ~~COUNTY'S WEBSITE TOGETHER WITH THE BASE SALES PRICES AND RENTS FOR~~

1 MODERATE INCOME HOUSING UNITS.

2 (1) THE FEE-IN-LIEU FOR FISCAL YEAR 2014 SHALL BE \$2 PER SQUARE FOOT OF
3 RESIDENTIAL SPACE FOR EACH UNIT IN THE DEVELOPMENT AS CALCULATED FOR THE
4 BUILDING EXCISE TAX, SECTION 20, SUBTITLE 5 OF THE HOWARD COUNTY CODE OF
5 MARYLAND;

6 (2) THE FEE-IN-LIEU SHALL BE SET YEARLY BY COUNCIL RESOLUTION BASED UPON THE
7 PERCENTAGE OF INCREASE IN THE ENR CONSTRUCTION COST INDEX FOR THE BALTIMORE
8 REGION AS REPORTED IN ENR, ENGINEERING NEWS RECORD;

9 (3) THE FEE-IN-LIEU SHALL BE PUBLISHED ON THE COUNTY'S WEBSITE TOGETHER WITH THE
10 BASE SALES PRICES AND RENTS FOR MODERATE INCOME HOUSING UNITS;

11 ~~(5) IF THE CALCULATION TO DETERMINE THE NUMBER OF MODERATE INCOME HOUSING~~
12 ~~UNITS REQUIRED IN A DEVELOPMENT UNDER THE ZONING REGULATIONS RESULTS IN~~
13 ~~A FRACTION OF A UNIT, THE FEE IN LIEU SHALL BE PRO-RATED FOR THE~~
14 ~~FRACTIONAL UNIT.~~

15 (4) IF THE DEVELOPER CHOOSES TO PROVIDE A PORTION OF THE REQUIRED MIHUS ON
16 SITE, THE FEE SHALL BE PRORATED ACCORDINGLY.

17 ~~(6) (5) A~~ EXCEPT AS PROVIDED IN PARAGRAPH (A) OF THIS SECTION, A DEVELOPER MAY
18 NOT PAY A FEE IN LIEU OF A SINGLE-FAMILY ATTACHED OR APARTMENT MODERATE
19 INCOME HOUSING UNIT EXCEPT IN AN AGE-RESTRICTED ADULT HOUSING OR
20 PLANNED SENIOR COMMUNITY;

21 ~~(7) (6)~~ A DEVELOPER SHALL PAY THE FEE-IN-LIEU BEFORE A USE AND OCCUPANCY PERMIT
22 MAY BE ISSUED FOR ANY UNIT IN THE DEVELOPMENT; AND

23 ~~(8) (7)~~ THE FEE-IN-LIEU COLLECTED BY THE DEPARTMENT SHALL BE USED FOR
24 HOUSING PROGRAMS OPERATED BY THE DEPARTMENT. THE FOLLOWING:

25 (i) THE SETTLEMENT DOWNPAYMENT LOAN PROGRAM;

26 (ii) THE REHABILITATION LOAN PROGRAM;

27 (iii) GRANTS TO OTHER COUNTY ENTITIES FOR RENTAL HOUSING
28 SUBSIDIES, THE PURCHASE AND REHABILITATION OF EXISTING PROPERTIES
29 FOR SALE OR RENT TO LOW OR MODERATE INCOME HOUSEHOLDS,
30 EMERGENCY EVICTION SUPPORT, OR OTHER HOUSING OPPORTUNITIES FOR
31 LOW AND MODERATE INCOME HOUSEHOLDS; AND

32 (8) BY FEBRUARY 1 OF EACH YEAR, THE DEPARTMENT SHALL PROVIDE A DETAILED
33 ANNUAL REPORT TO THE COUNCIL OF EACH COLLECTION AND EXPENDITURE OF ALL

1 FEE-IN-LIEU FUNDS FOR THE PRIOR CALENDAR YEAR.

2 (F) *MULTI-PLEX DWELLINGS*. NOTWITHSTANDING SECTION 13.402(D) OF THIS SUBTITLE, ANY
3 DEVELOPMENT OF SINGLE-FAMILY DETACHED DWELLING UNITS MAY PROVIDE MODERATE INCOME
4 HOUSING UNITS ON SITE IN THE FORM OF MULTI-PLEX DWELLING UNITS IN ACCORDANCE WITH THE
5 APPLICABLE PROVISIONS OF THE ZONING REGULATIONS.

6
7 ***Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland,***
8 *that this Act shall become effective 61 days after its enactment.*