

Introduced 6/3/2013  
Public Hearing 6/17/2013  
Council Action 7/25/2013  
Executive Action 7/30/2013  
Effective Date 9/29/2013

## 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 June 3, 2013. Ordered posted and hearing scheduled.

By order Sheila M. Tolliver  
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 June 17, 2013.

Tabled July 1, 2013

By order Sheila M. Tolliver  
Sheila M. Tolliver, Administrator

This Bill was read the third time on July 25, 2013 and Passed , Passed with amendments , Failed .

By order Sheila M. Tolliver  
Sheila M. Tolliver, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 26<sup>th</sup> day of July, 2013 at 3:00 a.m./p.m.)

By order Sheila M. Tolliver  
Sheila M. Tolliver, Administrator

Approved  Vetoed by the County Executive July 30, 2013

Ker Ulman  
Ker 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

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

~~(3)~~(2) THE REHABILITATION OF EACH SUBSTITUTE UNIT SHALL MEET THE DEPARTMENT'S  
MINIMUM STANDARDS, AS DETERMINED BY REGULATION OF THE DEPARTMENT;

~~(4)~~(3) UPON COMPLETION OF REHABILITATION, THE DEPARTMENT MUST APPROVE EACH  
COMPLETED UNIT BEFORE RESALE;

~~(5)~~(4) A DEVELOPER SHALL PURCHASE AND REHABILITATE THE UNIT AND REQUEST A  
PRIORITY PERIOD, AS SET FORTH IN SECTION 13.404 OF THIS SUBTITLE, WITHIN ONE  
YEAR OF THE DEVELOPER'S INITIAL NOTIFICATION OF SALE UNDER SECTION 13.404;

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

(i) THE MODERATE INCOME HOUSING UNIT PRICE DETERMINED BY THE  
DEPARTMENT AT THE TIME OF THE DEVELOPER'S REQUEST FOR A PRIORITY  
PERIOD FOR THE SUBSTITUTE UNIT; OR

(ii) THE DEVELOPER'S ACTUAL COST OF PURCHASING, REHABILITATING, AND  
SELLING THE SUBSTITUTE UNIT, INCLUDING ACTUAL AND REASONABLE  
CARRYING COSTS; AND

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

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

Amendment 1 to  
Council Bill No. 35-2013

BY: Calvin Ball

Legislative Day No. 10  
Date: 7/25/2013

Amendment No. 1

*(The amendment eliminates the requirement that substitute housing units must be in foreclosure.)*

- 1 On the title page, in the purpose paragraph, strike “that are in foreclosure”.
- 2 On page 1:
- 3 1. In line 21, strike “UNITS IN FORECLOSURE” and substitute “SUBSTITUTE UNITS”;
- 4 2. in lines 22 and 23, delete “ARE IN FORECLOSURE AND”;
- 5 3. strike lines 24 through 29 in their entirety;
- 6 4. in line 30, strike “(2)” and substitute “(1)”;
- 7 5. in line 33, strike “(3)” and substitute “(2)”.
- 8 On page 2:
- 9 1. in line 2, strike “(4)” and substitute “(3)”;
- 10 2. in line 4, strike “(5)” and substitute “(4)”;
- 11 3. in line 7, strike “(6)” and substitute “(5)”;
- 12 4. in line 15, strike “(7)” and substitute “(6)”.
- 13

ADOPTED 7/25/2013  
FAILED \_\_\_\_\_  
SIGNATURE Shelia Sullivan





Amendment 2 to Council Bill No. 35-2013

BY: Calvin Ball

Legislative Day No. 10

Date: July 25, 2013

Amendment No. 2

*(The amendment adds the fee-in-lieu provisions to a zoning district.)*

1 On page 1, make the following changes:

2 1. in line 15, strike the second instance of "AND"; and

3 2. at the end of line 16, strike "." and substitute

4 "3. SINGLE FAMILY ATTACHED HOMES IN R-H-ED; AND

5 4. MIXED USE DEVELOPMENTS IN MXD."

6

ADOPTED 7/25/2013  
FAILED \_\_\_\_\_  
SIGNATURE Shanta Williams



AMENDED Amendment 3 to Council Bill No. 35-2013

BY: Calvin Ball

Legislative Day No. 10

Date: July 25, 2013

Amendment No. 3

*(The amendment sets the fee in lieu collected by the Department and provides for an annual increase.)*

1 On page 3, strike line 11 and substitute:

2 “UNIT IN THE DEVELOPMENT OR PORTION OF THE DEVELOPMENT THAT IS NOT PROVIDING  
3 MIHUS ONSITE.”

4 On page 3, strike lines 12 through 31 and substitute the following:

5

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

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

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

15 On page 3, strike lines 32 and 33 and substitute:

16 “(5) IF THE DEVELOPER CHOOSES TO PROVIDE A PORTION OF THE REQUIRED MIHUS ON  
17 SITE, THE FEE SHALL BE PRORATED ACCORDINGLY.”

18 On page 4, strike lines 1 and 2, inclusive and in their entirety.

19

20 On page 4, in line 3, strike “A” and substitute “EXCEPT AS PROVIDED IN PARAGRAPH (A)  
21 OF THIS SECTION, A”

22 Renumber the remaining sections accordingly.

ADOPTED 7/25/2013  
FAILED \_\_\_\_\_  
SIGNATURE Shirley Galloway

1

2 One page 4, in line 14, insert "Section 2. And Be It Further Enacted by the County  
3 Council of Howard County, Maryland, that the provisions of this Act shall apply to  
4 developments that are not technically complete prior to the effective date of this act."

5

6 Renumber the remaining sections accordingly.

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8

Amendment 1 to Amendment 3 to Council Bill No. 35-2013

BY: Calvin Ball

Legislative Day No: 10

Date: July 25, 2013

Amendment No. 1 to Amendment No. 3

*(This amendment corrects a drafting error.)*

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On page 1, in line 17, strike from "are" through "complete" and substitute "receive approval of an initial submission".

ADOPTED \_\_\_\_\_  
FAILED \_\_\_\_\_  
SIGNATURE \_\_\_\_\_  
*W. F. Johnson*  
*Supra introduction*  
*Steve Johnson*



Amendment 9 to Amendment 3 to Council Bill No. 35 -2013

BY: Chairperson at the request  
of the County Executive and  
Calvin Ball

Legislative Day No. 10  
Date: July 25, 2013

Amendment 2 to Amendment 3

*(This amendment makes certain changes to fee in lieu provisions.)*

1 On page 1, before line 1, insert:

2 “On page 3, strike line 11 and substitute:

3 “UNIT IN THE DEVELOPMENT OR PORTION OF THE DEVELOPMENT THAT IS NOT PROVIDING MIHUS  
4 ONSITE:””.

5  
6 On page 1, in line 12, insert:

7 “On page 3, strike lines 32 and 33 and substitute:

8 “(5) IF THE DEVELOPER CHOOSES TO PROVIDE A PORTION OF THE REQUIRED MIHUS ON SITE,  
9 THE FEE SHALL BE PRORATED ACCORDINGLY.”

10

11 On page 4, strike lines 1 and 2, inclusive and in their entirety.

12

13 On page 4, in line 3, strike “A” and substitute “EXCEPT AS PROVIDED IN PARAGRAPH (A) OF THIS  
14 SECTION, A””.

15

16 On page 1, strike lines 15 through 19, inclusive and in their entirety.

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ADOPTED 7/25/2013

FAILED \_\_\_\_\_

SIGNATURE Steve J. J. J.





Amendment 4 to  
Council Bill No. 35-2013

BY: Calvin Ball

Legislative Day No. 10  
Date: July 25, 2013

Amendment No. 4

*(The amendment clarifies that the fee in lieu collected by the Department is dedicated to specific programs.)*

1 On page 4, in line 7 strike "AND".

2

3 Also on page 4, in line 8 strike from "HOUSING" through the end of line 9, and substitute

4 "THE FOLLOWING:

5 (i) THE SETTLEMENT DOWNPAYMENT LOAN PROGRAM;

6 (ii) THE REHABILITATION LOAN PROGRAM;

7 (iii) GRANTS TO OTHER COUNTY ENTITIES FOR RENTAL HOUSING

8 SUBSIDIES, THE PURCHASE AND REHABILITATION OF EXISTING

9 PROPERTIES FOR SALE OR RENT TO LOW OR MODERATE INCOME

10 HOUSEHOLDS, EMERGENCY EVICTION SUPPORT, OR OTHER HOUSING

11 OPPORTUNITIES FOR LOW AND MODERATE INCOME HOUSEHOLDS;

12 AND

13 (9) BY FEBRUARY 1 OF EACH YEAR, THE DEPARTMENT SHALL PROVIDE A DETAILED

14 ANNUAL REPORT TO THE COUNCIL OF EACH COLLECTION AND EXPENDITURE OF ALL

15 FEE-IN-LIEU FUNDS FOR THE PRIOR CALENDAR YEAR."

16

ADOPTED 7/25/2013  
FAILED \_\_\_\_\_  
SIGNATURE Calvin Ball



Introduced \_\_\_\_\_  
Public Hearing \_\_\_\_\_  
Council Action \_\_\_\_\_  
Executive Action \_\_\_\_\_  
Effective Date \_\_\_\_\_

## County Council Of Howard County, Maryland

2013 Legislative Session

Legislative Day No.

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:*

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6 *zones”*

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

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

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

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

24 (1) A SUBSTITUTE UNIT IS ELIGIBLE UNDER THIS OPTION IF IT:

25 (i) HAS HAD MORTGAGE OR TAX FORECLOSURE PROCEEDINGS INITIATED;

26 (ii) HAS NOT HAD A MORTGAGE OR TAX PAYMENT MADE FOR AT LEAST 90  
27 DAYS; AND

28 (iii) HAS BEEN OFFERED FOR SALE BY THE OWNER TO THE PUBLIC OR THE  
29 DEPARTMENT;

30 (2) THE DEPARTMENT MUST APPROVE EACH SUBSTITUTE UNIT BEFORE PURCHASE BY  
31 THE DEVELOPER, AND SHALL ENSURE THAT THE SUBSTITUTE UNIT PROVIDES THE  
32 SAME NUMBER OF BEDROOMS AS PLANNED FOR THE ON-SITE UNIT;

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



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

2 (4) UPON COMPLETION OF REHABILITATION, THE DEPARTMENT MUST APPROVE EACH  
3 COMPLETED UNIT BEFORE RESALE;

4 (5) A DEVELOPER SHALL PURCHASE AND REHABILITATE THE UNIT AND REQUEST A  
5 PRIORITY PERIOD, AS SET FORTH IN SECTION 13.404 OF THIS SUBTITLE, WITHIN ONE  
6 YEAR OF THE DEVELOPER'S INITIAL NOTIFICATION OF SALE UNDER SECTION 13.404;

7 (6) THE SALES PRICE FOR A SUBSTITUTE UNIT SHALL BE THE LOWEST OF THE  
8 FOLLOWING:

9 (I) THE MODERATE INCOME HOUSING UNIT PRICE DETERMINED BY THE  
10 DEPARTMENT AT THE TIME OF THE DEVELOPER'S REQUEST FOR A PRIORITY  
11 PERIOD FOR THE SUBSTITUTE UNIT; OR

12 (II) THE DEVELOPER'S ACTUAL COST OF PURCHASING, REHABILITATING, AND  
13 SELLING THE SUBSTITUTE UNIT, INCLUDING ACTUAL AND REASONABLE  
14 CARRYING COSTS; AND

15 (7) A DEVELOPER SHALL PURCHASE SUBSTITUTE UNITS OF THE FOLLOWING TYPES AND  
16 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

18  
19 (D) *OFFER TO LOW-INCOME PURCHASERS.* THE DEVELOPER MAY SUBSTITUTE UNITS BY OFFERING  
20 ONE-THIRD OF THE MODERATE INCOME HOUSING UNITS REQUIRED UNDER THIS SUBTITLE TO  
21 ELIGIBLE LOW-INCOME PURCHASERS WHO SHALL HAVE AN ANNUAL HOUSEHOLD INCOME OF UP TO  
22 60 PERCENT OF THE MEDIAN INCOME. THE PURCHASE PRICE FOR THESE UNITS SHALL BE

1 ESTABLISHED IN THE SAME MANNER AS SET FORTH IN SECTION 13.403 OF THIS SUBTITLE, EXCEPT  
2 THAT THE BASE PRICE SHALL BE AFFORDABLE TO A PURCHASER WITH A HOUSEHOLD INCOME  
3 EQUAL TO THE FOLLOWING PERCENTAGES OF MEDIAN INCOME, ADJUSTED BY FAMILY SIZE  
4 APPROPRIATE TO THE SIZE AND NUMBER OF BEDROOMS IN THE UNIT:

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

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

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

10 (E) *FEE-IN-LIEU*. THE DEVELOPER MAY PAY A FEE-IN-LIEU TO THE DEPARTMENT FOR EACH  
11 MODERATE INCOME HOUSING UNIT REQUIRED BY THIS SUBTITLE AS FOLLOWS:

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

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

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

22 (i) TOWNHOUSES LESS THAN 1,200 SQUARE FEET AND MORE THAN 2,000  
23 SQUARE FEET;

24 (ii) UNITS IN POOR CONDITION OR IN NEED OF SIGNIFICANT REPAIR OR  
25 RENOVATION; AND

26 (iii) THE THREE HIGHEST AND THREE LOWEST SALES PRICES;

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

32 (5) IF THE CALCULATION TO DETERMINE THE NUMBER OF MODERATE INCOME HOUSING  
33 UNITS REQUIRED IN A DEVELOPMENT UNDER THE ZONING REGULATIONS RESULTS IN

1 A FRACTION OF A UNIT, THE FEE-IN-LIEU SHALL BE PRO-RATED FOR THE  
2 FRACTIONAL UNIT.

3 (6) A DEVELOPER MAY NOT PAY A FEE IN LIEU OF A SINGLE-FAMILY ATTACHED OR  
4 APARTMENT MODERATE INCOME HOUSING UNIT EXCEPT IN AN AGE-RESTRICTED  
5 ADULT HOUSING OR PLANNED SENIOR COMMUNITY;

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

8 (8) THE FEE-IN-LIEU COLLECTED BY THE DEPARTMENT SHALL BE USED FOR HOUSING  
9 PROGRAMS OPERATED BY THE DEPARTMENT.

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

14  
15 ***Section 2. And Be It Further Enacted*** by the County Council of Howard County, Maryland,  
16 *that this Act shall become effective 61 days after its enactment.*





Amendment 3 to  
Council Bill No. 35-2013

BY: Calvin Ball

Legislative Day No. 10  
Date: 7/25/2013

Amendment No. 3

*(The amendment sets the fee in lieu collected by the Department and provides for an annual increase.)*

1 On page 3, strike lines 12 through 31 and substitute the following:  
2

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

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

10 (3) THE FEE-IN-LIEU SHALL BE PUBLISHED ON THE COUNTY’S WEBSITE TOGETHER  
11 WITH THE BASE SALES PRICES AND RENTS FOR MODERATE INCOME HOUSING UNITS;”  
12

13 Remember the remaining sections accordingly.  
14

15 One page 4, in line 14, insert “Section 2. And Be It Further Enacted by the County  
16 Council of Howard County, Maryland, that the provisions of this Act shall apply to  
17 developments that are not technically complete prior to the effective date of this act.”  
18

19 Renumber the remaining sections accordingly.  
20  
21