

## **EXHIBIT C**

### **FREDERICK COUNTY REGULATION ON:**

#### **Maximum Rental Rates for Moderately Priced Dwelling Units**

Department of Housing and Community Development

**SUMMARY:** This regulation establishes the maximum rental rates for eligible persons who want to rent moderately priced dwelling units (MPDUs) constructed and rented under Chapter 6A of the Frederick County Code.

**ADDRESSES:** Information and copies of this regulation are available from the Department of Housing and Community Development (DHCD), 5340 Spectrum Drive, Suite A, Frederick, Maryland 21701

**STAFF CONTACT:** Jennifer S. Short, Telephone Number: (301) 600-3530

#### **BACKGROUND INFORMATION:**

Section 6A of the Frederick County Code requires that the County issue regulations establishing maximum permitted rental rates for moderately priced dwelling units (MPDUs). This regulation establishes the maximum rental rates and income levels permitted for the initial and subsequent rental of an MPDU.

Adopted 11/22/02  
Revised 05/24/05  
Revised 10/13/15

## Section 1

### **Definitions**

- 1.1 Applicant is any person, firm, partnership, association, joint venture, corporation or other entity meeting the definition of an applicant contained in Section 1-6A-3(a) of the Moderately Priced Dwelling Unit Program, Chapter 6A of the Frederick County Code.
- 1.2 Consumer Price Index means that latest published version of the Consumer Price Index for All Urban Consumers (CPI-U) of the U. S. Department of Labor for the Washington Metropolitan Area.
- 1.3 Council means the Affordable Housing Council of Frederick County.
- 1.4 Control period means the time an MPDU is subject to either resale price controls and owner occupancy requirements or maximum rental limits as provided in Section 1-6A-9. The control period is 15 years for sale units and 25 years for rental units, except as provided in §1-6A-5.2 and begins on the date of initial sale or rental.
- 1.5 Date of original rental means the date the first lease agreement for an MPDU takes effect.
- 1.6 Department means the Department of Housing and Community Development.
- 1.7 Director, except otherwise indicated means the head of the Department of Housing and Community Development or the director's designee.
- 1.8 Eligible person means a person or household whose income qualifies the person or household to participate in the MPDU rental program, and except as provided under Section 5 below, who holds a valid certificate of eligibility from the Department which entitles the person or household to rent an MPDU during the priority marketing period.
- 1.9 Except as provided under Section 5 below, eligibility certificate means a certificate valid for a specified period of time, which is issued by the Department to eligible persons and that places them on an eligibility list for rental units maintained by the Department.
- 1.10 Moderately priced dwelling unit or MPDU means a dwelling unit which is:

- (a) offered for sale or rent to eligible persons through the Department, and sold or rented under Chapter 6A; or
  - (b) sold or rented under a government program designed to assist the construction or occupancy of housing for families of low or moderate income, and designated by the Director as an MPDU.
- 1.11 Moderately Priced Dwelling Unit (MPDU) Program means Chapter 6A of the Frederick County Code.
- 1.12 Except as provided in Section 5 below, priority marketing period means the period an MPDU must be offered exclusively for sale or rent to eligible persons as provided in Section 1-6A-8 of the MPDU Program.

## **Section 2**

### **Applicability & Income Limits**

- 2.1 The rents contained in this regulation are applicable to all units constructed and rented through the MPDU program after the effective date of this regulation.
- 2.2 Except as provided in Section 5 below, the rental rates for new MPDUs offered for rent are those in effect at the time the rental offering agreement is approved by the Department.
- 2.3 The rental income limits for eligible persons are those established for the MPDU program by the County through separate Regulation. The current rental income limits - are automatically adjusted to the limits contained in the Regulation which is in effect when the MPDUs are offered for rent.

## **Section 3**

### **Maximum Allowable Rents for MPDUs**

- 3.1 The method for computing the maximum allowable rents for MPDUs is based on the income limits in Section 2.3, assuming 1.5 persons per bedroom. (Example: to compute the one bedroom rent, the calculation is as follows: 1 person income limit + 2 person income limit / 2 = income limit for purposes of calculating rent.). Rental rates will be computed based on the income limits in effect at the time the MPDU's are offered for rent.

The maximum monthly rental rates are based on twenty five (25) percent of the monthly income limit for each unit size in 3.1, excluding utilities

- 3.2 Except as provided in Section 5 below, the rental rate for garden apartment MPDUs will be established initially based upon a determination by the Director of all the ordinary, necessary, and reasonable costs to construct, market and operate the required number of MPDU rental units.
- 3.3 Except as provided in Section 5 below, there will be an annual review and adjustment in the rental rates of MPDUs previously rented in accordance with the change in the consumer priced index of the Washington MSA. If the apartment development is financed through a Federal, State, or Local affordable housing program then the requirements of that program will supercede this provision.
- 3.4 Except as provided in Section 5 below, if some utility charges are paid by the applicant as part of the project's expenses, requests for an increased MPDU rental rate will be considered. Estimates of annual expenses for the additional utilities must be certified by a registered engineer or by the appropriate utility company. After the first year of operation, utility charges will be based on the actual, average cost of the utility expenses for the previous 12 months.
- 3.5 Except as provided in Section 5 below, laundry washer and dryer equipment must be provided in each rental MPDU unit unless this equipment is not provided in the market rate units. No increase in rent is allowed unless market rate units are separately charged. MPDUs will be charged at the same rate as the market units subject to approval by the Department.
- 3.6 Except as provided in Section 5 below, the applicant may not charge a fee for unstructured automobile parking. Structured parking spaces may be offered as an option to the MPDU occupants at the monthly rate normally charged by the applicant for the project. If structured parking is included in the rent for a market rate unit, the Department will establish the rent for a structured parking space considering the cost of constructing and financing the parking space and parking space rental rates at similar projects in the same area. Surface parking on the property will be provided to MPDU occupants in accordance with the Frederick County Zoning Ordinance, Chapter 1-19 of the Frederick County Code.
- 3.7 If an owner of a rental MPDU is a designated nonprofit housing corporation limiting tenancy to families with incomes below MPDU income eligibility levels, the initial base rents, including an allowance for utility costs, may not exceed 40% of the tenant's total family income except if the tenant has been

paying rent and utilities at other locations in excess of 40% of total family income. The rental rate does not include amounts added to amortize MPDU options or amenities such as dishwashers or laundry washer and dryers.

- 3.8 Except as provided in Section 5 below, rental rates for MPDUs in elderly projects that have a monthly charge which combines rent with a service package will be established by the director on a case by case basis after consideration of supporting documentation of the development costs and operating expenses submitted by the applicant.

## **Section 4**

### **Rental Procedures**

- 4.1 Except as provided in Section 5 below, the applicant must rent the MPDUs to eligible persons exclusively for the priority marketing period in conformance with the income limits and rental rates established in this regulation or as adjusted for subsequent changes in the MPDU income limits. A person or household seeking to rent an MPDU must apply to the Department to be certified as eligible for participation in the program and to be placed on the eligibility list. To be eligible a person's or household's income must not exceed the program income limits established in Section 2.3 or in the Regulation establishing the MPDU income limits in effect at the time the apartment is offered for rent. It is the responsibility of the individual or household to provide the information required by the Department to demonstrate that the individual or household meets the eligibility requirements. The Department will specify the information and documentation that must be presented including, but not limited to: copies of previously filed federal and state income tax returns, W-2 forms, divorce or separation agreements, and copies of paycheck stubs. Household income from all sources will be considered when determining eligibility.
- 4.2 Except as provided in Section 5 below, the priority marketing period begins on the date contained in the offering agreement or the date of the lottery drawing, if a drawing is held to determine a marketing list of eligible persons and extends for a 90 day period. If the units are not rented to eligible persons during the priority marketing period and the applicant has proved to the satisfaction of the Department that a good faith effort was made to rent the units to eligible persons the applicants may then rent the units to the general public at the MPDU rental rate. The priority-marketing period may be extended by the Department if eligible persons are available to rent the MPDUs. If construction or occupancy of the MPDUs is phased over a specific period of time, the priority-marketing period begins when the MPDU

is offered for rent. The applicant must obtain written approval from the Department prior to renting MPDUs to the general public.

- 4.3 Except as provided in Section 5 below, the MPDUs must be ready for occupancy within 120 days of the beginning of the priority-marketing period.
- 4.4 Except as provided in Section 5 below, the lease agreement for MPDUs, other than those leased to the Council or designated non-profit housing corporations, must include the provisions listed below:
  - a. The tenant must occupy the units as his or her primary residence and prohibit subleasing the unit.
  - b. The tenant must provide income and family composition information to the applicant every two years for recertification purposes.
  - c. Except as provided in Section 5 below, if the tenant fails to provide income and family composition information within 30 days of receiving the income recertification form, the tenant must vacate the unit within 60 days of receiving notification from the applicant that the recertification form and documentation was not received. The applicant must take the steps necessary to have the tenant vacate the unit.
  - d. Except as provided in Section 5 below, the tenant must vacate the MPDU if the tenant's income exceeds the maximum eligible income necessary to qualify as an eligible person by twenty percent (20%). The applicant must take action necessary to have the tenant vacate the MPDU within six months of receiving information that the tenant's income exceeds the maximum permitted income limit. The applicant may substitute another unit of the same number of bedrooms for the existing MPDU and permit the tenant to occupy the old unit at the market rent. A new covenant form must be submitted to the Department and recorded subjecting the substituted unit to the MPDU covenants.
- 4.5 Except as provided in Section 5 below, the applicant must use the Apartment and Condominium Lease approved by the Frederick County Department of Housing and Community Development. In addition to this lease, the applicant must have a lease addendum that includes the provisions described in Section 4.4 before renting any of the MPDUs.
- 4.6 Except as provided in Section 5 below, the applicant must supply the information listed below to the Department on an annual basis:

- a. The number of MPDUs, by bedroom count, which are leased to eligible persons, the Council or designated non-profit housing corporations.
  - (1) the unit address and size by number of bedrooms and rental rate,
  - (2) the tenant's name and household size,
  - (3) the tenant's total household income as of the date of the lease,
  - (4) the effective date of the lease,
  - (5) the number of MPDU's that are vacant.
- b. A statement that to the best of the applicant's information and knowledge, the tenants who are leasing the MPDUs meet the eligibility criteria.
- c. A copy of each new or revised tenant certification form.
- d. The applicant must send a copy of the initial and all renewal leases to the Department within 30 days of signing the new lease.
- e. If the applicant is required to report tenant occupancy information pursuant to a government financing regulation agreement, then that report may be substituted for the information required in Section 4.6(a).

4.7 Except as provided in Section 5 below, if the applicant has an MPDU to be re-rented, the applicant must offer the unit to eligible persons for a period of 60 days before renting the MPDU to the general public at the approved MPDU rental rate. The applicant must notify the Department in writing 30 days prior to the MPDU being available for re-rent. The 60-days period will commence when the applicant notifies the Department of the unit's actual or impending vacancy.

## **Section 5**

### **Other Rental Housing Programs**

When the requirement under Chapter 6A to provide moderately priced dwelling units is met through the construction of public rental housing or with rental housing constructed under other Federal, State or Local programs including the Low Income Housing Tax Credit Program to assist low and moderate income families, the following rules shall apply:

5.1 The income limits and rules for operation of the appropriate governmental program will prevail, except that the control period for the rental units shall be extended

to 99 years to ensure long term affordability. See §1-6A-5.2 of the Frederick County Code.

5.2 Rents shall be established in accordance with the regulatory requirements of the federal, state, or local government program under which the units are developed and as approved by the Director to satisfy MPDU requirements.

5.3 The Development or Management Company shall perform and manage the wait list and application processes, selection process of households, perform annual recertifications, and all property management and rental operations, in accordance with the federal, state or local government program under which it operates during the control period (99 years). Annual reports must be provided to DHCD.