

Bill No. 16-08  
Concerning: Extension of the Expiration of  
Section 1-6A-5.1 to allow Payment of a Fee in  
Lieu of Building MPDUs until June 30, 2017

Revised: \_\_\_\_\_ Draft No. \_\_\_\_\_

Introduced: June 21, 2016

Expires: \_\_\_\_\_

Enacted: \_\_\_\_\_

Executive: \_\_\_\_\_ Date Rec'd \_\_\_\_\_

Approved: \_\_\_\_\_ Date: \_\_\_\_\_

Vetoed: \_\_\_\_\_ Date: \_\_\_\_\_

Effective: \_\_\_\_\_

Frederick County Code, Chapter 1-6A, Section(s) \_\_\_\_\_

1-6A-5, 1-6A-5.1

Other: \_\_\_\_\_

## COUNTY COUNCIL FOR FREDERICK COUNTY, MARYLAND

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By: Council Member Jessica Fitzwater

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**AN ACT** to: Extend the expiration date of Ordinance No. 11-20-586, which provided the option to Applicants to pay a fee in lieu of constructing Moderately Priced Dwelling Units. Ordinance No. 11-20-586, by its terms will be of no further force or effect at midnight, September 6, 2016, if no action is taken.

By amending:

Frederick County Code, Chapter 1-6A, Section(s) 1-6A-5, 1-6A-5.1

Other: \_\_\_\_\_

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

Bill No. \_\_\_\_\_

The County Council of Frederick County, Maryland, finds it necessary and appropriate to extend the length of time for which Section 1-6A-5.1 of Chapter 1-6A of the Frederick County Code (Moderately Priced Dwelling Units) will remain in effect, to allow Applicants the option to pay a fee in lieu of constructing Moderately Priced Dwelling Units.

NOW, THEREFORE, BE IT IN ENACTED, that the provisions of the Frederick County Code shown in italics on the attached Exhibit 1, shall not expire at midnight on September 6, 2016, but shall remain in effect through midnight, June 30, 2017, and shall expire and be of no further force and effect at midnight June 30, 2017.

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Harold F. (Bud) Otis, President  
County Council of Frederick County,  
Maryland

**§ 1-6A-5. REQUIREMENT TO BUILD MPDU’S; AGREEMENTS; ALTERNATIVES.**

(A) *EXCEPT AS PROVIDED IN § 1-6A-5.1 BELOW*, Any applicant, in order to obtain a building permit, must submit to the Department of Permits and Inspections, with the application for a permit, a written MPDU agreement approved by the Director and the County Attorney. Each agreement must require that:

- (1) A specific number of MPDUs must be constructed on an approved time schedule;
- (2) In single-family dwelling unit subdivisions, each MPDU must have 2 or more bedrooms; and
- (3) In multi-family dwelling unit subdivisions, the number of efficiency and 1 bedroom MPDUs each must not exceed the ratio that market-rate efficiency and 1 bedroom units respectively bear to the total number of market-rate units in the subdivision.

**[The balance of §1-6A-5 remains unchanged.]**

**§ 1-6A-5.1. PAYMENT IN LIEU OF BUILDING MPDU’S; AGREEMENTS.**

(A) *IN LIEU OF THE OPTION SPECIFIED UNDER §1-6A-5, AN APPLICANT, MAY ELECT TO PAY A “PER DWELLING UNIT PAYMENT IN LIEU” CALCULATED AS DESCRIBED BELOW AND INCLUDED IN A WRITTEN MPDU AGREEMENT.*

(B) *EACH MPDU AGREEMENT ENTERED INTO PURSUANT TO A PAYMENT IN LIEU ELECTION MUST INCLUDE THE FOLLOWING:*

(1) *THE TOTAL MPDU PAYMENT IN LIEU FOR THE DEVELOPMENT, WHICH SHALL BE CALCULATED BY MULTIPLYING \$17,500 BY THE NUMBER THAT IS EQUAL TO 12.5% OF THE TOTAL NUMBER OF DWELLING UNITS APPROVED FOR THE DEVELOPMENT AS PART OF THE SITE PLAN, PRELIMINARY PLAN, OR PHASE II PLAN APPROVAL; AND*

(2) *THE PER DWELLING UNIT PAYMENT IN LIEU, WHICH SHALL BE CALCULATED BY DIVIDING THE TOTAL MPDU PAYMENT IN LIEU CALCULATED UNDER SUBSECTION (B)(1) ABOVE BY THE TOTAL NUMBER OF DWELLING UNITS APPROVED AS PART OF THE SITE PLAN, PRELIMINARY PLAN, OR PHASE II PLAN APPROVAL.*

(C) *THE MPDU AGREEMENT MUST BE SIGNED BY THE APPLICANT, ANY OTHER PARTIES HAVING AN INTEREST IN THE PROPERTY AND ALL OTHER PARTIES WHOSE SIGNATURES ARE REQUIRED BY LAW FOR THE EFFECTIVE AND BINDING EXECUTION OF DEEDS CONVEYING REAL PROPERTY. THE MPDU AGREEMENT MUST BE EXECUTED IN A MANNER THAT WILL ENABLE THE AGREEMENT TO BE RECORDED IN THE LAND RECORDS OF THE COUNTY. PARTNERSHIPS, ASSOCIATIONS OR*

*CORPORATIONS SHALL NOT EVADE THIS CHAPTER THROUGH VOLUNTARY DISSOLUTION. THE MPDU AGREEMENT SHALL RUN WITH AND BIND THE LAND AND ALL SUBSEQUENT OWNERS OF THE LAND.*

*(D) AN MPDU AGREEMENT THAT COMPLIES WITH THIS SECTION MUST BE APPROVED BY THE DIRECTOR AND THE COUNTY ATTORNEY AND RECORDED IN THE LAND RECORDS PRIOR TO SIGNATURE AND FINAL APPROVAL OF THE SITE PLAN, PRELIMINARY PLAN OR PHASE II PLAN FOR THE PROPOSED DEVELOPMENT.*

*(E) ALL MPDU PAYMENTS IN LIEU SHALL BE DEPOSITED INTO THE COUNTY HOUSING INITIATIVE FUND.*

*(F) IF THE APPLICANT CHOOSES THE PAYMENT IN LIEU OPTION PROVIDED UNDER THIS SECTION, THE COUNTY DEPARTMENT OF PERMITS AND INSPECTIONS SHALL NOT ACCEPT A BUILDING PERMIT APPLICATION FOR THE DEVELOPMENT UNLESS THE APPLICANT ALSO SUBMITS THE PER DWELLING UNIT PAYMENT IN LIEU REQUIRED UNDER THE MPDU AGREEMENT.*

*(G) ANY DEVELOPMENT WITH SITE PLAN, PRELIMINARY PLAN OR PUD PHASE II PLAN APPROVAL THAT INCLUDES THE OBLIGATION TO BUILD MPDUS, BUT HAS NOT YET STARTED CONSTRUCTION OF MPDUS AS OF AUGUST 16, 2011, MAY ELECT INSTEAD TO REMIT THE TOTAL MPDU PAYMENT IN LIEU DESCRIBED IN SUBSECTION (A)(1) ABOVE. IF AN APPLICANT MAKING THE ELECTION UNDER THIS SUBSECTION HAS ALREADY ENTERED INTO AN MPDU AGREEMENT, THE APPLICANT SHALL REQUEST THE DIRECTOR TO AMEND ITS MPDU AGREEMENT. THE AMENDED MPDU AGREEMENT SHALL COMPLY WITH THE REQUIREMENTS OF THIS SECTION, AND SHALL PROVIDE THAT THE TOTAL MPDU PAYMENT IN LIEU AS CALCULATED UNDER SUBSECTION (B)(1) ABOVE ARE COLLECTED IN CONNECTION WITH THE BALANCE OF BUILDING PERMITS ISSUED FOR THE DEVELOPMENT. ALL AMENDED MPDU AGREEMENTS MUST BE APPROVED BY THE DIRECTOR AND THE COUNTY ATTORNEY.*