



Bill No. 22-28
Concerning: Density bonuses for Moderately Priced Dwelling Units
Introduced: September 20, 2022
Revised: _____ Draft No. _____
Enacted: October 18, 2022
Effective: December 17, 2022
Expires: December 19, 2022
Frederick County Code, Chapter 1-19
Section(s) 8.620.1, .3, .5 & .6; 10.500.6; 11.100

COUNTY COUNCIL FOR FREDERICK COUNTY, MARYLAND

By: Council Member Jessica Fitzwater

AN ACT to: amend the requirements for density bonuses for Moderately Priced Dwelling Units (MPDUs)

Date Council Approved: 10/18/2022 Date Transmitted to Executive: 10/20/2022

Executive: Jan H. Gatchel Date Received: 10/20/2022

Approved: ✓ Date: 10/24/2022

Vetoed: _____ Date: _____

Date returned to Council by County Executive with no action: _____

By amending:

Frederick County Code, Chapter 1-19 Section(s) 8.620.1, .3, .5 & .6; 10.500.6; 11.100

Other: _____

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* * *

Heading or defined term.
Added to existing law.
Deleted from existing law.
Existing law unaffected by bill.

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The County Council of Frederick County, Maryland, finds it necessary and appropriate to amend the Frederick County Code to amend the requirements for density bonuses for Moderately Priced Dwelling Units (MPDUs), specifically to allow density bonuses only when MPDUs are built.

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COUNCIL OF FREDERICK COUNTY, MARYLAND, that the Frederick County Code be, and it is hereby, amended as shown on the attached Exhibit 1.

AND BE IT FURTHER ENACTED, that the amendments shown on Exhibit 1 will be effective for all new applications for development, or applications that increase the density or intensity of an existing development, filed on or after the effective date of this Bill.



M. C. Keegan-Ayer, President
County Council of Frederick County,
Maryland

** CHAPTER 1-19 ZONING

ARTICLE VIII: SPECIFIC USE REGULATIONS

1-19-8.620 MODERATELY PRICED DWELLING UNIT (MPDU).

§ 1-19-8.620.1. PURPOSE AND DESCRIPTION.

The purpose of the MPDU program is to substantially increase the county's supply of moderately priced housing units as a natural function of the development process. This program permits an increase in density above the total number of dwelling units permitted by the standard method of development if MPDUs are actually constructed and the applicant does not choose to pay a per square foot payment in lieu. Construction of MPDUs [H]also permits a reduction in certain area and dimensional requirements where certain criteria are met (see also § 1-19-8.620.5). Alternative options to the production of MPDUs in residential developments may be granted in exceptional cases (Chapter 6A, § 1-6A-5(E) of the MPDU program). The site plan approval procedures of § 1-19-2.160 and § 1-19-3.300 through § 1-19-3.300.4 of this Code must be followed, except as specifically provided in this division. Where any of the provisions of this section are elected for a development, all of the requirements of this division apply.

16 § 1-19-8.620.2. SCOPE AND REQUIREMENTS.

17 The provisions of this division shall apply to all residential developments consisting of 25 units
18 or more on public water and sewer. Residential developments consisting of 25 units or more are
19 required to provide no less than 12.5% of the total units as MPDUs. This includes all
20 developments in VC, R-1, R-3, R-5, R-8, R-12, R-16 residential districts, MX, MXD, and PUD
21 districts.

22 **§ 1-19-8.620.3. DENSITY BONUS.**

23 (A) If at least 12.5% of the total number of dwelling units are constructed as MPDUs in
24 accordance with Chapter 1-6A:

(1) Density bonuses at a one-to one ratio will be provided; for each MPDU built, one unit of density bonus is earned.

(2) A two-to-one density bonus may be approved by the Planning Commission for MPDUs constructed in specified growth areas as identified in the Livable Frederick Master Plan. [ranging from 1% to 22% with a corresponding increase in the MPDU requirement from 12.5% to 15% are permitted in R-1, R-3, R-5, R-8, R-12, and R-16 residential districts, VC, MX, MXD, PUD, and co-housing.]

(B) The density bonus dwelling units must be the same unit type as the MPDUs. Density bonus units will not be approved if the additional density would cause the development to violate any applicable State or County regulations, or to exceed a dwelling unit cap, if any, established at the time of rezoning.

[The required MPDU units and allowed density bonuses are:

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<i>Achieved Density Bonus</i>	<i>MPDUs Required</i>
<i>Achieved Density Bonus</i>	<i>MPDUs Required</i>
Zero	12.5%
Up to 1%	12.6%
Up to 2%	12.7%
Up to 3%	12.8%
Up to 4%	12.9%
Up to 5%	13.0%
Up to 6%	13.1%
Up to 7%	13.2%
Up to 8%	13.3%
Up to 9%	13.4%
Up to 10%	13.5%
Up to 11%	13.6%
Up to 12%	13.7%
Up to 13%	13.8%
Up to 14%	13.9%
Up to 15%	14.0%
Up to 16%	14.1%
Up to 17%	14.2%
Up to 18%	14.3%
Up to 19%	14.4%
Up to 20%	14.5%
Up to 22%	15.0%

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1 **§ 1-19-8.620.4. EXCEPTIONS.**

2 Any existing site plan, preliminary subdivision plat or Phase II PUD plan approved and having
3 prior APFO approval prior to the effective date of this chapter shall be exempt from the MPDU
4 requirement as long as such approved plan or plat, including any extension or modification
5 thereof, remains valid. Notwithstanding the above, if any revision or modification of an approved
6 plan which would otherwise be exempt from this chapter increases the density of the project, the
7 increased density shall be subject to the requirements of this chapter.

8 **§ 1-19-8.620.5. LOT AREA, WIDTH AND YARD MEASUREMENTS.**

9 (A) ~~[A full reduction of lot area, width, and yard measurements for all or a portion of a project utilizing the payment in lieu of building MPDU's (as provided in § 1-6A-5.1 of the Frederick County Code) is not guaranteed.~~

12 ~~(B) Within projects with R1, R3, R5, R8, R12, or R16 zoning where payment is made in lieu of building MPDU's the reduced measurements as provided in the chart below (§ 1-19-8.620.5.E) may be utilized only after the Planning Commission or its authorized representative has approved the reduced measurements based on consideration of the following factors:~~

16 ~~(1) Buildings will be located and designed with consideration of the surrounding development patterns with regard to scale and setbacks.~~

18 ~~(2) Buildings shall predominantly be designed and constructed to include finishes and materials of consistent quality and design.~~

20 ~~(3) Buildings shall be designed and oriented to pedestrian and recreational amenities, streets and roadways.~~

22 ~~(4) The proposed project provides adequate open space and preservation of natural features.~~

23 ~~(5) Proximity, convenience, and accessibility of central organizing features such as parks, green areas, recreation areas, civic spaces, or community facilities, to the residents of the development.~~

26 ~~(6) Pedestrian and vehicular interconnections with existing and planned transportation networks.~~

28 ~~(7) Provisions for off street parking to the side and/or rear of residential buildings including incorporation of alley loaded units.~~

30 ~~(C) [Concept plan approval (submitted in conformance with § 1-19-3.300.2(B)) from the Planning Commission or its authorized representative is required as the first step in the development review process for projects with VC, R1, R3, R5, R8, R12, or R16 zoning, utilizing the reduced measurements as provided for in § 1-19-8.620.5.E, and utilizing payment in lieu of building MPDU's.]~~

35 ~~(D) The provisions of this section shall apply to all subdivision or site development plan applications for projects with VC, R1, R3, R5, R8, R12, or R16 zoning or amendments that increase the intensity or density of approved subdivision or site development plans for projects with R1, R3, R5, R8, R12, or R16 zoning filed on or after November 10, 2013.]~~

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1 (B[E]) The following lot area, width and yard measurement reductions are allowed only in
 2 developments that include constructed MPDUs.

Use Classification	Current Min. Lot Area	Proposed Min. Lot Area	Current Lot Width	Proposed Lot Width	Current Front Yard	Proposed Front Yard	Current Side Yard	Proposed Side Yard	Current Rear Yard	Proposed Rear Yard	Current Height	Proposed Height
Use Classification	Current Min. Lot Area	Proposed Min. Lot Area	Current Lot Width	Proposed Lot Width	Current Front Yard	Proposed Front Yard	Current Side Yard	Proposed Side Yard	Current Rear Yard	Proposed Rear Yard	Current Height	Proposed Height
Residential One District R-1												
Residential												
Single family	40,000	12,000	100	80	40	30	10	10	30	25	30	30
Duplex dwelling	1 acre	12,000**	100	80	40	30	10	10	30	25	30	30
Two family dwelling	2 acre	12,000**	150	100	40	30	15	10	30	25	30	30
Residential Three District R-3												
Residential												
Single family	12,000	4,000	80	40	30	10	10	4/10*	30	25	30	40
Duplex dwelling	12,000	2,500**	80	25	30	10	10	1/10*	30	25	30	40
Two family dwelling	24,000	2,000**	100	40	30	10	10	4/10*	30	25	30	40
Townhouse		1,600		16		10		4/10*		20		40
Residential Five District R-5												

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Residen tial:												
Single family	8,00 0	3,500	70	35	30	10	8	4/10*	30	25	30	40
Duplex dwelling	8,00 0	2,000 **	70	20	30	10	8	4/10*	30	25	30	40
Two family dwelling	16,0 00	1,750 **	80	35	30	10	8	4/10*	30	25	30	40
Townho use	1,60 0	1,600	16	16	10	10	15	4/*10 *	20	20	30	40

Residential Eight District R-8

Residen tial:												
Single family	6,00 0	3,500	65	35	25	5	8	4/10*	30	25	30	40
Duplex dwelling	6,00 0	2,000 **	65	20	25	5	8	4/10*	30	25	30	40
Two family dwelling	12,0 00	1,750 *	100	35	25	5	10	4/10*	30	25	30	40
Townho use	1,60 0	1,600	16	16	25	5	15	4/10*	20	20	30	40
Multi family dwelling	No Min.	No Min.	150	120	40	10	30	10	50	20	40	60
Multi family group	No Min.	No Min.	150	120	40	10	30	10	50	20	40	60

Residential Twelve District R-12

Residen tial:												
Single family	6,00 0	3,000	65	30	25	5	8	4/10*	30	20	30	40
Duplex dwelling	6,00 0	2,000 **	65	20	25	5	8	4/10*	30	20	30	40

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Two family dwelling	10,000	1,500 **	100	30	25	5	8	4/10*	30	20	30	40
Townhouse	1,600	1,600	16	16	25	5	15	4/10*	20	20	30	40
Multi family dwelling	No Min.	No Min.	150	100	40	10	+	10	+	20	100	120
Multi family group	No Min.	No Min.	150	100	40	10	+	10	+	20	100	120

Residential Sixteen District R-16 and MX

Residential:												
Single family	6,000	3,000	60	30	25	5	8	4/10*	30	20	30	40
Duplex dwelling	6,000	2,000 **	60	20	25	5	8	4/10*	30	20	30	40
Two family dwelling	10,000	1,500 **	60	30	25	5	8	4/10*	30	20	30	40
Townhouse	1,600	1,600	16	16	15	5	10	4/10*	20	20	30	40
Multi family dwelling	No Min.	No Min.	100	80	50	10	+	10	+	20	100	120
Multi family group	No Min.	No Min.	100	80	120	10	+	10	+	20	100	120

Village Center

Residential:												
Single family	6,000	3,000	65	30	25	5	8	4/10*	30	20	30	40
Duplex dwelling	6,000	2,000 **	65	20	25	5	8	4/10*	30	20	30	40

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Two family dwelling	10,000	1,500 **	75	30	25	5	8	4/10*	30	20	30	40
Townhouse	1,600	1,600	16	16	15	5	10	4/10*	20	20	30	40
Multi family dwelling	No Min.	No Min.	65	50	25	10	15	10	50	20	45	45
Multi family group	No Min.	No Min.	150	100	40	10	30	10	50	20	45	45

1 * Minimum 4 ft. with minimum 10 ft. between structures.

2 ** Minimum lot area per unit.

3 **§ 1-19-8.620.6. PROCEDURES FOR APPLICATION AND APPROVAL.**

4 A written MPDU agreement must be drafted prior to Planning Commission approval of
 5 preliminary plans and site plans. The preliminary plan and site plan must document the number,
 6 type, location, and staging of construction, or otherwise document how the requirements of
 7 Chapter 1-6A (MPDU Ordinance) will be met. A written MPDU agreement must be approved by
 8 the Director of Housing in accordance with Chapter 1-6A [(MPDU Ordinance)], prior to the
 9 issuance of a building permit or the recordation of a final plat.

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11 **ARTICLE X: OPTIONAL METHODS OF DEVELOPMENT**

12 **§ 1-19-10.500.6. LAND USE, MIXTURE, AND DESIGN REQUIREMENTS WITHIN**

13 **THE PUD DISTRICT.**

14 (A) Land use permitted within the PUD District. General land use type and location shall be
 15 approved by the County Council in concept at Phase I and specifically by the Planning
 16 Commission through site development plan review at Phase II. Land uses permitted within the
 17 PUD district are limited to:

18 (1) Residential. All residential uses including single family, duplex, townhouse,
 19 multifamily, or a continuing care retirement community (CCRC).

20 (2) Commercial. Those uses permitted within the Village Center zoning district, indoor
 21 sports recreation facilities without racetracks, and funeral homes.

22 (3) Employment. Those uses permitted within the ORI zoning district as approved by the
 23 Planning Commission.

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1 (4) Institutional. Institutional uses shall be limited to recreational and community activities,
2 public services and facilities, health care facilities, schools, and institutional uses as provided
3 within § 1-19-5.310 Use Table.

4 (5) Uses which are customary, accessory or associated with uses as permitted within this
5 section or specifically approved by the Zoning Administrator including: private garages, storage
6 spaces, tool sheds, or other similar uses.

7 (6) A CCRC PUD or a CCRC as a portion of a PUD may include related accessory uses for
8 the benefit or convenience of the residents and their guests including but not limited to: kitchen
9 and dining facilities, restaurants, places of worship, indoor and outdoor recreational uses, retail
10 and banking facilities, beauty salon and barbershops, gift shops, classrooms, medical offices,
11 medical clinic, laboratory services, exercise and vocational activity areas. A complete listing and
12 range of square footage for each individual accessory use must be shown on the Phase I plan.
13 The County Council may deny or reduce the size, type, location, and/or mixture of the various
14 accessory uses if determined that it is inappropriate for the site or overall area of the CCRC.

15 (B) Residential land use mixture within the PUD District. A goal of the PUD district is to
16 provide an optimal mixture of housing types, including single family dwellings, townhouses, and
17 multifamily dwellings. It is recognized that each development project is unique and will benefit
18 from its own mixture of housing types. The specific mixture of housing types for each
19 development project shall be established by the County Council at Phase I, based on an
20 evaluation of the following:

21 (1) Existing County Comprehensive Plan land use designation and the intended dwelling
22 type and density.

23 (2) Need for a particular dwelling type based on existing and proposed residential dwelling
24 types surrounding the tract of land receiving the PUD district.

25 (3) The County Comprehensive Plan community design policy of including a variety of
26 dwelling types in all communities in Frederick County.

27 (4) The mixture of dwellings recommended within the County Comprehensive, Community,
28 and Corridor Plans for the tract of land receiving the PUD district.

29 (5) The amount and type of moderately priced dwelling units to be constructed[provided].

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33 **ARTICLE XI: DEFINITIONS**

34 **§ 1-19-11.100. DEFINITIONS.**

35 (A) The following rules of construction shall apply to the text of this chapter.

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1 (B) In this chapter the following terms are used as defined unless otherwise apparent from the
2 context.

3 ****

4 MODERATELY PRICED DWELLING UNIT PROGRAM (MPDU). A program that creates
5 affordable housing units as a function of the development process for income eligible persons by
6 means of an increase in density in a zoning classification that allows residential development
7 above the density permitted within the district only if MPDUs are actually constructed.

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