



Montgomery County, Maryland
MODERATELY PRICED DWELLING UNIT
(MPDU) RENTAL PROGRAM



www.montgomerycountymd.gov/mpdu



The MPDU Rental Program Guide
for
Leasing Agents

February 2021

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IMPORTANT!

The most current income limits and forms may be found at:
https://montgomerycountymd.gov/DHCA/pubs_forms.html#MPDU
 (look under Landlords and Leasing Agents)

Contact Information

Please refer to this guide for most of the information you will need regarding the MPDU rental program. For additional information on topics not covered or special situations, please contact the MPDU office at 240-777-0311 or at MPDU.RENTALS@montgomerycountymd.gov.

Forms and reports may be sent to:

MPDU.RENTALS@montgomerycountymd.gov

Affordable Housing Programs Section
 Department of Housing and Community Affairs
 1401 Rockville Pike, Fourth Floor
 Rockville, MD 20852
 240-777-0311 (phone) / 240-777-3691 (fax)

SECTION 1 – BACKGROUND, RENTS AND FEES

The MPDU Program

Montgomery County's Moderately Priced Housing Law, which was enacted in 1974, requires that all new development in the County with 20 or more units contain a certain percentage of affordable units. This requirement applies to both for-sale and rental developments. The law originally required that rental units remain MPDUs for a period of 20 years. Effective in 2005, the law was amended to require rental units to remain MPDUs for a period of 99 years.

A Partnership to Provide Affordable Housing

The rental process for MPDUs is a partnership between the Department of Housing and Community Affairs (DHCA or Department) and the rental complexes containing MPDUs.

The Leasing Agent's Role

The leasing agent is the primary on-site partner who helps DHCA to enforce the MPDU program rules. Through the normal rental application process, the leasing agent verifies a household's annual income and determines whether their annual income is below the maximum permitted under the program.

Additionally, the leasing agent must:

- Ensure that the household has at least as many members as the number of bedrooms in the MPDU;
- Have the prospective tenants verify that they do not currently own or have not owned residential property within the past 5 years. A prospective tenant can ask that this requirement be waived by submitting a written request to DHCA explaining in detail the reasons for the request. Such request can be submitted by email to MPDU.INTAKE@montgomerycountymd.gov; and
- Require that the MPDU apartment is the household's primary residence.

The leasing agent also re-certifies the household as eligible to live in the MPDU in subsequent years and maintains the records and submits the reports required under the MPDU program. These roles are more fully discussed below.

Renting an MPDU apartment is a private transaction between the apartment complex and the household seeking to rent an MPDU. DHCA does not act as an intermediary or involve itself in the

process except in the rare case of a dispute between the two parties. Renting of MPDUs is on a “first come, first serve” basis; DHCA does not maintain a waiting or priority list of potential renters. A landlord may, but is not required to, maintain a waiting list for MPDUs. DHCA does not provide rental assistance to MPDU renters. Each MPDU renter must meet the same credit checks and income tests as other rental applicants and must have the resources (which may include rental assistance from third parties, such as the Housing Opportunities Commission) to pay the monthly rent.

DHCA’s Role

DHCA sets the initial rents, notifies complexes of the permissible annual rent increases, and provides training for property managers and leasing agents. In addition, DHCA visits each apartment complex as necessary to monitor continued compliance with the MPDU program rules, and to provide technical assistance and training to staff.

MPDU Rents for New Properties

The MPDU rents for properties when they first became available for rent are included in the property’s MPDU Rental Offering Agreement which is signed by the property owner and the County at the time the property is opened. A detailed explanation of the methodology for calculating the initial rents for new properties can be found online at https://montgomerycountymd.gov/DHCA/Resources/Files/housing/singlefamily/mpdu/calculate_rentals.pdf.

Reservations of MPDUs by The Housing Opportunities Commission

After the MPDU Rental Offering Agreement is signed, there is a 21-day period during which the Housing Opportunities Commission (HOC), the Department of Housing and Human Services (DHHS), and designated nonprofit agencies may reserve up to 40% of the MPDUs in any offering for their clients. These organizations may reserve MPDUs either to master-lease or to assign directly to their clients. HOC coordinates this process. No MPDUs may be leased by the property until HOC has sent the reservation letter to the property. After any MPDUs are reserved, HOC and the other organizations have an additional 24 days to confirm their reservations, if any. Please see the Appendix for a detailed description of this process.

Priority Marketing Period

For new MPDUs, there is a 90-day Priority Marketing Period that begins after DHCA has given permission to the property to start leasing MPDUs. If construction or occupancy of the MPDUs is phased over a period of time, the Priority Marketing Period begins when the MPDUs in each phase

are available for rent. For MPDUs that are being re-rented, the Priority Marketing Period is 60 days.

During the Priority Marketing Period, the leasing office must rent the MPDUs to households that meet the program's eligibility criteria (see Section 2). If any MPDUs are not rented to eligible households during the Priority Marketing Period, the property must receive written approval from DHCA to lease any remaining MPDUs to non-income-eligible households. The property must demonstrate to DHCA's satisfaction that a good faith effort was made to rent the MPDUs to eligible households.

The rent for MPDUs that are rented to non-income-eligible households remains at the MPDU level. Any such tenants must be given a notice to vacate after two years.

Annual Rent Increases

- The initial MPDU rent for each unit is set by the MPDU Rental Offering Agreement when the property is first opened. This initial rent cannot be increased until the unit has been occupied by a tenant for a period of 12 months.
- Each year, the tenant's rent may be increased by the Voluntary Rent Guideline percentage then in effect. The County Executive publishes the Voluntary Rent Guideline in February each year. The current and past voluntary rent guidelines can be found at https://montgomerycountymd.gov/DHCA/housing/landlordtenant/voluntary_rent_guideline.html.
- If a tenant receives a rent increase lower than the Voluntary Rent Guideline in one year, the tenant cannot receive a rent increase in excess of the Voluntary Rent Guideline the following year to "catch up." The MPDU's rent may, however, be raised to the maximum rental rate when the unit is vacated.
- A landlord can only issue one rent increase to any tenant in a 12-month period.
- Effective March 13, 2017, a tenant must receive a 90-day notice of a rent increase.

Fees – Application, Amenity, Parking and Other Fees

Application Fees

Under state law, a landlord may charge a prospective tenant a non-refundable application fee. However, if the application fee exceeds \$25.00, the landlord must return all but \$25.00 of the fee if no tenancy occurs or be liable for twice the amount of the fee as a penalty. Questions about

application fees should be directed to the Office of Landlord-Tenant Affairs (OLTA) at 240-777-0311.

Amenity Fees

It is not permissible to charge an amenity fee to MPDU tenants.

Parking Fees

MPDU tenants cannot be charged a fee for non-structured (surface) parking unless market-rate tenants are also charged for non-structured parking at the same monthly rate. Structured parking, garage or other enclosed spaces may be offered as an option to the MPDU tenants at the monthly rate normally charged by the landlord.

Other Fees

MPDU tenants may be charged the monthly rate normally charged by the landlord for storage and pet fees, if applicable.

Properties Financed with Low Income Housing Tax Credits

Developers may fulfill their MPDU requirement through the construction of housing under federal, state, or other local governmental programs to assist low- and moderate-income families. When this is the case, the income limits, occupancy, reporting and other requirements of that particular housing program apply rather than the requirements set forth below.

SECTION 2 - ELIGIBILITY CRITERIA

Introduction

To be eligible to rent an MPDU, a person or household must meet certain basic eligibility criteria:

- The household's gross annual income must be below the current maximum rental income, based on household size.
- The household must not currently own or have owned residential property within the past 5 years. An applicant may request a waiver of this requirement by submitting a written request to DHCA at MPDU.RENTALS@montgomerycountymd.gov; and
- The household must occupy the MPDU as its primary residence.

Certification and Recertification Process

Prospective and renewing tenants must:

- Complete the Certification Form
- Submit their most recent Federal tax return and W-2s for all adults
- Submit their two most recent pay stubs for all adults
- Submit additional documentation, if needed

Each prospective adult occupant for an MPDU must complete the Certification Form and submit a tax return and paystubs.

Total Household Income

A household must be income-eligible at the time they sign their first lease. For the purposes of qualifying under the MPDU program, a household's annual gross household income must be less than the annual maximum income permitted by the MPDU program (the maximum changes annually, usually by June 15 of each year). Income is defined as the gross income received annually from all sources by all wage earners in a household. Sources of income include, but are not limited to, the following:

- Wages and salary
- Child support
- Alimony
- Interest income from savings and checking accounts

- Dividends from stocks and bonds, and interest from certificates of deposit
- Social Security benefits
- Veterans Administration benefits
- Overtime pay
- Unemployment insurance benefits
- Bonus payments
- Pension and retirement payments
- Long-term disability benefits
- Any other annuities or stipends received

Calculating Household Income

There are two methods to determine an individual's income from employment using an individual's paystubs.

Method 1 – Year-to-Date Earnings

Average the gross year-to-date earnings through the year to date. This method cannot be used if the individual has not had the same employer since January of the current year.

Method 2 – Paystub Averaging

Average the gross incomes from the paystubs and multiply by the frequency of pay.

- Gross income includes vacation pay, sick pay, shift differential, commission, and overtime.
- Applicant may be able to prove that overtime and/or bonuses are unusual and not consistent in order to exclude these earnings from gross income.
- Tax returns are not used for wage and salary income verification, although they are reviewed for unearned income such as retirement benefits.
- For new employment, an individual may submit a Verification of Employment form from an employer.

Person Does Not File Taxes

A Verification of Non-Filing Letter is needed from any adult who indicates that they did not need to file taxes the previous year. This would occur when one of the applicants works and the other applicant indicates they do not work, such as couples, friends, a parent or an adult child. An exception would be if the adult is 25 or younger and is a dependent of his or her parent. In that circumstance, it is unusual that the dependent is providing financial support to the household. An applicant can obtain a Verification of Non-Filing Letter from the IRS at <https://www.irs.gov/individuals/get-transcript>.

Social Security Benefits

A benefit verification letter is required for adults over the age of 62 when they indicate they do not file taxes. This letter may be obtained from the Social Security Administration: <https://faq.ssa.gov/en-us/Topic/article/KA-01717>.

HOC Voucher Holders and other Rental Assistance Programs

The HOC voucher program as well as other Rental Assistance Programs are perfect complements to the MPDU Program as the amount of rent covered by HOC or other rental assistance programs does not allow a household to rent most market rate units in many areas of the County. Since a portion of the tenant's rent is subsidized and guaranteed, the landlord would only need to determine whether the household's income is sufficient to pay whatever their portion of the rent is, as well as utilities.

Minimum Income

The minimum income needed to rent an MPDU is determined by each rental complex. If a rental complex determines that a household's income is sufficient to afford the MPDU rental payments, the MPDU office will approve a tenant's participation.

Maximum Income

There are separate maximum income limits depending whether the apartment complex is a garden apartment or a high-rise. A tenant who recertifies remains income-eligible if the household's income does not exceed 130% of the current maximum rental income based on their household size.

Example ONLY – The current maximum income limits may be found at https://montgomerycountymd.gov/DHCA/Resources/Files/housing/affordable/publications/mpdu/income_limits_memo_to_leasing_agents.pdf?0.9853150767359058

Household Size	Garden Apartments (4 stories or less)		High Rise Apartments (5 stories or more)	
	New Tenants	Renewing Tenants	New Tenants	Renewing Tenants
	Maximum Household Income	130% of Maximum Household Income	Maximum Household Income	130% of Maximum Household Income
1	\$ 58,500	\$ 76,050	\$ 63,000	\$ 81,900
2	\$ 67,000	\$ 87,100	\$ 72,000	\$ 93,600

3	\$ 75,500	\$ 98,150	\$ 81,500	\$105,950
4	\$ 84,000	\$109,200	\$ 90,500	\$117,650
5	\$ 90,500	\$117,650	\$ 97,500	\$126,750

Annual Income Re-Certification

- MPDU tenants must be re-certified every year.
- MPDU tenants may continue to reside in their MPDU as long as they earn below 130% of the current maximum MPDU rental income based on their family size.
- The household size must still comply with household size requirements. A household may be required to vacate an MPDU if the number of persons in their household changes and they no longer qualify for that size unit.
- If the tenant fails to provide the re-certification information within 30 days, the landlord must issue the tenant a 60-day notice to vacate the unit for failing to submit the recertification form and required documentation.
- If the tenant is no longer eligible due to income or household size, the landlord must issue the tenant at least a 60-day notice to vacate the MPDU.

Month-to-Month Leases

The MPDU program does not prohibit a landlord from offering a tenant a month-to-month tenancy when renewing. However, a month-to-month premium cannot be charged.

Household Size and Bedroom Size

The number of people in an MPDU household must be equal to or greater than the number of bedrooms in the MPDU. The maximum number of household members in an MPDU is the same as the property's standard for market-rate units. Federal income tax returns may be used as one method of confirming a household's size.

Only those persons listed on the lease may live in the MPDU. A household may be required to vacate an MPDU if the number of persons in the household changes. If members are added, the household may be eligible to move into a larger MPDU; if members move away, the household may be required to move into a smaller unit.

SECTION 3 - FORMS AND REPORTS

Rental Forms

DHCA requires that the following forms be completed. These forms are provided by the MPDU office:

- Certification/Re-Certification Form – completed by prospective MPDU tenants and renewing MPDU tenants.
- MPDU Renter’s Agreement – completed and signed by the leasing agent and tenant each year; and
- MPDU Lease Addendum – signed by MPDU tenants at time of initial leasing.

Renters Agreement Form

The Renters Agreement Form must be signed by every renter of an MPDU. By signing this form, the renter acknowledges that they understand and accept the MPDU program’s requirements. This form must be signed at the time the initial lease for the unit is signed. A new form must be signed upon each subsequent lease renewal.

The leasing agent must send the signed Renters Agreement Form to DHCA within 30 days of the date of initial lease ratification for an MPDU rental unit, and upon each lease renewal. Place a copy of this form in your files.

MPDU Lease Addendum

The MPDU regulations require the apartment complex to use a lease form that complies with all federal, state and local laws. The lease agreements for MPDUs, other than those leased to HOC or a designated nonprofit agency, must include the MPDU Lease Addendum, which contains the provisions listed below:

1. The tenant must occupy the unit as his or her primary place of residence and must not sublet the unit.
2. The tenant must provide income and household composition information to the apartment complex every year for re-verification purposes. The documents that must be provided are federal income tax forms for the last year and a copy of the two

most recent pay stubs for all employed household members. Other documentation is required if the income tax forms do not reflect the current household composition.

3. The tenant must provide the re-certification information within 30 days of receiving the re-certification form from the complex. If the tenant fails to provide the re-certification information within the 30-day period, the tenant must vacate the unit within 60 days of receiving notification from the complex that the re-certification form and required documentation were not received.
4. The tenant must vacate the MPDU if, at the time of re-certification, the tenant's income exceeds by thirty percent (30%) the maximum eligible income necessary to qualify as an eligible household. The leasing agent must take action necessary to have the tenant vacate the MPDU within 60 days of receiving information that the tenant's income exceeds the maximum permitted income limit. The leasing agent may substitute another unit with the same number of bedrooms for the existing MPDU and permit the tenant to occupy their present unit at a rent higher than the approved MPDU rent. However, a new MPDU Declaration of Covenants form must be recorded subjecting the substitute unit to the MPDU Covenants.

MPDU Tenant Files

At a minimum, the following documents must be kept on-site for each MPDU tenant:

- a copy of the lease
- a copy of the MPDU Renters Agreement Form
- income verification form and back-up documentation

In addition, certain forms and reports must be sent to DHCA:

- the original signed MPDU Renters Agreement Form (to be sent within 30 days of each lease signing or renewal)
- a rent roll (must be sent annually)
- a copy of each annual rent increase letter sent to each MPDU tenant in the complex

DHCA will conduct on-site monitoring visits on a periodic basis.

Annual Report

By April 30 of each year, the leasing agent must supply the information listed below to DHCA in a format acceptable to the Department:

- The number of MPDUs, by bedroom count and unit number, that are leased including units leased to HOC or designated nonprofit agencies. Specifically note any units that are rented to non-income-eligible households.
- For each MPDU, the tenant's name(s), household size, the dates of the lease and lease expiration, and the total annual household income as of the date of the lease.
- A notarized statement that to the best of the owner's (or leasing agent's) information and knowledge, the tenants who are leasing the MPDUs meet the eligibility criteria.

APPENDIX

HOC PROCEDURES FOR MPDU RENTAL OFFERING AGREEMENTS

3/19/2019

These procedures are intended to expand on the requirements outlined in Chapter 25A of the Montgomery County Code, 2014, as amended, and Executive Regulation 11-18AM (collectively, the **Code**). If there are any omissions or contradictions between these procedures and the Code, the provisions of the Code apply.

For sales MPDU procedures, see “HOC Procedures for MPDU Sales Offering Agreements.”

1. Definitions.

- A Government Agency is defined as the Department of Health and Human Services (DHHS) and any other government agency that is approved to purchase or lease MPDUs (none others are approved currently).
- A Designated Agency is defined as a non-governmental housing development agency or nonprofit business entity designated by the County Executive as eligible to purchase or lease MPDUs.

2. General Requirements.

- No additional covenants may be recorded on MPDUs.
- The incomes of client households that occupy MPDUs master-leased by HOC or a Government or Designated Agency must not exceed the maximum income limit for the MPDU rental program. DHCA will waive this requirement for group homes in which unrelated individuals are living together and are receiving agency services.
- A Government or Designated Agency may assign its option to lease an MPDU to a client household (that is, the client household would rent the MPDU directly), but only if the client household meets all eligibility requirements of the MPDU rental program and has sufficient income and credit history to independently rent an MPDU. (Housing vouchers and rental assistance payments are counted as income, but credit checks apply only to the portion of the rent that the household pays.) An agency may not be a guarantor for a client household that is assigned the rental option. The client household that is assigned the rental option must comply with all requirements of the MPDU program, including annual verification of income. If the rental option is assigned to a client household, the option will terminate when the household vacates the MPDU unless the property owner agrees to assign the option to the agency or to another client household of the agency.

3. DHCA Notification: DHCA will send MPDU Rental Offering Agreements to HOC within 5 days of execution, and HOC will notify the Government and Designated Agencies of the offering and coordinate the response to the property owner.

- DHCA has the first priority to lease MPDUs, followed by HOC.

- As a Government agency, DHHS has the first priority to reserve MPDUs after HOC. Reservations by the Designated Agencies are considered in the order that they are received.
4. Reservation Letter. HOC must send a Reservation Letter, including any reservations by Government or Designated Agencies, to the property owner, with a copy to DHCA, within 21 days after notice of the Offering Agreement is received by HOC. Any extension of this time period must be approved by both the property owner and DHCA.
- DHCA, HOC and the Government and Designated Agencies may reserve up to 40% of the MPDUs in any given offering. HOC, in combination with DHCA (if DHCA chooses to exercise its option) may reserve up to 33.3% of the MPDUs, and the Government and Designated Agencies may reserve the remaining balance of the MPDUs, up to 40%.
 - HOC and the Government and Designated Agencies may not reserve more than 40% of any type of unit in an offering (for example, by number of bedrooms) unless DHCA and the property owner agree to a different selection.
 - For each rental MPDU reserved by a Government or Designated Agency that will be assigned to a client household, the Government or Designated Agency must provide the name of the household in the letter. The Government or Designated Agency must pre-screen the household to ensure that it has sufficient income to independently lease an MPDU. The Government or Designated Agency will also pre-screen for other eligibility requirements of the property if the leasing office provides its screening criteria. Before the Letter of Confirmation is sent, the client household must also be approved by the leasing office of the rental property as meeting the requirements for renting an MPDU at that property.
5. Confirmation Letter – HOC. HOC must send a Confirmation Letter to the property owner for any MPDUs it has reserved, with a copy to DHCA, within 45 days after notice of the Offering Agreement is received by HOC (24 days after the Reservation Letter deadline). Any extension of this time period must be approved by both the property owner and DHCA.
6. Confirmation Letter – Government and Designated Agencies. If a Government or Designated Agency has reserved any MPDUs, the Government or Designated Agency must also send a Confirmation Letter to the property owner for the MPDUs it has reserved, with a copy to DHCA and HOC, within 45 days after notice of the Offering Agreement is received by HOC (24 days after the Reservation Letter deadline).
- For each rental MPDU that a Government or Designated Agency has reserved to assign to a client household, the agency must either a) confirm that the household named in the Letter of Reservation is still interested in leasing the MPDU and has been approved by the leasing office of the rental property as meeting the requirements for renting an MPDU at that property; b) provide the name of another household that has been approved by the property; c) confirm the reservation and

agree to master-lease the MPDU directly in order to house its client households, or d) forfeit the reservation.

7. MPDU Master-Lease by HOC or a Government or Designated Agency. The property owner must deliver lease agreements to HOC or a Government or Designated Agency at least 60 days prior to the estimated delivery of the MPDUs. HOC or the agency must return the lease agreements to the property owner within 30 days of receipt, but no later than 30 days before the estimated date of delivery of the MPDU. HOC or the agency must sign any forms required by DHCA.

https://mcgov.sharepoint.com/teams/DHCA/Housing/Affordable/Shared Documents/MPDU/Rentals/Rental Program Guide/MPDU Rental Program Guide for Leasing Agents_Feb 2021.docx