

**MEMORANDUM**

March 2, 2010

TO: Planning, Housing, and Economic Development Committee  
FROM: Jeff Zyontz,  Legislative Attorney  
SUBJECT: Zoning Text Amendment 10-01 and Bill 4-10; Workforce Housing – Voluntary

Zoning Text Amendment (ZTA) 10-01 and Bill 4-10 were sponsored by the Planning, Housing, and Economic Development Committee. ZTA 10-01 was introduced on January 26, 2010. Bill 4-10 was introduced on February 2, 2010.

The Committee believes that the Workforce Housing program should be changed to a voluntary program. ZTA 10-01 would accomplish that objective within the Zoning Ordinance. Bill 4-10, to amend Chapter 25B, would also be required.

A public hearing was held on ZTA 10-01 and Bill 4-10 on March 2, 2010. Staff will address issues raised in the public hearing at the Committee's worksession.

The Planning Staff report to the Planning Board included the following background:

Since the inception of the workforce housing program in December 2006, only three project plans and one site plan have been approved with workforce housing units. Two of the project plans were public/private partnerships with the County (Lot 31 in the Bethesda Central Business District Metro Station Policy area and the Studio Plaza project in the Silver Spring Central Business District Metro Station Policy area.) The only private project that has received approval is the Woodmont Central project in the Bethesda Central Business District Metro Station Policy area. To date, none of these projects have been constructed. According to the development community, providing workforce housing is cost prohibitive...

A key Housing Policy goal in the County encourages that steps be taken each year to increase the supply of affordable housing in those areas where the proportion of affordable housing in the entire housing stock is below the County-wide average proportion of affordable housing. In order to achieve this goal, the Council, the Executive, the Planning Board, and other appropriate agencies must give the policy of locating a fair share of affordable housing units in each area of the County high priority in all planning, zoning, and land use decisions. As stated previously, the position of the

County Council is that residents of all incomes should have the opportunity to live near metro stations. An argument can be made that the workforce housing requirement has actually reduced the construction of new moderately-priced dwelling units in metro station areas as well because new projects are deemed to be financially infeasible altogether.

Planning Staff recommended the following:

Changing the workforce housing requirement from a mandatory to voluntary program could make sense as a temporary measure while the County takes a fresh look at the overall affordable housing initiative. *Establishing a working group to address overall affordable housing goals, including potential new provisions to encourage private developer construction of workforce housing and moderately-priced dwelling units, would be a good first step in this process.*

The Planning Board did not have a majority to support staff's recommendation. In voting against a motion to support voluntary workforce housing, the Chairman expressed concern about how a voluntary program would work with the CR zones. Another Planning Board member was concerned about lowering the County's commitment to affordable housing. Two other members would support making workforce housing voluntary. In a February 7, 2010 memorandum to the Committee from Chairman Hanson, the Planning Board expressed the opinion that workforce housing should be a requirement in the LSC zone.

## Issues

### **Housing Policy**

The County still has more jobs than resident workers. As such, it is a net labor importer. Additions to the housing stock help that situation. More housing makes housing less scarce and can also have a moderating effect on housing prices. To the extent that mandated workforce housing has been an impediment to new multi-family approvals, it does not help the County's housing policy and should be made voluntary.

### **Defining the site on which workforce housing must be constructed**

ZTA 10-01 would not allow off-site workforce housing. The Ordinance would be amended as follows:

All workforce housing units must be constructed on the **site** that uses the FAR and building height flexibility under this Section.

The "site" was intended to include the area regulated by a single project plan or preliminary plan application. Either of those approvals could result in multiple site plans, record plats, and lots. Staff recommends amending ZTA 10-01 to avoid any confusion:

All workforce housing units must be constructed [on the site] in the area regulated by a single project plan, preliminary plan application, or a lot that uses the FAR and building height flexibility under this Section.

### **Minimum percentage of units in a project**

ZTA 10-01 would retain the minimum percentage of workforce housing units in a project. DHCA requested the retention of this provision to make sure that the number of units at one location was worth their administrative efforts.

### **Sunset provisions**

When the Council approved workforce housing, it only applied to projects approved before December 1, 2014. Bill 4-10 would remove that limitation. As a voluntary program, there is no need to sunset the program after that date.

This Packet Contains  
ZTA 10-01  
Bill 4-10

© number  
1 – 14  
15 – 21

Zoning Text Amendment No: 10-01  
Concerning: Workforce Housing -  
Voluntary  
Draft No. & Date: 1 – 1/21/10  
Introduced: 1/26/10  
Public Hearing:  
Adopted:  
Effective:  
Ordinance No:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF  
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN  
MONTGOMERY COUNTY, MARYLAND**

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By: Planning, Housing, and Economic Development Committee

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**AN AMENDMENT** to the Montgomery County Zoning Ordinance for the purpose of:

- defining the term “workforce housing unit”;
- requiring any residential development at or above a certain density, located in a metro station policy area, to include a certain percentage of workforce housing units; and
- generally providing standards for the development of workforce housing units.

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-A-6	“USES PERMITTED IN MORE THAN ONE CLASS OF ZONE”
Section 59-A-6.18	“Workforce Housing”
DIVISION 59-C-2	“RESIDENTIAL ZONES, MULTIPLE-FAMILY”
Section 59-C-2.4	“Development standards”
Section 59-C-2.418.	“Maximum Density of Development (Dwelling Units per Acre of Net Lot Area)”
Section 59-C-2.442	“General provisions”
DIVISION 59-C-4	“COMMERCIAL ZONES”
Section 59-C-4.357	“C-2 zone—purpose and development standards”
DIVISION 59-C-6	“CENTRAL BUSINESS DISTRICT ZONES”
Section 59-C-6.215	“Method of development and approval procedures”
Section 59-C-6.23	“Development standards”
DIVISION 59-C-7	“PLANNED UNIT DEVELOPMENT ZONES”
Section 59-C-7.14	“Density of residential development”
DIVISION 59-C-8	“TRANSIT STATION DEVELOPMENT AREA ZONES”
Section 59-C-8.4	“Development standards”
DIVISION 59-C-13	“TRANSIT ORIENTED, MIXED-USE ZONES (TOMX)”
Section 59-C-13.215	“Methods of development and approval procedures”
DIVISION 59-C-14	“TRANSIT MIXED-USE (TMX) ZONE”
Section 59-C-14.213	“General Requirements”

Section 59-C-14.27 “Special regulations for use of a Building Lot Termination (BLT) Development Right”

DIVISION 59-D-1 “DEVELOPMENT PLAN”

Section 59-D-1.6 “Approval by district council”

**EXPLANATION:** ***Boldface** indicates a Heading or a defined term.*  
*Underlining indicates text that is added to existing law by the original text amendment.*  
*[Single boldface brackets] indicate that text is deleted from existing law by original text amendment.*  
*Double underlining indicates text that is added to the text amendment by amendment.*  
*[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.*  
*\* \* \* indicates existing law unaffected by the text amendment.*

ORDINANCE

*The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:*

**Sec. 1. DIVISION 59-A-6 is amended as follows:**

**DIVISION 59-A-6. USES PERMITTED IN MORE THAN ONE CLASS OF ZONE.**

\* \* \*

**59-A-6.18. Workforce housing.**

**59-A-6.18.1. Generally.**

The workforce housing program complements the Moderately Priced Dwelling Unit [(MPDUs)] MPDU Program, the Productivity Housing Program, and other County programs designed to promote affordable housing. Under Chapter 25B, a developer [must] may build the number of workforce housing units [required] allowed in any zone under this Chapter. All workforce housing units must be constructed on the site that uses the FAR and building height flexibility under this Section.

**59-A-6.18.2. [Requirements] Allowances.**

(a) Any subdivision that would contain 35 or more market dwelling units, and that would be located in a zone with a maximum permitted residential density at or above 40 dwelling units per acre and in a Metro Station Policy Area, [must] may include [an amount] a number of workforce housing units that is not less than at least 10 percent of the total number of proposed market dwelling units, not including any MPDUs or resulting bonus density units, or dwelling units excluded under Chapter 25B.

(b) A site plan is required under Division 59-D-3 for any project that includes a workforce housing unit.

(c) To allow the construction of [all] workforce housing units on site, the Planning Board must permit:

- (1) any residential density or residential FAR limit of the applicable zone to be exceeded to the extent required for the number of workforce housing units that are constructed, but not by more than 10 percent of the total FAR or number of dwelling units;

- 29 (2) any residential density or residential FAR limit established in a master or  
 30 sector plan to be exceeded to the extent required for the number of  
 31 workforce housing units that are constructed, but not to more than the  
 32 maximum density and FAR of the zone, except as provided in paragraph  
 33 (1)[,] ; and  
 34 (3) any building height limit established in a master or sector plan to be  
 35 exceeded to the extent required for the number of workforce housing units  
 36 that are constructed, but not to more than the maximum height of the zone.  
 37 \* \* \*

38 **Sec. 2. DIVISION 59-C-2 is amended as follows:**

39 **DIVISION 59-C-2. RESIDENTIAL ZONES, MULTIPLE-FAMILY.**

40 \* \* \*  
 41 **59-C-2.4. Development standards.**

42 **59-C-2.41. Standard method of development.**

43 \* \* \*

	R-30	R-20	R-10	R-H
<b>59-C-2.418. Maximum Density of Development (Dwelling Units per Acre of Net Lot Area):</b>	14.5	21.7	43.5 <sup>3</sup>	<sup>3</sup>
* * *				

44  
 45 <sup>3</sup> Workforce housing units [must] may be provided [as required by] under Section  
 46 59-A-6.18 and Chapter 25B.

47 \* \* \*  
 48 **59-C-2.44 Special regulations for optional method development using transferable  
 49 development rights.**

50 \* \* \*  
 51 **59-C-2.442. General provisions.**

52 \* \* \*  
 53 (d) A property developed with development rights must include Moderately Priced  
 54 Dwelling Units (MPDUs) [as required by] under Chapter 25A and may include

55 workforce housing units [as required by] under Section 59-A-6.18 and Chapter  
56 25B. The number of MPDUs and any resulting bonus density must be calculated  
57 after the base density of a property has been increased by a transfer of development  
58 rights. The calculation of the number of workforce housing units must be based on  
59 the total number of market dwelling units in the development, including any  
60 transfer of development rights[,] but not counting any MPDUs or resulting bonus  
61 density units. The MPDU density bonus does not require the acquisition of  
62 additional development rights.

63 \* \* \*

64 **Sec. 3. Division 59-C-4 is amended as follows:**

65 **DIVISION 59-C-4. COMMERCIAL ZONES.**

66 \* \* \*

67 **Sec. 59-C-4.357. C-2 zone-purpose and development standards.**

68 Residential development in the C-2 zone under Section 59-C-4.351(b) must include  
69 Moderately Priced Dwelling Units (MPDUs) as required by Chapter 25A and may  
70 include workforce housing units [as required by] under Section 59-A-6.18 and Chapter  
71 25B.

72 \* \* \*

73 **Sec. 4. DIVISION 59-C-6 is amended as follows:**

74 **DIVISION 59-C-6. CENTRAL BUSINESS DISTRICT ZONES.**

75 \* \* \*

76 **59-C-6.2. Provisions of CBD zones.**

77 \* \* \*

78 **59-C-6.215. Methods of development and approval procedures.** Two methods of  
79 development are possible in each of these zones.

80 (a) **Standard method of development.** The standard method requires compliance  
81 with a specific set of development standards and permits a range of uses and a  
82 density compatible with these standards. If residential uses are included in a

83 development, Moderately Priced Dwelling Units (MPDUs) must be provided as  
84 required by Chapter 25A and workforce housing units [must] may be provided [as  
85 required by] under Section 59-A-6.18 and Chapter 25B. The maximum dwelling  
86 unit density or residential FAR may be increased in proportion to any MPDU  
87 density bonus provided on-site and under Section 59-A-6.18.2.

88 (b) **Optional method.** Under the optional method, greater densities may be permitted  
89 and there are fewer specific standards, but the developer must provide certain  
90 public facilities and amenities. The presence of these facilities and amenities is  
91 intended to make possible the creation of an environment capable of supporting the  
92 greater densities and intensities of development permitted. The Planning Board  
93 may, under Division 59-D-2: (1) authorize a payment instead of all or some of the  
94 required public facilities and amenities, or any required public use space; or (2)  
95 permit any required public use space to be provided off-site on private or public  
96 property in the same CBD. If residential uses are included in a development,  
97 Moderately Priced Dwelling Units must be provided under Chapter 25A and  
98 [Workforce Housing Units must] workforce housing units may be provided under  
99 Section 59-A-6.18 and Chapter 25B. The maximum dwelling unit density or  
100 residential FAR may be increased in proportion to any MPDU density bonus  
101 provided on-site and under Section 59-A-6.18.2. The procedure for approval of an  
102 optional method project is specified in Division 59-D-2, and the procedure for  
103 approval of a site plan is specified in Division 59-D-3.

104 \* \* \*

105 **59-C-6.23. Development standards.**

106 \* \* \*

	CBD-0.5		CBD-R1 <sup>2</sup>		CBD-1		CBD-2		CBD-3		CBD-R2	
	S	O	S	O	S	O	S	O	S	O	S	O
* * *												
<b>59-C-6.233. Minimum Public Use Space (percent of net lot area):</b>	10	20	10	20 <sup>16</sup>	10	20 <sup>20,22</sup>	10	20 <sup>22</sup>	10	20 <sup>22</sup>	10	20
(a) Standard Method — The public use space requirement may be reduced to accommodate the construction of MPDUs, including any resulting bonus density units, and workforce housing units, provided on-site to:	5		5		5		5		5		5	
* * *												
<b>59-C-6.235. Maximum Building Heights (in feet).</b>												
* * *												
(b) Optional method of development.												
—Normally:		60		60		60		143		143		143
—If approved by the Planning Board in the process of site plan or combined urban renewal project plan approval as not adversely affecting surrounding properties, height may be increased to:		60 <sup>12</sup>		143		90 <sup>1</sup>		200 <sup>11</sup>		200		200

107 <sup>1</sup> For projects using the optional method of development, the Planning Board may  
 108 approve height over 90 feet, but not more than 143 feet, if the additional height is  
 109 necessary for the project to [comply with the] accommodate workforce housing  
 110 [requirements of] under Section 59-A-6.18; however, the additional height must  
 111 not be more than required for the number of workforce housing units that are  
 112 constructed. For projects using the optional method of development involving  
 113 more than one lot under Section 59-C-6.2351, the Planning Board may approve

114 height over 90 feet, but not more than 143 feet, if the additional height is  
 115 specifically recommended for the property in the applicable sector plan or urban  
 116 renewal plan. In order to approve additional height for property where the  
 117 additional height is specifically recommended for the property in a sector plan or  
 118 urban renewal plan, the Planning Board must find that: [(1) The] (i) the additional  
 119 height is consistent with the criteria and guidelines for the property as contained in  
 120 the applicable sector plan or urban renewal plan; [(2) Except] (ii) except as  
 121 recommended in an urban renewal plan, the portion of the property upon which the  
 122 additional height is to be used is on all sides abutted by or adjacent to property  
 123 recommended in the applicable sector plan or urban renewal plan for classification  
 124 in the CBD-0.5, CBD-1, CBD-2, or CBD-3 zones; [(3) The] (iii) the proposed  
 125 development is compatible with the surrounding development, considering but not  
 126 limited to the relationship of the building or buildings to the surrounding uses, the  
 127 need to preserve light and air for the residents of the development and residents of  
 128 surrounding properties, and any other factors relevant to the height of the building;  
 129 and [(4) The] (iv) the proposed development will produce a substantial amount of  
 130 consolidated public open space in excess of that which would be required if this  
 131 process were not used. The public open space must be designated as public  
 132 amenity space and be accessible to and usable by the public in accordance with the  
 133 applicable sector or master plan, or urban renewal plan.

134 \* \* \*

135 <sup>11</sup> Under the optional method of development process, the Planning Board may  
 136 approve height over 143 feet, but not more than 200 feet, if: (i) the additional  
 137 height is necessary for the project to [comply with the] accommodate workforce  
 138 housing [requirements of] under Section 59-A-6.18[;], however, the additional  
 139 height must not be more than required for the number of workforce housing units  
 140 that are constructed[,]; or (ii) the additional height is specifically recommended for  
 141 the property in the applicable sector plan or urban renewal plan, or the property is

142 within a revitalization area designated in the applicable sector plan and is located  
143 fully or partially within 800 feet of an entrance to a metro station. In order to  
144 approve additional height for property recommended in a sector plan or urban  
145 renewal plan or within a designated revitalization area, the Planning Board must  
146 find that: [(1) The] (i) the additional height is consistent with the criteria and  
147 guidelines for the property as contained in the applicable sector plan or an urban  
148 renewal plan approved by the County Council under Chapter 56, or in the case of a  
149 site outside an urban renewal area, accomplishing the objectives of incorporating  
150 residential development with commercial development in a mixed use project in  
151 close proximity to a metro station otherwise unobtainable due to site conditions,  
152 proximity of adjacent non-residential buildings, or other physical constraints  
153 [which] that prevent the achievement of sector plan objectives; [(2) The] (ii) the  
154 proposed development is compatible with the surrounding development,  
155 considering but not limited to the relationship of the building or buildings to the  
156 surrounding uses, the need to preserve light and air for the residents of the  
157 development and residents of surrounding properties, and any other factors  
158 relevant to the height of the building; and [(3) The] (iii) the proposed development  
159 will provide additional public facilities and amenities beyond what could otherwise  
160 have been provided if the excess height were not approved. Such facilities must be  
161 accessible to and usable by the public in accordance with the applicable sector or  
162 master plan or urban renewal plan.

163 <sup>12</sup> The Planning Board may approve height over 60 feet, but not more than 90 feet, if:  
164 (i) [if] the additional height is consistent with an applicable sector plan or an  
165 approved urban renewal plan; or (ii) the additional height is needed to [comply  
166 with the] accommodate workforce housing [requirement of] under Section 59-A-  
167 6.18; however, the additional height must not be more than required for the number  
168 of workforce housing units that are constructed.

169 \* \* \*

170 **Sec. 5. DIVISION 59-C-7 is amended as follows:**

171 **DIVISION 59-C-7. PLANNED UNIT DEVELOPMENT ZONES.**

172 \* \* \*

173 **59-C-7.1. P-D zone—Planned development zone.**

174 \* \* \*

175 **59-C-7.14. Density of residential development.**

176 \* \* \*

177 (c) The density of development is based on the area shown for residential use on the  
178 master plan and must not exceed the density permitted by the density category  
179 granted. However, the maximum density allowed under subsection (a) may be  
180 increased to accommodate the construction of Moderately Priced Dwelling [units]  
181 Units and workforce housing units as follows:

182 (1) For projects with a residential density of less than 28 dwelling units per acre,  
183 the number of Moderately Priced Dwelling Units must not be less than either  
184 the number of [density] bonus density units or 12.5 percent of the total  
185 number of dwelling units, whichever is greater.

186 (2) For projects with a residential density of more than 28 dwelling units per  
187 acre, the number of Moderately Priced Dwelling Units must be at least 12.5  
188 percent of the total number of dwelling units [in accordance with] under  
189 Chapter 25A.

190 (3) Any project with a residential density at or above 40 dwelling units per acre  
191 [must] may provide workforce housing units [as required by] under Section  
192 59-A-6.18 and Chapter 25B.

193 \* \* \*

194 **Sec. 6. DIVISION 59-C-8 is amended as follows:**

195 **DIVISION 59-C-8. TRANSIT STATION DEVELOPMENT AREA ZONES.**

196 \* \* \*

197 **59-C-8.4. Development standards.**

	TS-R	TS-M
<b>59-C-8.42. Density of Development.</b>		
The density of development must not exceed any of the following:		
* * *		
(c) The density of development must not exceed the FAR or the dwelling units per acre allowed by the zone, except that the maximum density permitted may be increased to accommodate the construction of moderately priced dwelling units as required by Chapter 25A and the construction of workforce housing units [as required by] <u>under</u> Section 59-A-6.18 and Chapter 25B. The maximum number of dwelling units or residential FAR may be increased as needed for any MPDU density bonus and any workforce housing units provided on-site. The provision of MPDUs or workforce housing units does not authorize a reduction in any public facility and amenity or active or passive recreation space recommended in a master plan or sector plan.		

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\* \* \*

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**Sec. 7. Division 59-C-10 is amended as follows:**

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**DIVISION 59-C-10. RMX ZONES –RESIDENTIAL MIXED-USE**

201

**DEVELOPMENT**

202

\* \* \*

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**59-C10.3.7. Maximum Residential Density.**

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(a) The maximum residential density in an RMX zone must not exceed 30 dwelling

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units per acre for residential areas shown on the project plan. The density

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approved by the Planning Board must not exceed the density shown on the

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approved and adopted master plan, which must be no greater than the density

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permitted by the RMX zone. Where residential development is proposed to be

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located within a proposed commercial area, the maximum residential density for

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such areas must not exceed 40 dwelling units per acre. Any residential

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development must include Moderately Priced Dwelling units (MPDUs) as required

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by Chapter 25A and may include workforce housing units [as required by] under

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Section 59-A-6.18 and Chapter 25B.

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\* \* \*

215

(c) The density of residential development must comply with the density

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recommended on the approved and adopted master plan; however, the number of

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residential dwellings must be increased to accommodate the construction of

218 Moderately Priced Dwelling [units] Units (MPDUs) as required by Chapter 25A  
219 and the construction of workforce housing units [as required by] under Section 59-  
220 A-6.18 and Chapter 25B.

221 \* \* \*

222 **Sec. 8. Division 59-C-13 is amended as follows:**

223 **DIVISION 59-C-13. TRANSIT ORIENTED, MIXED-USE ZONES (TOMX).**

224 \* \* \*

225 **59-C-13.2. Provisions of the Transit Oriented, Mixed-Use Zones.**

226 **59-C-13.21. Description, purpose, intent and general requirements.**

227 \* \* \*

228 **59-C-13.215. Methods of development and approval procedures.**

229 \* \* \*

230 (b) **Optional Method of Development:** The Optional Method of Development  
231 promotes additional densities[,] and supports innovative design and building  
232 technologies to create a pedestrian-oriented and mixed-use development pattern.  
233 Approval of the Optional Method of Development is dependent on providing  
234 required public amenities and facilities. The public facilities and amenities are  
235 intended to support the additional densities permitted under the Optional Method of  
236 Development. The procedure for the approval of the Optional Method of  
237 Development is set forth in Section 59-D-2. Site plans must be approved in  
238 accordance with Section 59-D-3. If residential uses are included in a development,  
239 Moderately Priced Dwelling Units must be provided as required by Chapter 25A,  
240 and workforce housing units [must] may be provided [as required by] under Section  
241 59-A-6.18 and Chapter 25B. The maximum dwelling unit density or residential  
242 FAR may be increased in proportion to any MPDU density bonus provided on-site.

243 \* \* \*

244 **Sec. 9. Division 59-C-14 is amended as follows:**

245 **DIVISION 59-C-14[,]. TRANSIT MIXED-USE (TMX) ZONE**

246 \* \* \*

247 **59-C-14.213. General requirements.**

248 \* \* \*

249 (b) **MPDUs and workforce housing.** If residential uses are included in a  
250 development, Moderately Priced Dwelling Units must be provided under Chapter  
251 25A, and workforce housing units [must] may be provided under Section 59-A-  
252 6.18 and Chapter 25B. The maximum residential FAR may be increased in  
253 proportion to any MPDU [density] bonus density [and workforce]. Workforce  
254 housing units [provided on-site] may increase the maximum residential FAR under  
255 Section 59-A-6.18.2. Site plan review under [section] Section 59-D-3 is required.

256 \* \* \*

257 **59-C-14.27. Special regulations for use of a Building Lot Termination (BLT)**  
258 **Development Right.**

259 [Except for residential development subject to the requirement of workforce housing  
260 under Section 59-A-6.18, the] The approval of an application for any gross floor area in  
261 an optional method of development project must be subject to the following  
262 requirements:

263 \* \* \*

264 **Sec. 10. Division 59-D-1 is amended as follows:**

265 **Sec. 59-D-1.6. Approval by [district council] District Council.**

266 **59-D-1.61. Findings.**

267 Before approving an application for classification in any of these zones, the District  
268 Council must consider whether the application, including the development plan, fulfills  
269 the purposes and requirements in Article 59-C for the zone. In so doing, the District  
270 Council must make the following specific findings, in addition to any other findings  
271 which may be necessary and appropriate to evaluate the proposed reclassification:

272 (a) The proposed development plan substantially complies with the use and density  
273 indicated by the master plan or sector plan, and does not conflict with the general  
274 plan, the county capital improvements program, or other applicable county plans  
275 and policies. However:

276 \* \* \*

277 (2) To permit the construction of [all] workforce housing units [required] under  
278 § 59-A-6.18 and Chapter 25B on site, the District Council may permit:

279 (A) any residential density or residential FAR limit of the applicable zone  
280 to be exceeded to the extent required for the number of workforce  
281 housing units that are constructed, but not by more than 10 percent.

282 (B) any residential density or residential FAR limit recommended in a  
283 master or sector plan to be exceeded to the extent required for the  
284 number of workforce housing units that are constructed, but not to  
285 more than the maximum density and FAR of the zone, except as  
286 provided in paragraph (1); and

287 (C) any building height limit recommended in a master or sector plan to  
288 be exceeded to the extent required for the number of workforce  
289 housing units that are constructed, but not to more than the maximum  
290 height of the zone.

291 \* \* \*

292 **Sec. 11. Effective date.** This ordinance becomes effective 20 days after the date  
293 of Council adoption.

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295 This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council

303

Bill No. 4-10  
Concerning: Workforce Housing –  
Voluntary  
Revised: 1-29-10 Draft No. 2  
Introduced: February 2, 2010  
Expires: August 2, 2011  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Planning, Housing, and Economic Development Committee

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**AN ACT** to:

- (1) modify the requirement for workforce housing to make the provision of workforce housing voluntary; and
- (2) generally amend the law governing the workforce housing program.

By amending

Montgomery County Code  
Chapter 25A, Housing, Moderately Priced  
Section 25A-5

Chapter 25B, Housing Policy  
Sections 25B-23 through 25B-28

<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>

*The County Council for Montgomery County, Maryland approves the following Act:*

1           **Sec. 1. Section 25A-5 is amended as follows:**

2   **25A-5.       Requirement to build [MPDU's] MPDUs; agreements.**

3   \*       \*       \*

4           (c)   When the development at one location is in a zone where a density  
5               bonus is allowed; and

6               (1)   is covered by a plan of subdivision,

7               (2)   is covered by a plan of development or a site plan, or

8               (3)   requires a building permit to be issued for construction,

9               the required number of moderately priced dwelling units is a variable  
10              percentage that is not less than 12.5 percent of the total number of  
11              dwelling units at that location, not counting any workforce housing  
12              units [required] built under Chapter 25B.\*       \*       \*

13           **Sec. 2. Sections 25B-23 through 25B-28 are amended as follows:**

14   **25B-23.       Definitions.**

15           In this Article, the following words have the following meanings:

16   \*       \*       \*

17           (j)   *Workforce housing project* means a housing or mixed-use project where  
18               [at least 10 percent of the] dwelling units[, as computed under Section  
19               25B-24(e),] are sold or rented to households with incomes at or below  
20               120% of the area-wide median income.

21   \*       \*       \*

22   **25B-24.       Workforce housing program.**

23   \*       \*       \*

24           (d)   [*Requirement*] Option. A developer of any subdivision with 35 or more  
25               market-rate dwelling units at one location, as defined in Section 25A-  
26               3(b), [must build the number of] may build workforce housing units [, if  
27               any,] that are expressly [required] allowed in the applicable zone under

28 Chapter 59.

29 (e) *Exclusions.* In calculating the number of dwelling units in any  
30 subdivision to determine the number of workforce housing units  
31 [required] built under this Article, the Department must not count:

32 (1) any moderately priced dwelling units (MPDUs) and any resulting  
33 bonus density market-rate units;

34 (2) any Personal Living Quarters unit built under Section 59-A-6.15,  
35 which meets the price or rent eligibility standards for a  
36 moderately priced dwelling unit under Chapter 25A;

37 (3) any dwelling unit in an Opportunity Housing Project built under  
38 Sections 56-28 through 56-32, which meets the price or rent  
39 eligibility standards for a moderately priced dwelling unit under  
40 Chapter 25A; and

41 (4) any other dwelling unit built under a government regulation or  
42 binding agreement that limits for at least 15 years the price or rent  
43 charged for the unit in order to make the unit affordable to  
44 households earning less than 60% of the area median income,  
45 adjusted for family size.

46 [(f) *Exemption.* If the total number of units in a subdivision that are not  
47 counted under subsection (e)(4) is sufficient to qualify the entire  
48 subdivision to receive federal low-income housing tax credits, then no  
49 workforce housing units are required in that subdivision.]

50 [(g)] (f) *Regulations.* The County Executive must adopt regulations  
51 under method (1) to administer this program. These regulations:

52 (1) must set maximum sale prices and annual rent limits, sale price  
53 and rent ranges (which must promote a variety of different prices  
54 or rents at each workforce housing location), minimum unit type

(11)

- 55 and bedroom requirements, and income eligibility standards;
- 56 (2) must govern notice to the Department of sales and rentals,
- 57 foreclosures, and other relevant procedural matters; and
- 58 (3) should, wherever possible, be similar to or at least consistent with
- 59 the regulations that govern the MPDU program.

60 The regulations governing eligibility must include some preference for  
 61 applicants who either reside in the County or work or have received a  
 62 job offer in the County.

63 \* \* \*

64 **25B-25. Execution of agreement; building permit issuance.**

65 (a) *Agreement.*

66 (1) After the developer of a housing project has obtained approval  
 67 from the Planning Board of a site plan that includes the number  
 68 of workforce housing units [required] approved under any  
 69 applicable provision of Chapter 59 and all other necessary  
 70 regulatory approvals, the Director and the developer must execute  
 71 an agreement assuring compliance with this Article by the  
 72 developer and any successor in interest. The Director must attach  
 73 a copy of the approved site plan to this agreement.

74 (2) The agreement must incorporate a staging plan for the  
 75 construction of workforce housing units, the mix of dwelling unit  
 76 sizes and types, and the maximum selling price or annual rent for  
 77 each unit. The staging plan must require all workforce housing  
 78 units to be built before or at the same time as the other dwelling  
 79 units. Where appropriate, the agreement must reflect conditions  
 80 required as part of other regulatory approvals.

81 (3) The agreement must require that the number of efficiency and

(18)

82 one- bedroom workforce housing units each must not exceed the  
 83 ratio that market-rate efficiency and one-bedroom units  
 84 respectively bear to the total number of market-rate units in the  
 85 subdivision. The Director must not approve an agreement that  
 86 reduces the number of bedrooms required by this subsection in  
 87 any workforce housing unit.

88 (b) *Issuance of building permit.* The Director of Permitting Services must  
 89 not issue a building permit for any development where workforce  
 90 housing units are [required] approved under Chapter 59 until the  
 91 agreement required by subsection (a) is executed. After an agreement is  
 92 executed under subsection (a), the Director must certify to the Director  
 93 of Permitting Services before a building permit is issued that all  
 94 applicable requirements of this Article have been met. If all workforce  
 95 housing units are not built before or at the same time as other dwelling  
 96 units as required in the staging plan, the Director of Permitting Services  
 97 may:

- 98 (1) withhold any later building permit for any part of the same  
 99 development until all workforce housing units designated in the  
 100 staging plan are built;
- 101 (2) issue a stop work order, effective until all workforce housing  
 102 units designated in the staging plan are built; or
- 103 (3) withhold any use and occupancy permit for other units in the  
 104 development until all workforce housing units designated in the  
 105 staging plan are built.

106 **[25B-26. Alternative location agreement.]**

107 [(a) The Director may approve a workforce housing agreement, in addition  
 108 to the agreement required by Section 25B-25, that allows an applicant,

109 instead of building some or all of the required number of workforce  
 110 housing units on-site, to provide at least the same number of units at  
 111 another location in the same planning policy area (as defined in the  
 112 County Growth Policy), only if the Director finds that:

113 (1) either:

114 (A) the public benefit of locating at the proposed alternative  
 115 location is equivalent to the value of locating workforce  
 116 housing units in each applicable development; or

117 (B) building a sufficient number of workforce housing units at  
 118 the original site would require the applicant to change the  
 119 type of building construction used; and

120 (2) building the workforce housing units at the proposed alternative  
 121 location will further the objective of providing a broad range of  
 122 housing opportunities throughout the County.

123 (b) To satisfy the requirements of this Section, an applicant may:

124 (1) build, or convert from non-residential use, the required number of  
 125 new workforce housing units at a site approved by the Director;  
 126 or

127 (2) return to workforce housing unit use, and rehabilitate as  
 128 necessary, existing workforce housing units for which price  
 129 controls have expired.

130 (c) Each agreement under this Section must include a schedule, binding on  
 131 the applicant, for timely completion or acquisition of the required  
 132 number of workforce housing units. Each agreement under this Section  
 133 must also require that each workforce housing unit provided at an  
 134 alternative location under this Section must be identical in type of unit  
 135 and number of bedrooms to the workforce housing units that the

20

136 applicant would have built on site.]

137 **[25B-27] 25B-26. Control of sale prices; rent limits; income eligibility;**  
138 **foreclosures.**

139 \* \* \*

140 **[25B-28] 25B-27. Compliance.**

141 \* \* \*

142 **Sec. 3. Expiration.**

143 Subsection (c) of Section 3 of Chapter 23, Laws of Montgomery County, 2006  
144 is hereby repealed:

145 **Sec. 3. Effective date; Applicability; Expiration.**

146 \* \* \*

147 [(c) Article V of Chapter 25B, as inserted by Section 1 of this Act, does not  
148 apply to any development for which an application for a local map  
149 amendment, development plan, project plan, site plan, or preliminary  
150 plan of subdivision is filed after December 1, 2014.]

151 *Approved:*

152

153

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Nancy Floreen, President, County Council Date

154 *Approved:*

155

156

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Isiah Leggett, County Executive Date

157 *This is a correct copy of Council action.*

158

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Linda M. Lauer, Clerk of the Council Date