

Public Hearing

MEMORANDUM

February 26, 2010

TO: County Council

FROM: Jeffrey L. Zyontz,  Legislative Attorney

SUBJECT: **Public Hearing** – 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. 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.

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: 3/2/2010
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**

By: Planning, Housing, and Economic Development Committee

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

- defining the term “workforce housing unit”;
- allowing 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;

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

* * *

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

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

* * *

59-C-2.4. Development standards.

59-C-2.41. Standard method of development.

* * *

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

³ Workforce housing units [must] may be provided [as required by] under Section 59-A-6.18 and Chapter 25B.

* * *

59-C-2.44 Special regulations for optional method development using transferable development rights.

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59-C-2.442. General provisions.

* * *

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

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

* * *

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

DIVISION 59-C-4. COMMERCIAL ZONES.

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

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

* * *

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

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

* * *

59-C-6.2. Provisions of CBD zones.

* * *

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

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

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

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

* * *

59-C-6.23. Development standards.

* * *

	CBD-0.5		CBD-R1 ²		CBD-1		CBD-2		CBD-3		CBD-R2	
	S	O	S	O	S	O	S	O	S	O	S	O
* * *												
59-C-6.233. Minimum Public Use Space (percent of net lot area):	10	20	10	20 ¹⁶	10	20 ^{20,22}	10	20 ²²	10	20 ²²	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	
* * *												
59-C-6.235. Maximum Building Heights (in feet).												
* * *												
(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 ¹²		143		90 ¹		200 ¹¹		200		200

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

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

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¹¹ Under the optional method of development process, the Planning Board may approve height over 143 feet, but not more than 200 feet, if: (i) the additional height is necessary for the project to [comply with the] accommodate workforce housing [requirements of] under Section 59-A-6.18[;], however, the additional height must not be more than required for the number of workforce housing units that are constructed[,]; or (ii) the additional height is specifically recommended for 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 ¹² 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.

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

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

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

* * *

59-C-7.14. Density of residential development.

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

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

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

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

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

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

* * *

59-C-8.4. Development standards.

	TS-R	TS-M
59-C-8.42. Density of Development.		
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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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

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59-C-10.3.7. 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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(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

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

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

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

* * *

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

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

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

* * *

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

* * *

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

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

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

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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.

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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:

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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:

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

* * *

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

(A) 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.

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

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

* * *

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

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council

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

By: Planning, Housing, and Economic Development Committee

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

Boldface	<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:

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

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

* * *

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

(1) is covered by a plan of subdivision,

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

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

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

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

25B-23. Definitions.

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

* * *

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

* * *

25B-24. Workforce housing program.

* * *

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

Chapter 59.

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

- (1) any moderately priced dwelling units (MPDUs) and any resulting bonus density market-rate units;
- (2) any Personal Living Quarters unit built under Section 59-A-6.15, which meets the price or rent eligibility standards for a moderately priced dwelling unit under Chapter 25A;
- (3) any dwelling unit in an Opportunity Housing Project built under Sections 56-28 through 56-32, which meets the price or rent eligibility standards for a moderately priced dwelling unit under Chapter 25A; and
- (4) any other dwelling unit built under a government regulation or binding agreement that limits for at least 15 years the price or rent charged for the unit in order to make the unit affordable to households earning less than 60% of the area median income, adjusted for family size.

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

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

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

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

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

* * *

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

(a) *Agreement.*

- (1) After the developer of a housing project has obtained approval from the Planning Board of a site plan that includes the number of workforce housing units [required] approved under any applicable provision of Chapter 59 and all other necessary regulatory approvals, the Director and the developer must execute an agreement assuring compliance with this Article by the developer and any successor in interest. The Director must attach a copy of the approved site plan to this agreement.
- (2) The agreement must incorporate a staging plan for the construction of workforce housing units, the mix of dwelling unit sizes and types, and the maximum selling price or annual rent for each unit. The staging plan must require all workforce housing units to be built before or at the same time as the other dwelling units. Where appropriate, the agreement must reflect conditions required as part of other regulatory approvals.
- (3) The agreement must require that the number of efficiency and

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

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

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

[25B-26. Alternative location agreement.]

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

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

(1) either:

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

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

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

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

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

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

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

applicant would have built on site.]

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

* * *

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

* * *

Sec. 3. Expiration.

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

Sec. 3. Effective date; Applicability; Expiration.

* * *

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

Approved:

Nancy Floreen, President, County Council Date

Approved:

Isiah Leggett, County Executive Date

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council Date