

**THE EFFECTIVE DATE OF THIS ORDINANCE IS JANUARY 1, 2011**

**ORDINANCE NO. 10-25-560**

**RE: Development Impact Fee Exemption For Affordable Housing Program**

The Board of County Commissioners has established Development Impact Fees as provided in the Frederick County Code Chapter 1-22.

Provision of affordable housing through qualified nonprofit organizations is one important method to address the high cost of housing.

One of the costs of residential development in Frederick County is the Development Impact Fees.

In 2008, the Maryland General Assembly adopted and the Governor signed legislation authorizing limited waivers of development impact fees satisfying the requirements stated in the state law. (Chapters 386 and 387 Laws of Maryland, 2008).

This limited development impact fee legislation is codified in the Maryland Annotated Code, Article 24, Section 21-101.

The Board of County Commissioners desires to enact a limited exemption to the Development Impact Fees for qualified affordable housing programs.

The Board of County Commissioners held a duly advertised public hearing on November 16, 2010 at which public hearing the public had an opportunity to comment on this Ordinance as proposed.

**NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND, that a new Section 1-22-7 F be added to the Frederick County Code as follows:**

§ 1-22-7. EXEMPTIONS/WAIVERS.

(F) *EXEMPTION FOR AFFORDABLE HOUSING PROGRAM*

(1) RESIDENTIAL DEVELOPMENT IS EXEMPT FROM THE PAYMENT OF A DEVELOPMENT IMPACT FEE IF:

(a) THE RESIDENTIAL DEVELOPMENT IS FINANCED, IN WHOLE OR PART, BY PUBLIC FUNDING THAT REQUIRES MORTGAGE RESTRICTIONS OR RECORDED COVENANTS RESTRICTING THE RENTAL OR SALE OF THE HOUSING UNITS TO LOWER INCOME RESIDENTS IN ACCORDANCE WITH SPECIFIC GOVERNMENT PROGRAM REQUIREMENTS OR

(b) THE RESIDENTIAL DEVELOPMENT IS DEVELOPED BY A NONPROFIT ORGANIZATION THAT:

i. HAS BEEN EXEMPT FROM FEDERAL TAXATION UNDER § 501(c)(3) OF THE INTERNAL REVENUE CODE FOR A PERIOD OF AT LEAST 3 YEARS; AND

ii. REQUIRES THE HOMEBUYER TO PARTICIPATE IN THE CONSTRUCTION OF THE RESIDENTIAL DEVELOPMENT; AND

(2) THE INITIAL PURCHASER OF THE RESIDENTIAL DEVELOPMENT MAY NOT HAVE AN INCOME GREATER THAN SIXTY PERCENT (60%) OF THE FREDERICK COUNTY AREA MEDIAN INCOME.

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**CAPITALS AND/OR UNDERLINING INDICATE ENTIRELY NEW MATTER ADDED TO THE CODE.**

(3) RENTAL HOUSING MUST BE FINANCED BY PUBLIC FUNDING WITH MORTGAGE RESTRICTIONS THAT INCLUDE:

(a) A REQUIREMENT THAT THE RESIDENTIAL UNITS MUST BE PART OF AN AFFORDABLE HOUSING PROGRAM FOR AT LEAST 25 YEARS; AND

(b) EACH RESIDENTIAL UNIT SHALL BE OCCUPIED BY A HOUSEHOLD WITH INITIAL INCOME NO GREATER THEN SIXTY PERCENT (60%) OF THE FREDERICK COUNTY AREA MEDIAN INCOME.

(4) IF THE RESIDENTIAL DEVELOPMENT FAILS TO CONTINUE TO SATISFY THE REQUIREMENTS FOR THIS DEVELOPMENT IMPACT FEE EXEMPTION, THE OWNER OF THE PROPERTY SHALL PAY THE DEVELOPMENT IMPACT FEE IMMEDIATELY.

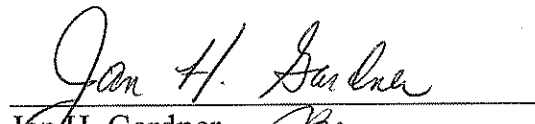
AND BE IT FURTHER ENACTED AND ORDAINED that this Ordinance shall take effect on January 1, 2011.

The undersigned hereby certifies that this Ordinance was approved and adopted on the 16th day of November, 2010.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF FREDERICK COUNTY, MARYLAND

  
Barry L. Stanton  
County Manager

  
Jan H. Gardner  
President

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