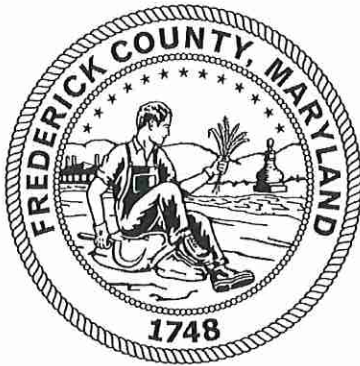




Bill No. 22-28  
Concerning: Density bonuses for Moderately  
Priced Dwelling Units  
Introduced: September 20, 2022  
Revised: \_\_\_\_\_ Draft No. \_\_\_\_\_  
Enacted: October 18, 2022  
Effective: December 17, 2022  
Expires: December 19, 2022  
Frederick County Code, Chapter 1-19  
Section(s) 8.620.1,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

## COUNTY COUNCIL FOR FREDERICK COUNTY, MARYLAND

By: Council Member Jessica Fitzwater

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

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

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

Approved: ✓ Date: 10/24/2022

Vetoed: \_\_\_\_\_ Date: \_\_\_\_\_

Date returned to Council by County Executive with no action: \_\_\_\_\_

By amending:

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

Other: \_\_\_\_\_

**Boldface**

Underlining

[Single boldface brackets]

\* \* \*

*Heading or defined term.*

*Added to existing law.*

*Deleted from existing law.*

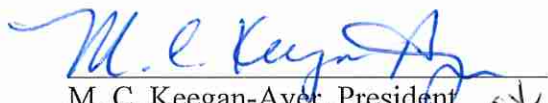
*Existing law unaffected by bill.*

Bill No. 22-28

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

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

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

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

**\*\* CHAPTER 1-19 ZONING**

**ARTICLE VIII: SPECIFIC USE REGULATIONS**

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

**§ 1-19-8.620.1. PURPOSE AND DESCRIPTION.**

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

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

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

**§ 1-19-8.620.3. DENSITY BONUS.**

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

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

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

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

~~[The required MPDU units and allowed density bonuses are:~~

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**Bill No. 22-28**

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

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1    **§ 1-19-8.620.4. EXCEPTIONS.**

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

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

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

12   ~~—(B)— Within projects with R1, R3, R5, R8, R12, or R16 zoning where payment is made in lieu~~  
13   ~~of building MPDU's the reduced measurements as provided in the chart below (§ 1-19-~~  
14   ~~8.620.5.E) may be utilized only after the Planning Commission or its authorized representative~~  
15   ~~has approved the reduced measurements based on consideration of the following factors:~~

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

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

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

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

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

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

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

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

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

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**Bill No. 22-28**

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

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

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Bill No. 22-28

|                                         |            |             |     |     |    |    |    |            |    |    |    |    |
|-----------------------------------------|------------|-------------|-----|-----|----|----|----|------------|----|----|----|----|
| Residen<br>tial:                        |            |             |     |     |    |    |    |            |    |    |    |    |
| Single<br>family                        | 8,00<br>0  | 3,500       | 70  | 35  | 30 | 10 | 8  | 4/10*      | 30 | 25 | 30 | 40 |
| Duplex<br>dwelling                      | 8,00<br>0  | 2,000<br>** | 70  | 20  | 30 | 10 | 8  | 4/10*      | 30 | 25 | 30 | 40 |
| Two<br>family<br>dwelling               | 16,0<br>00 | 1,750<br>** | 80  | 35  | 30 | 10 | 8  | 4/10*      | 30 | 25 | 30 | 40 |
| Townho<br>use                           | 1,60<br>0  | 1,600       | 16  | 16  | 10 | 10 | 15 | 4/*10<br>* | 20 | 20 | 30 | 40 |
| <b>Residential Eight District R-8</b>   |            |             |     |     |    |    |    |            |    |    |    |    |
| Residen<br>tial:                        |            |             |     |     |    |    |    |            |    |    |    |    |
| Single<br>family                        | 6,00<br>0  | 3,500       | 65  | 35  | 25 | 5  | 8  | 4/10*      | 30 | 25 | 30 | 40 |
| Duplex<br>dwelling                      | 6,00<br>0  | 2,000<br>** | 65  | 20  | 25 | 5  | 8  | 4/10*      | 30 | 25 | 30 | 40 |
| Two<br>family<br>dwelling               | 12,0<br>00 | 1,750<br>*  | 100 | 35  | 25 | 5  | 10 | 4/10*      | 30 | 25 | 30 | 40 |
| Townho<br>use                           | 1,60<br>0  | 1,600       | 16  | 16  | 25 | 5  | 15 | 4/10*      | 20 | 20 | 30 | 40 |
| Multi<br>family<br>dwelling             | No<br>Min. | No<br>Min.  | 150 | 120 | 40 | 10 | 30 | 10         | 50 | 20 | 40 | 60 |
| Multi<br>family<br>group                | No<br>Min. | No<br>Min.  | 150 | 120 | 40 | 10 | 30 | 10         | 50 | 20 | 40 | 60 |
| <b>Residential Twelve District R-12</b> |            |             |     |     |    |    |    |            |    |    |    |    |
| Residen<br>tial:                        |            |             |     |     |    |    |    |            |    |    |    |    |
| Single<br>family                        | 6,00<br>0  | 3,000       | 65  | 30  | 25 | 5  | 8  | 4/10*      | 30 | 20 | 30 | 40 |
| Duplex<br>dwelling                      | 6,00<br>0  | 2,000<br>** | 65  | 20  | 25 | 5  | 8  | 4/10*      | 30 | 20 | 30 | 40 |

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|                                                 |         |         |     |     |     |    |    |       |    |    |     |     |
|-------------------------------------------------|---------|---------|-----|-----|-----|----|----|-------|----|----|-----|-----|
| Two family dwelling                             | 10,000  | 1,500** | 100 | 30  | 25  | 5  | 8  | 4/10* | 30 | 20 | 30  | 40  |
| Townhouse                                       | 1,600   | 1,600   | 16  | 16  | 25  | 5  | 15 | 4/10* | 20 | 20 | 30  | 40  |
| Multi family dwelling                           | No Min. | No Min. | 150 | 100 | 40  | 10 | +  | 10    | +  | 20 | 100 | 120 |
| Multi family group                              | No Min. | No Min. | 150 | 100 | 40  | 10 | +  | 10    | +  | 20 | 100 | 120 |
| <b>Residential Sixteen District R-16 and MX</b> |         |         |     |     |     |    |    |       |    |    |     |     |
| Residential:                                    |         |         |     |     |     |    |    |       |    |    |     |     |
| Single family                                   | 6,000   | 3,000   | 60  | 30  | 25  | 5  | 8  | 4/10* | 30 | 20 | 30  | 40  |
| Duplex dwelling                                 | 6,000   | 2,000** | 60  | 20  | 25  | 5  | 8  | 4/10* | 30 | 20 | 30  | 40  |
| Two family dwelling                             | 10,000  | 1,500** | 60  | 30  | 25  | 5  | 8  | 4/10* | 30 | 20 | 30  | 40  |
| Townhouse                                       | 1,600   | 1,600   | 16  | 16  | 15  | 5  | 10 | 4/10* | 20 | 20 | 30  | 40  |
| Multi family dwelling                           | No Min. | No Min. | 100 | 80  | 50  | 10 | +  | 10    | +  | 20 | 100 | 120 |
| Multi family group                              | No Min. | No Min. | 100 | 80  | 120 | 10 | +  | 10    | +  | 20 | 100 | 120 |
| <b>Village Center</b>                           |         |         |     |     |     |    |    |       |    |    |     |     |
| Residential:                                    |         |         |     |     |     |    |    |       |    |    |     |     |
| Single family                                   | 6,000   | 3,000   | 65  | 30  | 25  | 5  | 8  | 4/10* | 30 | 20 | 30  | 40  |
| Duplex dwelling                                 | 6,000   | 2,000** | 65  | 20  | 25  | 5  | 8  | 4/10* | 30 | 20 | 30  | 40  |

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

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

\*\* Minimum lot area per unit.

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

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

\*\*\*\*\*

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

#### **§ 1-19-10.500.6. LAND USE, MIXTURE, AND DESIGN REQUIREMENTS WITHIN THE PUD DISTRICT.**

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

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

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

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

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

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

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

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

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

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

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

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

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

\*\*\*\*\*

## ARTICLE XI: DEFINITIONS

### § 1-19-11.100. DEFINITIONS.

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

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Bill No. 22-28

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

3 \*\*\*\*\*

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

8 \*\*\*\*\*

9  
10  
11  

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Bill No. 22-28