

Ordinance No. 5-14

ORDINANCE: To amend Chapter 13.5 entitled “Moderately Priced Housing” by amending Section 13.5-3 so as to add two new definitions of “special needs housing with services” and “significantly more MPDUs; and by amending Section 13.5-5 to provide that the MPDU requirements of a special needs housing with services project may be approved by an alternative agreement; to provide that the procedures for considering and implementing alternative offers shall be established by the Mayor and Council in the MPDU regulations; and to make other technical amendments

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, that Chapter 13.5 entitled “Moderately Priced Housing” is hereby amended to read as follows:

Chapter 13.5 “Moderately Priced Housing”

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Sec. 13.5-2 Declaration of public policy.

The Mayor and Council hereby declares it to be the public policy of the City to:

(1) Implement the Rockville housing goals and objectives and the general plan goal of providing for a full range of housing choices, conveniently located in a suitable living environment, for all incomes, ages and family sizes;

(2) Provide for low and moderate income housing to meet existing and anticipated future employment needs in the City;

(3) Assure that moderately priced housing is dispersed within the City consistent with the general plan and neighborhood plans;

(4) Encourage the construction of moderately priced housing by allowing optional increases in density in order to reduce land costs and costs of optional features that may be built into such moderately priced housing;

(5) Require that all subdivisions of fifty (50) or more dwelling units include a minimum number of moderately priced units of varying sizes with regard to family needs;

(6) Require that all moderately priced dwelling units be provided on-site unless the Mayor and Council approves an alternative agreement in certain limited circumstances as set forth in this Chapter:

(([[6]]7) Ensure that private developers constructing moderately priced dwelling units under this chapter incur no loss or penalty as a result thereof, and have reasonable prospects of realizing a profit on such units by virtue of the MPDU density bonus provision of Chapter 25[.]);

(([[7]]8) Allow developers of residential units in qualified projects more flexibility to meet the broad objective of building housing that low and moderate income households can afford by letting a developer, under specified circumstances, comply with this chapter by contributing to a Moderately Priced Housing Fund[.]);

(([[8]]9) Encourage the construction of moderately priced housing by allowing certain governmental fees to be waived for a development that includes moderately priced housing.

Sec. 13.5-3. Definitions.

The following words and phrases, as used in this chapter, have the following meanings:

* * *

Senior or Special Needs Housing with Services means apartments and individual residential dwelling units along with common areas for communal dining, activities and socializing along with an indivisible package of services that meet the majority of needs of daily living, including, but not limited to utilities, apartment/grounds maintenance, property taxes, one or more meals per day, housekeeping, transportation, social and wellness activities, and emergency care.

Significantly More MPDUs means fifteen percent (15%) more units than the number of MPDUs that are required to be built on the site of the proposed development.

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Sec. 13.5-5. Requirement

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(f) (1) Instead of building the required number of [MPDU's] MPDUs an [a]Applicant may offer to:

- a. Build [s]Significantly [m]More [MPDU's] MPDUs at one (1) or more other sites in the city.
- b. Convey land in the city that is suitable in size, location and physical condition for [s]Significantly [m]More [MPDU's] MPDUs.
- c. Contribute to the Moderately Priced Housing Fund an amount that will produce [s]Significantly [m]More [MPDU's] MPDUs; or
- d. Do any combination of these alternatives that will result in building [s]Significantly [m]More [MPDU's] MPDUs.

(2) The [offer may be accepted if the] Mayor and Council has the option to accept the offer if it finds that:

- a. 1) In the project or subdivision originally proposed by the [a]Applicant, an indivisible package of resident services and facilities to be provided to all households would cost the occupants of the MPDUs so much that it is likely to make the [MPDU's] MPDUs effectively unaffordable by eligible households[.]; OR
2) Extraordinary circumstances make building the required number of MPDUs as part of the project impractical; AND
- b. An offer made by an [a]Applicant under subsection (f)(1) will achieve [s]Significantly [m]More [MPDU's] MPDUs or units which low and moderate-income households can more easily afford; [and] AND
- c. Acceptance of the [a]Applicant's offer will achieve the objective of providing a broad range of housing opportunities throughout the City[, and].
- [d. Extraordinary circumstances make building the required number of MPDU's as part of the project impractical.]

(3) In the case of a Senior or Special Needs Housing with Services project, whether as a stand-alone project or as part of a mixed use development:

- a. The Applicant must request an alternative MPDU agreement.
- b. Under such an alternative agreement, the maximum monthly fee for Senior or Special Needs Housing with Services units must be established annually using the method set forth in regulations adopted by the Mayor and Council.

c. As part of its request for an alternative MPDU agreement, and only when MPDUs are provided onsite, the Applicant may request permission to provide a percentage of onsite MPDUs that is lower than otherwise required if the applicant can demonstrate that providing the reduction will result in furthering the objective of providing a broad range of housing opportunities throughout the City. The maximum percentage reduction is limited to two and one-half percentage points (2.5%) from the required percentage of MPDUs.

[(3)] (4) The procedures for considering and implementing alternative offers shall be established by the Mayor and Council in the MPDU Regulations. The City Manager or designee will work with the Applicant to establish an alternative agreement to present to the Mayor and Council for approval. To implement an offer, the [a]Applicant must sign an agreement with the City Manager or designee not later than a time provided by the Mayor and Council in its approval of the offer.

(5) Notwithstanding any other provisions of the subsection, the Mayor and Council may reject a request by an Applicant to establish an alternative agreement to meet MPDU requirements in whole or in part whenever the public interest would best be served thereby.

[(g) (1) An applicant may satisfy this section by obtaining approval from the Mayor and Council to transfer land to the City before applying for a building permit. The applicant must sign a written land transfer agreement approved by the Mayor and Council and by the City Attorney. For the Mayor and Council to consider the request and take timely action, a written notice of the applicant's intent to submit an agreement should be served upon the City Clerk at least ninety (90) days before the application for a building permit is filed. The land transfer agreement must covenant that so much of the land, designated in the approved subdivision plan or use permit as land to which the provisions for MPDU's apply, as is necessary in order to construct the number of finished lots, shall be transferred to the City or to the City's designee before the building permit is issued, so that the City might cause MPDU's to be constructed on the transferred land. After the submission of supporting documentation and review and approval by the city for the transfer of finished lots, the City shall reimburse the applicant for the costs the applicant actually incurred, which are directly attributable to the finishing of the MPDU lots so transferred. Reimbursable costs include but are not limited to engineering costs; clearing, grading, and paving streets, including any required bonds and permits; installation of curbs, gutters and sidewalks; sodding of public right-of-way; erection of barricades and signs; installation of storm sewers and street lighting; and park and other open space and recreational development directly benefitting the MPDU lots transferred. The City shall not reimburse an applicant for the cost or value of the transferred lots.

(2) If an applicant transfers land to the City under this subsection and no funds have been appropriated to reimburse the applicant for his finished costs, the City may

accept from the applicant undeveloped land rather than finished lots, or the applicant may transfer the finished lots to the City without requiring payment for finishing the lots.

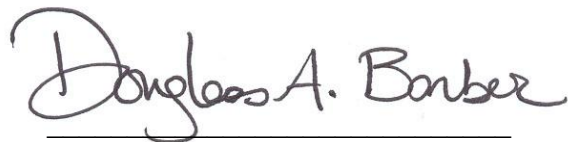
(3)Notwithstanding any other provisions of the subsection, the City may reject an election by an applicant to transfer land to the City in whole or in part whenever the public interest would best be served thereby. Any such rejection and the reasons for the rejection may be considered by the Mayor and Council in deciding whether to grant the applicant a waiver of this chapter under section 13.5-6(b).]

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NOTE: Underlining indicates material added
 [Brackets] indicate material deleted
 Double Underlining indicates material added after introduction
 [[Double Brackets]] indicate material deleted after introduction
 Asterisks * * * indicate material unchanged by this ordinance

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I hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the Mayor and Council at its meeting of March 10, 2014.

A handwritten signature in dark ink that reads "Douglas A. Barber". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

Douglass Barber, City Clerk