

MODERATELY PRICED HOUSING REGULATIONS



City of Rockville
Department of Housing and Community Development
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Revision History

Date	Revision
February 13, 2001	Original MPDU Regulations
March 30, 2014	Section 5 revised to accommodate senior housing with services
June 30, 2018	Changes to include income tiering of MPDUs; calculation of MPDU rents
April 1, 2019	<p>The following changes:</p> <ul style="list-style-type: none"> ▪ Delegate the application intake and eligibility determination to the properties. ▪ Amend the definition of eligible person. ▪ Add Life Care Facilities as defined in Chapter 25 in the definition section of the MPDU Ordinance and requirements for such development product. ▪ Add a provision in the regulations that would allow owners of MPDUs to sell their units. ▪ Update Zoning Density text to reflect the current Zoning Ordinance. ▪ Eliminate “fair market value of improvements made” for MPDUs
March 30, 2020	Added clarifying language to the affordability structure of the homeownership component under Section 6(B).

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SECTION 1.

A. Purpose

To provide policies and procedures for the administration of the Moderately Priced Housing Ordinance.

B. Addresses and Staff

For further information or to receive a copy of this regulation, contact the Department of Housing and Community Development, 240-314-8300, or write to the Department, City Hall, 111 Maryland Avenue, Rockville, Maryland, 20850 or RockvilleMPDU@rockvillemd.gov

SECTION 2. APPLICABILITY

These policies and procedures are applicable to dwelling units built, sold or leased through the Moderately Priced Dwelling Unit (MPDU) Program and to those people applying for eligibility for purchase or lease of such dwelling units.

SECTION 3. DEFINITIONS

The following words and phrases as used in this regulation have the meanings stated below:

A. Certificate of Eligibility

A certificate, which is valid for a specified period of time, issued by the Department of Housing and Community Development to those who meet the income requirement for eligibility for participation in the MPDU purchase program and are placed on the eligibility list maintained by the Department.

B. Department

The Department of Housing and Community Development.

C. Eligible person

A person or household whose income qualifies the person or household to participate in the MPDU program.

D. Housing Agency

A provider designated by the Mayor and Council, which has purchased a moderately priced dwelling unit in accordance with the allocation provided in the Moderately Priced Housing Ordinance.

E. Moderately Priced Housing Ordinance

Chapter 13.5 of the Rockville City Code, as amended

F. Priority Marketing Period

The period during which eligible persons or households have an exclusive right to purchase or rent an MPDU from the applicant. The period may not be less than ninety days and may be extended for an additional time to permit eligible persons who have indicated an interest in the MPDUs to acquire or rent the units.

SECTION 4. ELIGIBILITY AND OCCUPANCY REQUIREMENT

A. Application and Certification

A person seeking to purchase a Moderately Priced Dwelling Units MPDUs must apply to the Department for placement on the eligibility list. In order to become eligible under this program, an interested person must satisfy the maximum MPDU income limits published in executive regulations. It is the responsibility of the individual or family to demonstrate eligibility under the requirements of the MPDU program. In order to verify that an individual or family satisfies program requirements, the Department may request information and documentation that is appropriate, including but not limited to copies of federal and state income tax returns, W-2 forms, and copies of paychecks.

A person determined to be eligible for the purchase program is placed on the eligibility list and is issued a non-transferable certificate valid for a specified period of time, usually two years. This certificate is used to demonstrate eligibility for the purchase of available MPDUs. When developers or builders offer new MPDUs, certificate holders are notified by the developer or builder of the availability of units with sufficient bedrooms to meet their housing needs. Certificate holders have the opportunity to purchase available MPDUs. Those who contract for an MPDU are required to turn in their eligibility certificates to the builder or developer who will submit these certificates to the along with copies of the sales contracts and settlement sheets

Eligibility certificates for the MPDU purchase program may be renewed upon expiration if the person can demonstrate eligibility under the income limits in effect at the time of renewal. The individual must apply for renewal of the certification.

Applicants interested in renting an MPDU unit must apply at the property of their interest containing MPDUs. For a complete listing of the properties, please visit the city's website at:

<http://www.rockvillemd.gov/836/Affordable-Rental-Housing>

B. Income

The maximum permitted moderate income is defined as the gross income received annually from all sources by all wage earners in a family or household unit. Sources of income include, but are not necessarily limited to, the following:

1. Wages and salary (full and part-time employment)
2. Child support
3. Alimony
4. Interest on savings and checking accounts
5. Dividends from stocks, bonds and certificates of deposit
6. Social security benefits
7. V.A. benefits
8. Overtime and bonus payments
9. Unemployment insurance
10. Pension/retirement payments
11. Disability payments
12. Any other annuities or stipends received
13. Income from real estate investments (losses generated from investments in real estate will not be used reduce gross annual income)
14. Income from business or partnership owned, associated with or operated.
15. Welfare - AFDC payments including money received pursuant to the Temporary Assistance for Needy Families program excluding SNAP benefit also known as "food stamps").

When the requirement to provide moderately priced housing is met through the construction of public housing or through housing built under other federal, state, or local programs to assist low- and moderate-income families, the income limits of the appropriate program shall prevail.

C. Occupancy of MPDUs

Purchasers or renters of MPDUs must occupy the units as their primary place of residence and must sign an affidavit certifying to their occupancy of the unit. Renters of MPDUs must not sublease their units.

D. Rental of Units Previously Sold Under the MPDU Program

1. Owners of MPDUs, except a housing agency, are not permitted to vacate and lease MPDUs to other parties without a prior written waiver. The owner must demonstrate sufficient cause to the city manager to allow a waiver to be issued. The following procedures govern the requests for waivers:
 - a. MPDU owners must prove that they are forced to temporarily vacate and rent their unit due to circumstance beyond their control. The fact that there might be a loss of appreciation resulting from the prohibition to rent and having to sell the MPDU does not constitute an economic hardship.

- b. Owners must certify that they will reoccupy their MPDU no later than 24 months from the date the unit is first rented. An owner that does not reoccupy their MPDU must sell their unit at the conclusion of the 24 months.
 - c. If not satisfied after a determination by the city manager or the designee, the owner has the right of appeal to the Board of Appeals in accordance with Section 13.5-12 of the Moderately Priced Housing Ordinance.
2. If the request to temporarily rent is granted, the following procedures are followed to establish the maximum allowable rent:
- a. The owner must request a rental rate determination in writing from the Department and provide the information required by the Department to carry out the rental rate determination described in 2(b).
 - b. The Department must make a rental rate determination which will be equal to the fixed costs associated with maintaining the unit, including but not necessarily limited to principal and interest payments on the mortgage, real estate taxes, homeowners' insurance, water/sewer front foot benefit and deferred connection charges and homeowners' association fees. Appropriate allowances will be made if the owner retains responsibility for the payment of some or all of the utility charges. In such an event, a record of prior monthly utility expenses must be submitted so that an allowance for these charges can be included in the rental rate determination.
 - c. When making a rental rate determination, the Department may not consider any mortgage other than the original mortgage that was used for the purchase of the unit. If an owner has refinanced the unit, taken a second mortgage, or otherwise placed a monetary encumbrance on the unit, any costs associated with such mortgages or encumbrances may not be factored into the rental rate determination. If a unit has been refinanced, then the Department may include in its rental rate determination a cost that is equal to or a reasonable approximation of the principal and interest payments of the original mortgage.
3. Additional requirements for rental of MPDUs previously sold are as follows:
- a. The owner must send a copy of the lease agreement and the name of the managing agent to the Department.
 - b. Each rental request will be judged on its own merit, and every effort will be made to limit such rentals.
 - c. Units can only be rented to an eligible person who has been approved by the Department.

SECTION 5. STANDARDS FOR MPDU DEVELOPERS AND BUILDERS

A. Number of MPDUs Required

Chapter 13.5 of the Rockville City Code requires that a minimum percentage of the dwelling units in subdivisions of 50 or more units be provided as moderately priced housing. Where the application of the percentage of MPDU requirement results in a fraction of a unit, the required number of MPDUs is rounded up to the next whole number.

B. Review of Development Plans

Where the review of plans by the City Planning Commission is required by zoning, subdivision, or other ordinance, the review should include the following:

1. The number of MPDUs to be provided, dwelling unit type, location in the subdivision, community facilities and other plan features;
2. The number and location of bonus units and their impact with regard to site plan, density of development, topography, and other physical features;
3. The conformity of the project to zoning provisions under the zoning and subdivision regulations.

C. Waivers of MPDU Requirements

Requests for full or partial waiver of MPDU requirements shall be made to the Mayor and Council in accordance with Section 13.5-6(b) of the Moderately Priced Housing Ordinance.

D. MPDU Construction Agreement Procedures

1. At the time of building permit application, all applicants who are required to provide MPDUs must file a written agreement with the Department that contains the following:
 - a. The number and type of MPDUs;
 - b. The identifying designation for each MPDU (e.g., subdivision, apartment or condominium name; location; and address, lot and block as applicable); and
 - c. A plan for the staging of construction of all dwellings that must be arranged so that MPDUs are constructed along with or preceding other units. If the applicant proposes single-family attached or detached development, one-half of the MPDUs must be under construction before the second half of the market units are granted permits.
2. The MPDU agreement requires that the applicant provide in the sales contract or lease and to record with the deed for each MPDU sold or rented, a covenant running with the land stating that the dwelling unit will not be resold or re-rented for an amount that exceeds the limits set by the City for a period of thirty years (30) from the date of original sale or rental of the unit.
3. The applicant must file with the MPDU agreement a statement of all land owned and available for development. Available for development includes the following:

- a. Any land owned or under contract to the applicant, presently zoned for any type of development to which the optional MPDU zoning provisions apply;
 - b. Any land which is within the area that is to be served by public water and sewerage as defined in the Ten-Year Water and Sewerage Plan for Montgomery County; and
 - c. Any land for which an application for subdivision, development, or building permit has been submitted to the appropriate City agency. The applicant need only update the original statement when additional MPDU agreements are submitted.
4. The MPDU agreement template may be obtained from the Department. After approval, the Department will verify that the agreement satisfies the terms of the Moderately Priced Housing Ordinance and these regulations. The Department will submit the agreement to the Office of the City Attorney for review and approval prior to execution of the agreement by the city manager.
 5. After the MPDU agreement is approved, it is forwarded to the Division of Inspection Services for submission along with the applicant's request for building permits. The Division of Inspection Services may then issue permits for those units covered by the agreement provided that all other requirements necessary for the issuance of permits are satisfied.
 6. Any revisions to the agreement must be approved by Mayor and Council and must be in writing and signed by both the applicant and the city manager.

E. Housing Programs That May be Used to Fulfill MPDU Requirements

1. Certain federal, state or local housing programs may be used to fulfill MPDU requirements when the Mayor and Council approve such programs. Programs submitted for approval include but are not necessarily limited to those housing programs that require the following:
 - a. Incomes for eligible households at or below the MPDU income limits;
 - b. Prices which are at or below the maximum MPDU sales prices or rents; and
 - c. Long-term controls over the sales prices or rents that are deemed to be appropriate by the director of the Department.
2. The Montgomery County HOC Mortgage Purchase Program and the State Community Development Administration's Homeownership Development Program do not satisfy MPDU obligations.

F. Procedures for Considering and Implementing Alternative MPDU Offers

In accordance with the provisions of Chapter 13.5-5(f) of the City Code, an applicant may propose an alternative to building the required percentage of MPDUs onsite.

1. Request for alternative MPDU agreement

The applicant must submit a request for an alternative MPDU agreement to the Department director in writing along with the submission of a development application for the project for which the alternative agreement is being requested. The request should include the following:

- a. The applicant's justification and need for an alternative MPDU agreement. The justification shall contain all pertinent material and analysis that will assist in evaluating the request, including relevant zoning and site conditions, and financial feasibility.
- b. The applicant's request for an alternative offer shall include one or more of the following options:
 - i. Building Significantly More MPDUs (as defined in Chapter 13.5-3) at one or more other sites in the city. See Section 5G.
 - ii. Conveying land in the city that is suitable in size, location, and physical condition for Significantly More MPDUs (as defined in Chapter 13.5-3). See Section 5H.
 - iii. Contributing a payment in lieu of MPDUs to the Moderately Priced Housing Fund that will result in building Significantly More MPDUs (as defined in Chapter 13.5-3). See Section 5I.

2. Review of alternative offer

- a. The applicant and the Department must negotiate the terms of the alternative MPDU agreement to present to and be approved by Mayor and Council. The final agreement must be in a form acceptable to the city attorney and will be signed by the city manager on behalf of the city. The applicant will furnish a copy of the executed agreement with the application for building permits.
- b. The Mayor and Council may reject any offer by an applicant for an alternative MPDU offer either in part or in whole if the Mayor and Council determines that the public interest would best be served in that manner.

3. Alternative MPDU agreements for Senior or Special Needs Housing with Services

- a. Required alternative agreement. When an applicant proposes Senior or Special Needs Housing with Services as defined in Chapter 13.5-3 the applicant must request an alternative agreement.
- b. When a project proposes Senior or Special Needs Housing with Services as defined in Chapter 13.5-3, the maximum monthly fee must be calculated using the then current income levels established for qualifying households for the City of Rockville MPDU Program.
 - i. The maximum monthly fee for a one-bedroom unit is based on the then-current income range for a one-person household. The maximum monthly fee for a two-bedroom unit is based on the then-current income range for a two-person household.
 - ii. The maximum monthly fee is calculated as follows:
 - 1) The difference between the then-current minimum gross income and maximum gross income levels is divided into three equal income tiers.
 - 2) For Income Tier 1, the monthly fee must not exceed 70 percent (70%) of the average of the monthly minimum gross income and maximum gross income for the tier.
 - 3) For Income Tiers 2 and 3, the monthly fee must not exceed 75 percent (75%) of the average of the monthly minimum gross income and maximum gross income for each tier.

The following example illustrates a calculation for a one-bedroom unit:

MPDU Minimum Gross Annual Household Income for One Person: \$22,000

MPDU Maximum Gross Annual Household Income for One Person: \$45,100

Tier	Income Range	Average Income of the Minimum and Maximum	Maximum Monthly Fee
1	\$22,000 – \$29,700	\$25,850	\$1,508
2	\$29,701 – \$37,400	\$33,551	\$2,097
3	\$37,401 – \$45,100	\$41,251	\$2,578

iii. The Applicant must offer the following:

- 1) At least one unit in each tier; and
- 2) At least 30% of the MPDUs must be offered in a combination of Tier 1 and 2 units, but the applicant is not required to provide an equal number of units in each tier.

iv. The monthly fee for services for an additional occupant must not exceed 75 percent (75%) of the monthly fee charged to an additional occupant of a market-rate unit.

c. Options for providing less than the required number of MPDUs onsite. As part of the applicant’s request for an alternative agreement and only when MPDUs are provided onsite, the applicant may request permission to provide a lower percentage of MPDUs 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 MPDU units. The justification must be documented by verifiable data and is subject to review and approval by the Mayor and Council.

G. MPDU Off-Site Development Option

An applicant may satisfy a project’s MPDU requirements by providing Significantly More MPDUs as defined in Chapter 13.5-3 at an alternative location.

1. An applicant may

- a. Build or convert from nonresidential use, the required number of MPDUs at a site approved by Mayor and Council;
- b. Buy or encumber, and rehabilitate as necessary, other existing residential units to meet the MPDU requirement.

2. Each agreement under this option must include a schedule, binding on the applicant, for timely completion or acquisition of the required number of MPDUs.

3. In reviewing an alternative location proposal, the Department will take into consideration the following factors:

- a. Whether the proposed site has comparable access to amenities and services as onsite MPDUs would have had.

- b. Whether the proposed units will be of comparable quality to MPDUs that would have been provided onsite.

H. MPDU Land Transfer Option

An applicant may satisfy the MPDU requirements of a development by transferring land to the city which is suitable for the construction of Significantly More MPDUs as defined in Chapter 13.5-3. Land transferred to the city must be conveyed in the form of finished lots unless otherwise agreed to by the Mayor and Council. The transferred land must be of sufficient area to construct the number of MPDUs required. A request to transfer land to the city is considered an alternative MPDU agreement and must follow the timeline and procedures in Section 5F of these regulations.

1. Conditions for Transfer:

Land offered to the city will be evaluated by the Department for meeting the following minimum conditions:

- a. The lots must be capable of being built upon without undue or excessive costs;
- b. In single-family detached developments, land may be transferred as individual scattered lots, as several groups of lots, or as a single parcel;
- c. In semi-detached developments, land may be transferred as scattered pairs of lots for adjoining homes, as a single parcel, or as multiple parcels;
- d. In fourplex or townhouse developments, land may be transferred as a group of lots sufficient in number to develop a fourplex building or group of townhouses.
- e. In multi-family apartment projects, land may be transferred if it is of sufficient size to support the development of an independent rental or sales project including parking, open space and amenities.

2. Notification Process

A land transfer request must include the following:

- a. A description of the property to be transferred;
- b. Available development plans, record plats, topographical maps, and title reports; and
- c. An itemized estimate of the development costs for such lots.

3. Review Process

For a land transfer proposal, the Department will consult with other departments as may be appropriate. The Department will take into consideration the following factors:

- a. The feasibility of constructing housing on the property to be transferred based upon a comprehensive examination of the soils, slopes, and other physical characteristics.
- b. Whether sufficient land is available to meet the MPDU requirements; and
- c. The availability of funds for reimbursement of the estimated lot finishing and settlement costs.

4. Land Transfer Agreement

- a. The Department will arrange for preparation of the necessary deeds, arrange for settlement, and ensure that the deeds are properly recorded.
- b. The Mayor and Council may enter into an agreement to sell the transferred property to a builder who will construct housing that will achieve the objectives of the Moderately Priced Housing Ordinance. The prices to be charged for the transferred land should take into consideration any city costs, and the prices must reflect the concept that little or no raw land cost is included in the MPDU price.

5. Compensation

- a. A finished lot is defined as one that has been adequately prepared to allow the construction of a dwelling without major additional site preparation. 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.
- b. Closing costs shall be paid by the city.
- c. If no funds have been appropriated to reimburse the applicant for finishing costs, the city may elect to accept from the applicant undeveloped land rather than finished lots.

6. Inspection of Land

The city or its agents, will have the right to enter onto all or any part of the property at any time prior to closing for the purposes of surveying, engineering, soil testing and boring, and such other studies as may be desirable or necessary. The costs for this work will be borne by the city and will not result in a change in the present character of the property.

7. Disposition of Land by City

The city may cause MPDUs to be constructed on land transferred by selling these lots to one or more builders under terms that will carry out the objectives of the Moderately Priced Housing Ordinance or to contract directly for the construction of the units.

I. MPDU Fee-in-Lieu to the Moderately Priced Housing Fund

- A. An applicant may satisfy the MPDU requirement by making a cash contribution to the city's Moderately Priced Housing Fund instead of building some or all of the required number of MPDUs in the proposed development.

- B. Except as provided in subsection C., the fee per unit will be paid for each MPDU that was required to be built onsite, plus an additional 15% of the number of MPDUs that were required to be built onsite. For example, if 20 MPDUs are required onsite, the fee-in-lieu payment is calculated for 23 MPDUs.
- a. For-sale units: The fee per unit will be 90% of the difference between the market rate purchase price of a dwelling unit and the sales price affordable to an MPDU household earning the maximum MPDU household income. The amount affordable to a household shall be based on common definitions of affordability, such as that provided by the U.S. Department of Housing and Urban Development (HUD), and the standard costs of ownership, such as principal, interest, taxes, insurance, and homeowner association dues. City staff will use the following assumptions to determine affordability: the most recent average regional 30-year fixed mortgage rate as reported by the Freddie Mac Primary Mortgage Market Survey or similar reputable source at the time of the applicant's request, local property tax rates, a reasonable estimate for insurance costs based on unit construction type, and a 5% borrower down payment.
 - b. Rental units: The fee per unit will be calculated using the same basis for the for-sale units. Instead of sales prices, alternative payments will be based on appraisals of individual rental market units of each required bedroom type, as if the units were for-sale units. The necessary appraisals will be at the applicant's expense.
 - c. The affordability gap will be calculated on a case-by-case basis by city staff. One-half of the total fee will be due upon the applicant's application for building permits and the remaining fee will be due before issuance of the certificate of occupancy for the project.
- C.
- a. For a project that contains a life care facilities component, the fee-in-lieu will be calculated by multiplying the monthly rent for a one-bedroom unit at 60% of the median income (as determined in accordance with Section 6) by 360¹, and then by the total number of units required. For example, in 2018 the MPDU monthly rental rate for a one-bedroom unit at 60% of the median income was \$1,125.00. For a development that was required to provide five (5) life care facility units, the fee would be calculated as follows: $\$1,125 * 360 * 5 = \$2,025,000.00$.
 - b. One-half of the total fee is due when the applicant submits the first application for a building permit for the project. The remaining fee will be due before the issuance of any certificate of occupancy for the project.
 - c. For any project or development that provides MPDUs in a life care facility as of April 1, 2019 the developer or property owner may request to pay a fee-in-lieu in accordance with subsection C.a. of this section rather than continue to provide the MPDUs in the life care facility. The developer or property owner will be released from their obligation to provide MPDUs at the life care facility once the entire fee that is due is deposited into the Moderately Priced Housing Fund.

¹ 360 equals the total months that the Moderately Priced Housing Ordinance requires a unit to remain in the MPDU program.

J. Waiver of MPDU Requirements

Requests for waivers from requirements of the Moderately Priced Housing Ordinance must be submitted concurrently with the submission of an application for development review. All requests for waivers shall be submitted to the director of the Department for referral to the Mayor and Council. Such requests must be in writing and clearly state the reason for such a waiver and should be substantiated with documentation, plans, and all other pertinent material that will assist in making a decision on the request.

The Department staff will make recommendations to the Mayor and Council prior to the granting or denying of waivers. All waiver requests are considered individually and granting of waivers will be kept to a minimum.

SECTION 6. SALE OR RENTAL PROCEDURES

The Moderately Priced Housing Ordinance regulates the sale and rental of units built according to its requirements, both in the method of sale or rental and the price at which they can be offered. The current sales prices and rents are available from the Department. The maximum sales prices are established by regulation, and more information can be found in Section 13 of these regulations. Rental rates are revised annually by June 1st and can be found by visiting <http://www.rockvillemd.gov/836/Affordable-Rental-Housing>.

A. Sales Price Limits for MPDUs

1. The sales prices for housing constructed as a requirement of the MPDU law must not exceed the applicable maximum limits established by the Mayor and Council. Sales prices may include all real estate brokerage fees, builder-paid permanent mortgage placement and buy-down fees, and closing costs, except pre-paid expenses required at settlement.
2. The following are closing costs that are calculated in the MPDU pricing process and included in the maximum allowable sales prices:
 - a. One-half of the loan origination fee;
 - b. County tax certificates, transfer charges, revenue stamps and recordation charges;
 - c. Appraisal fees and credit report charges;
 - d. Title examination, settlement and attorneys' fees;
 - e. Notary fees, document preparation (which shall include only: deed of conveyance, deed of trust/mortgage ad note/bond) and house location plat; and
 - f. FNMA review charges and the amount escrowed for water bill.
3. The following items are considered to be prepaid expenses and are not included in the maximum sales price. These charges must be paid by the purchaser:
 - a. One-half the loan origination fee;
 - b. Real estate taxes and front foot benefits;
 - c. Hazard and mortgage insurance;
 - d. Prepaid interest on mortgage loans;

- e. Homeowner association or condominium fees;
 - f. Title insurance and binder fees; and
 - g. Lender's inspection and other fees required by the lender.
4. The sale price limits for MPDUs are those in effect at the time the ninety-day priority offering period to the City's eligibility list commences in accordance with the procedures described in these regulations. In the event that MPDUs offered in this manner have not been sold to eligible persons during the 90-day priority offering period and the applicant then markets the units to the general public, the price limits may be adjusted upward by the Department to reflect the increased carrying costs incurred by the applicant. The units, however, must be completed and available for occupancy, and the applicant must demonstrate that a good faith effort was made to market the units to eligible households during the 90-day offering period. The monthly carrying costs allowance is based upon the cost of construction financing as calculated in the sales price limits established in the offering agreement.
 5. MPDUs developed under the programs identified in Article 5-D of this regulation must be offered and marketed according to the procedures established for those programs.

B. Rental/Homeownership Pricing Limits for MPDUs

Rental

1. Rental rates shall be based on the U.S. Department of Housing and Urban Development (HUD) median income calculation for a family of four in the Washington, D.C. Metropolitan Statistical Area that are released yearly around March 1. The rental rates for housing constructed as a requirement of the Moderately Priced Housing Ordinance must not exceed the applicable maximum limits according to the following:
 - a. For dwelling units subject to an MPDU Agreement with an effective date on or before June 2018, the following chart shows the information to be used to calculate the rents on a yearly basis:

Monthly Type of unit	# of Persons	Family Size Factor	Median Income	60% of Median	% of Income for Housing ²	Monthly Rent
Efficiency	1	.70	HUD#	HUD x 0.60	0.25	Value
One Bedroom	2	.80	HUD#	HUD x 0.60	0.25	Value
Two Bedroom	3	.90	HUD#	HUD x 0.60	0.25	Value
Three Bedroom	4+	1.00	HUD#	HUD x 0.60	0.25	Value

- b. To obtain the value for each bedroom count, the family size factor is multiplied by 60% of median income number, and then multiplied by 0.25 (or 0.30 if utilities are paid by the landlord). This formula provides a value for the monthly rent for each type of unit.

² This assumes tenant paid utilities. If utilities are paid by landlord, rental rates should be calculated at 0.30 instead of 0.25.

- c. For dwelling units subject to an MPDU Agreement with an effective date after July 2018, the following chart shows the information to be used to calculate the rents on a yearly basis:

Monthly Type of unit	# of Persons	Family Size Factor	Median Income	% of Median	% of Income for Housing ³	Monthly Rent
Efficiency	1	.70	HUD#	HUD x Income Band	0.25	Value
One Bedroom	2	.80	HUD#	HUD x Income Band	0.25	Value
Two Bedroom	3	.90	HUD#	HUD x Income Band	0.25	Value
Three Bedroom	4+	1.00	HUD#	HUD x Income Band	0.25	Value

- d. To obtain the value for each bedroom count, the family size factor is multiplied by the income band (0.3, 0.4, 0.5, 0.6, 0.7, 0.8, 0.9, 1.0, 1.1, or 1.2) depending on the income band applicable to the specific unit, and then multiplied by 0.25 (or 0.30 if utilities are paid by the landlord). This formula provides a value for the monthly rent for each type of unit.
- e. The final distribution of dwelling units at the various income band levels (i) is subject to City approval, and (ii) must be detailed in an MPDU agreement.
- f. The formulas set forth in this Section shall be applied and rates calculated by the staff of the Department each year for approval of the city manager. Sixty days prior to implementing the annual adjustment, the city manager shall inform the Mayor and Council of the amount of the adjustment in the maximum rent.
- h. The Mayor and Council may, if desired, establish a different maximum rent than provided by the formula, in accordance with the Moderately Priced Housing Ordinance. The rents are those in effect at the time the 90-day priority offering period to the city's eligibility list commences in accordance with the procedures described in Article 6C. In the event that the MPDUs offered in this manner have not been rented to eligible persons during the 90-day priority offering period and the applicant then markets the units to the general public, the applicant may offer the units at the rental rates currently in effect for new units. The applicant, however, must demonstrate that a good-faith effort was made to market the units to eligible households during the initial 90-day offering period.

³ This assumes tenant paid utilities. If utilities are paid by landlord, rental rates should be calculated at 0.30 instead of 0.25.

Homeownership Affordability Structuring

- a. Applicants must provide homeownership MPDU units at affordability levels between 50% and 120% of Area Median Income (AMI). A variety of income tiering within the income band will be acceptable, subject to demand and other factors as determined by the City. For example, a development with 15 MPDU units may include two (2) units at 50% of AMI, five (5) units at 60% of AMI, and eight (8) units at 80% of AMI. Alternatively, the units can be broken into five (5) units at 50% of AMI, five (5) units at 60%, and three (3) units at 80% and two (2) units of at 120% of AMI.
 - b. The final distribution of dwelling units at the various income band levels (i) is subject to City approval, and (ii) must be detailed in an MPDU agreement.
- i. MPDUs developed under the programs identified in Article 5D of this regulation are to be offered and marketed according to the procedures established for those programs.

C. Sale and Rental Procedures

1. Qualifying and Marketing MPDUs to Eligible Persons

a. The actions that the Department will take in qualifying eligible persons are as follows:

- 1) Take applications from households and individuals to determine their eligibility for MPDUs;
- 2) Maintain a list of eligible persons according to their preference for sale housing, number of bedrooms required, place of residency and place of employment;
- 3) Provide a list of eligible persons to the builder or developer who will notify eligible persons of the availability of MPDUs adequate to meet their housing needs and preferences; and
- 4) Determine whether a potential MPDU buyer has previously owned an MPDU or occupied a residence that the buyer has owned in the Washington, D.C. Metropolitan Area within the previous five years. An eligible person may not buy an MPDU if that person has previously owned an MPDU or other residence in the Washington, D.C. Metropolitan Area as defined by HUD within the previous five years, unless there are no other eligible persons who are first-time buyers interested in purchasing the unit. The city manager may waive this restriction for good cause.

2. Offering MPDUs for Sale or Rent

a. The applicant must notify the Department of the intent to offer MPDUs for sale or rent by completing an MPDU offering agreement on the form provided by the city manager. The following information must be provided:

- 1) A description of the MPDUs including the number, unit types, and size by area and number of bedrooms, and other relevant details of the MPDUs;

- 2) The addresses, legal descriptions, and tax account numbers of MPDUs;
- 3) A recorded subdivision plat, a copy of the approved preliminary plan, and two copies of the site development plan designating the location of the MPDUs;
- 4) A copy of the recorded Declaration of Covenants, or covenants fully executed and ready for recording;
- 5) A completed sale price calculation sheet and price list of options if the houses are to be sold and a copy of the floor plans of each unit type;
- 6) The date(s) when MPDUs will be delivered for settlement or rental occupancy; and
- 7) Other information the Department may deem necessary.

b. MPDU sale units must be available for settlement and occupancy in compliance with all code requirements within one year of the date of acceptance of the offering agreement by the Department.

c. MPDU rental units must be available for rental occupancy in compliance with all code requirements within one year of the date of acceptance of the offering agreement by the Department.

3. Selection Process for Offering Units for Sale

a. The Department shall maintain a list of all eligible persons interested in buying MPDUs based on those persons holding Certificates of Eligibility. This list will be provided to the builder or developer for marketing the units during the priority marketing period.

- i. The list shall be divided into two parts, the first part being individuals or households who currently live or work within the Rockville city limits, and the second part being those individuals or households who do not live or work within the Rockville city limits. The builder or developer shall first offer the units for sale to those persons who live or work within the Rockville city limits.
- ii. Reserved.
- iii. The builder or developer shall, in accordance with the above sections, contact eligible persons to offer units for sale in the order in which they appear on the list. Eligible persons must be given a reasonable amount of time to respond to the notification prior to the builder or developer moving forward on the list to offer the units to additional certificate holders. The applicant may not begin marketing or reserving MPDUs prior to approval of the offering agreement and the date established by the Department for marketing the MPDUs. The applicant must comply with all federal, state, and local fair housing laws.

- iv. If an applicant offers MPDUs for sale within six months after the date of acceptance by the Department of a previous offering of MPDUs in the same subdivision, then the priority list established for the previous offering will be used until all eligible households on the list have been exhausted. The following provisions apply to the subsequent offering:
 - 1. The applicant's offering contains the same type(s) unit(s) with the same number of bedrooms per unit as were in the prior offering; and
 - 2. Purchasers must have a valid MPDU eligibility certificate and meet the approved maximum MPDU income limits at the time of the second offering.
 - 3. The priority marketing period for subsequent offerings begins on the date of approval of the offering agreement.
 - 4. For offerings where no lottery is to be held, eligible persons will be notified and advised to contact the applicant directly to arrange for the purchase of an available unit. The applicant will be responsible for marketing the units. The applicant may not begin marketing or reserving MPDUs prior to approval of the offering agreement and the date established by the Department for marketing the MPDUs on a " first-come, first-served " basis. The applicant must comply with all federal, state, and local fair housing laws.

4. Rental Procedures

- a. An applicant must offer units first to eligible persons over age 55 or families with a member over age 55. The builder or developer must contact such individuals first when marketing the multifamily MPDUs for rent.
- b. MPDUs offered for rent by the applicant may be leased without utilizing the lottery process unless otherwise required by the director. The applicant must comply with all applicable fair housing laws and must rent the available MPDUs only to eligible persons during the priority marketing period. If a lottery process is used to rent the MPDUs the same point system described in Section 3(b) will be used for ranking eligible person's or household.

5. MPDU Covenants

- b. a. Before the first sale or rental of an MPDU, the applicant must sign and forward MPDU covenants to the Department. The covenants must be in the form required by the Department and include the restrictions contained in the Moderately Priced Housing Ordinance. The covenants will run with the land for the entire period of control and until all requirements of the Moderately Priced Housing Ordinance have been complied with. The covenants will be binding on the applicant, all assignees, mortgagees, buyers, and all other parties that receive title to the property.
- c.
- d. b. MPDU covenants will be recorded by the Department and must be recorded so that they are senior to all instruments securing permanent financing. Every deed transferring the MPDU must contain the reference to the covenants citing where the covenants are recorded in the Land Records by liber and folio reference. If covenants cannot be recorded on the MPDU in

conformance with this regulation, then the unit will not be considered as having met the requirements section 13.5 of the Moderately Priced Housing Ordinance.

j. Sales and Rental Documentation

Within fourteen (14) days following the sale or rental of each MPDU, the applicant must submit to the Department a copy of the initial sales contract or lease agreement and the MPDU Certificate of Use Form. The final settlement sheet and a copy of the deed must be sent to the Department within 21 days after settlement on the sale of the property. The applicant must submit all of the required documents in correct form to consider the unit as fulfilling the requirements of the Moderately Priced Housing Ordinance.

D. Units Available to the housing agency

1. Under the Moderately Priced Housing Ordinance, the housing agency is entitled to purchase or lease, for its own programs, up to thirty-three percent (33%) of all MPDUs to be sold or rented in each development. Concurrently with the eligible candidates, the Department must notify the housing agency of the availability of MPDUs.

The housing agency then has 21 days to designate to the applicant those units, if any, it is considering acquiring or renting. For the units under consideration, the housing agency then has the remainder of the 45-day period to notify the applicant of its final decision. Units not designated by the housing agency within the appropriate time limits may be marketed by the applicant according to the Moderately Priced Housing Ordinance guidelines.

2. For the units under consideration, the housing agency is considered to have exercised its option and to have exclusive right to those units designated by the housing agency for sale or rental if the housing agency has within the 45-day period provided the applicant with a written notification of its intent to purchase or rent. In all cases, the applicant must deliver all necessary documents to the housing agency within the 45-day period in order that the housing agency or its assigns might contract to purchase or lease, as appropriate, the available MPDUs as expeditiously as possible.
3. The housing agency should negotiate the acquisition or rental of MPDUs directly with the applicant. The housing agency is subject to the maximum sales prices or rental rates included in regulations issued by the Mayor and Council.
4. The housing agency may assign its one-third option described above to persons of low or moderate income who are eligible for assistance under any federal, state or local program identified in section 13.5-3 of the Moderately Priced Housing Ordinance, as amended, or in regulations. If the housing agency assigns its option in this manner, it must notify the Department and the applicant of the person to whom the option has been assigned and must also inform the Department of the subsequent exercise of the option so assigned.

E. Control of sale price and rental rate of MPDUs

The price at which MPDUs may be sold is controlled by covenants recorded with the deeds of those properties for a period of thirty (30) years from the date of original sale or rental of such unit.

The price at which MPDUs may be rented is controlled by covenants recorded with the deeds of those properties for a period of thirty (30) years from the date of original rental of such unit.

F. Restrictions on Rental of MPDUs

1. MPDUs, other than those specifically described in Article 6-D and 6-F (3), must not be offered for rent by an applicant during the priority offering period, except when located in subdivisions consisting entirely of rental units. Applicants must make a good faith effort to enter into contracts with those having the exclusive right to contract.
2. Applicants who make a good faith effort to sell their MPDUs in accordance with the restriction described in paragraph F-1 above, but are unable to sell the MPDUs during the priority of offering period, may, after notifying the Department, re-offer unsold units for rent. These units must then be marketed and leased in accordance with the procedures and requirements imposed by this regulation.
3. In any subdivision in which the applicant designates one or more sections of the subdivision or a particular housing type to be marketed as rental units, the applicant may elect to meet the MPDU requirement for the rental section with rental MPDUs in accordance with the following provisions:
 - a. The designation of rental sections must be made at the time of submission of either the MPDU construction agreement or the offering agreement to the city for approval.
 - b. A plan for the entire subdivision, designating the location and number of units in the rental sections and the MPDUs, must be attached and made part of the agreement.
 - c. The number of rental MPDUs as proportion of the total number of rental units must not exceed (but may be less than) the proportion of total MPDUs to the total number of dwelling units in the subdivision. Rental MPDUs must be the same housing type as the market rate rental units.

G. Requirements for MPDU Rentals

Rental MPDUs are administered in the following manner:

1. Every lease for a rental MPDU must include a provision that states, "the rental price may not exceed the maximum rental rate as established by regulation from time to time pursuant to the Moderately Priced Housing Ordinance, as amended, or as determined by any system of rental controls enacted by the Mayor and Council of Rockville." The rental rates established for each MPDU may not be modified except as permitted by executive regulation.
2. If the owner of any rental MPDU decides to sell the unit at any time during the control period, the owner must notify the Department in writing of such intent. The sale of the unit will be treated as if it were an original offer to sell and the sale and purchase of the unit will be governed by the Moderately Priced Housing Ordinance and appropriate regulations. The sales price will be the price listed in the current regulation governing the initial sales price of MPDUs.
3. If the unit is converted to condominium status during the control period, it is subject to the requirements of Chapter 11A of the Montgomery County Code, 1994, as amended.

H. Re-rental of MPDUs by Applicants

During the control period, if an applicant has rental MPDUs to be re-rented, the applicant must offer them to eligible persons for sixty (60) days prior to marketing to the general public.

SECTION 7. SUBSEQUENT SALES OF MPDUs

The city exercises control over resale prices of previously purchased MPDUs in accordance with the following procedures:

A. Request for Price Determination

An owner of an MPDU must notify the Department in writing of the owner's intent to sell and request a resale price determination. The owner must provide the Department with an itemized list of all capital improvements for which an allowance is requested as part of the resale price determination. All improvements claimed must be documented with receipts. The owner must permit the Department to inspect the improvements.

B. Establishment of Maximum Resale Price

1. Upon receiving a request for a resale price determination, the Department will establish a maximum resale price, which will include the following factors:
 - a. The original price paid for the unit plus an allowance for the increase in value of the unit during the period between the date of original settlement and the date of resale. The allowance is based upon the rate of increase in the U.S. Department of Labor Consumer Price Index (CPI) for the South Urban Area.
 - b. An allowance will be given for certain capital improvements made to a unit subsequent to the date of purchase as determined by the Department. An allowance may not exceed 10% of the selling price as calculated in accordance with Section 13.59(a)(1).
 - c. Upgrades of existing house components, normal owner maintenance and general repair work will not be included in the resale price determination. Improvements must be permanent in nature and clearly add to the market value of the house or property.
2. Any personal property, including equipment, not considered an improvement by the Department may be sold as an option; however, the value of such options may not be added to the final sales price of the dwelling unit. The purchaser of an MPDU is under no obligation to purchase personal property or equipment. Household appliances purchased as an option at original sale or added subsequent to the original sale will be depreciated over a five-year life cycle. The depreciation is subtracted from the final resale price.
3. Closing costs are treated as follows:
 - a. The seller must pay all closing costs when such costs were included (i.e., paid by the original seller) in the original purchase price.
 - b. When an MPDU owner has paid all closing costs as may be required by government mortgage financing programs, then the purchaser must pay closing costs on the resale.

- c. Prepaid items are not considered closing costs.
 - d. No increase in the resale price is allowed for the payment of brokerage fees associated with the sale of a unit.
4. The Department will notify the owner, in writing, of the approved resale price within 21 days of receipt of the request for price determination. Items not approved will be noted with the reason given for the disapproval.

C. Offering an MPDU for Resale

MPDU resales must be offered in accordance with the following procedures:

1. An MPDU cannot be offered, advertised, or sold for a price greater than the maximum resale price determined by the Department. The seller must notify the Department whenever a sales contract is executed by forwarding a copy to the Department. The seller must also furnish the Department with an executed copy of the settlement sheet.
2. An MPDU may only be sold to a purchaser who will occupy the unit as the purchaser's primary place of residence for the balance of the existing control period or to the designated housing agency. Purchase of an MPDU for speculative purposes prohibited. The seller will be given a certificate of personal use form which must be completed by the intended purchaser and returned to the Department.
3. Upon establishing a maximum resale price, the unit must be offered first exclusively to the designated housing agency which will have a 45-day period in which to notify the seller of its decision. If the designated housing agency does not wish to purchase the unit, it will then be offered to persons determined by the Department to be of moderate income. These persons will have an exclusive opportunity to contract for the unit for sixty days. The Department has permission to inform certificate holders of the availability of these units.
4. If the unit has not been sold during the sixty (60) days after the Department established the maximum resale price, the MPDU owner may offer the unit to the general public at the price previously determined by the city manager.
5. If the MPDU remains unsold one hundred eighty (180) days after the unit is offered for sale to the general public, the City Manager may permit the owner of the MPDU to sell the MPDU at market price. If a unit is sold a market price, the seller must pay to the Moderately Priced Housing Fund all sales proceeds in excess of the price calculated in accordance with Section 13.5-9(a). Once the sales proceeds are deposited in the Moderately Priced Housing Fund, the City will release the covenants applicable to the unit.

D. Appeal of Resale Price

If a seller does not agree with the determination issued by the Department regarding the eligibility of improvements and their value, the seller will have fourteen (14) days from the date of the determination to request reconsideration by the Department. The request must cite the basis for the request and should

include documentation that the seller wishes to use in support of the request. If a seller does not agree with the determination made by the city manager as to the fair market value of eligible improvements, the seller has the right to have an appraisal conducted by a certified appraiser, the cost of which is borne by the seller. Upon submission of such appraisal, the city manager must make a final determination as to the fair market value of improvements. The director of the Department must send a written final determination of the approved maximum resale price to the seller within thirty (30) days of the receipt of the request.

SECTION 8. ENFORCEMENT

The city enforces the provisions of the Moderately Priced Housing Ordinance and regulations in accordance with the following conditions:

- A. The Department is responsible for enforcing the provisions of the Moderately Priced Housing Ordinance. In the event that an applicant does not construct the MPDUs according to the terms of an approved MPDU agreement, the Department will contact the applicant to determine the reasons for such noncompliance. If the applicant can demonstrate sufficient reason why the MPDUs have not been constructed, the Mayor and Council may agree to renegotiate the applicant's MPDU agreement. Sufficient reason for the failure to construct MPDUs according to the approved MPDU agreement include but are not limited to the following:
1. Economic conditions have caused the applicant to postpone the development of the entire project including both the MPDUs and market rate units. An applicant may not postpone the construction of the MPDUs unless the city has given prior approval to such a change in the approved agreement.
 2. Sewer and water service has been delayed for all or a portion of the subdivision.
 3. Unusual weather conditions or physical site conditions have rendered part or all of the site temporarily undevelopable.
 4. A failure by a public agency has forced a deviation from the approved staging plan.
 5. Such other good reasons as may be accepted by the Mayor and Council on a case- by- case basis.
- B. Revisions to an approved MPDU agreement are the responsibility of the applicant and should be requested as soon as the applicant recognizes that the terms of an approved MPDU agreement cannot be met.
- C. If the applicant cannot demonstrate sufficient reason why the terms of the approved MPDU agreement have not been met, or can demonstrate good cause but does not negotiate an amended agreement with , the Department may request that the city take formal action against the applicant to ensure that the MPDUs are constructed along with or preceding the market rate units in the subdivision. The city Manager is authorized to withhold the issuance of subsequent building or occupancy permits to the applicant until the MPDUs contained in the currently approved agreement are constructed, or until the applicant has amended his agreement. Once the issuance of a building permit for the subdivision has been halted, or existing building or occupancy permits suspended or revoked, the issuance of permits by the Department may not be resumed until the city manager is satisfied that the terms of the approved MPDU agreement are being met.

SECTION 9. RENTAL AGREEMENT OFFERING

- A. The rental limits for MPDUs offered for rent are those in effect at the time that the ninety (90) day priority offering period to eligible persons. This ninety (90) day priority offering period commences in accordance with the procedure described in the regulation.
- B. The offering of rental MPDUs to the Department will not be considered a bona fide offering unless such units are available for occupancy within 120 days of the acceptance of the offering by the Department. In the event that the units are not rented to eligible persons during the 90-day period referred to above, and the applicant (i.e., developer) has proved to the satisfaction of the Department that a good faith effort was made to rent the units to eligible persons, the applicant may then market the units to the general public at the rental price limits currently in effect for new units. Unit must be offered to eligible persons at each lease conclusion.
- C. Landlords offering MPDUs for rent are required to send copies of the initial rental contract and rental certification form indicating whether utilities are included in the rent or paid separately by the tenant and notice of rent increases and renewal leases to the Department.
- D. The rent listed above cover all operating expenses and utilities, except as noted. Operating expenses include all costs associated with the operation and maintenance of the rental property. Where operating costs assumed in the establishment of these prices are the responsibility of the owner/developer but are paid by the tenant, the maximum allowable rent may be adjusted downward by the Department. This provision applies to all units rented according to Section 13.5-7, Rockville City Code as amended.

SECTION 10. MAXIMUM INCOME LIMITS

In accordance with Section 13.5-4 of the Moderately Priced Housing Ordinance, the maximum household income limits are established by the city manager and will be used to determine eligibility for the Moderately Priced Housing Program.

SECTION 11. SOURCES OF INCOME

Maximum permitted moderate income is defined as the gross income received annually from all sources by the members of a family or household unit. Sources of income include, but are not necessarily limited to the following:

- A. Wages and Salary
- B. Child Support
- C. Alimony
- D. Interest from Savings/Checking
- E. Dividends from Stocks/Bonds Certificate of Deposits.
- F. Social Security Benefits.
- G. Veterans Administration Benefits
- H. Overtime-
- I. Unemployment Insurance.
- J. Bonus Payments.
- K. Pension/Retirements Payments
- L. Disability Benefits.
- M. Any Other Annuities or Stipends Received.
- N. Income from Real Estate Investments
- O. Welfare/AFDC (including money received pursuant to the Temporary Assistance for Needy Families program; but excluding SNAP benefit also known as "food stamps")

Losses generated from investments in real estate will not be used to reduce gross annual income.

SECTION 12. **APPLICABILITY**

These prices and price calculation procedures are applicable to new houses constructed and sold in fulfillment of the Moderately Priced Housing Ordinance requirements. This regulation is being promulgated after obtaining and considering information and data dealing with current general market and economic conditions and the current minimum sale prices of privately produced market priced housing. The Mayor and Council has obtained information relative to housing prices and construction costs from the building industry, employers and professional and citizen groups having information relative to moderate income housing.

SECTION 13. MAXIMUM, ALLOWABLE SALES PRICES OF MPDU'S

The maximum, allowable sales prices of basic units, including closing costs and sales commission fees for moderately priced dwelling units sold in accordance with the requirements of Chapter 13.5 of the Rockville City Code, as amended, are the same as the applicable maximum sales prices established from time to time by Montgomery County pursuant to Chapter 25A of the Montgomery County Code. However, these prices are subject to the adjustments contained in Sections 6 and 14.

SECTION 14. PRICE ADJUSTMENTS FOR VARIATIONS FROM BASIC UNIT STANDARDS

- A. For units differing in size (square foot area) from the basic unit, the structure cost will be increased or decreased at one-half the unit type square foot cost.
- B. The construction loan interest rate used to calculate construction financing costs is based upon a prime interest rate of ten (10) percent plus two percentage points. Variations from this construction loan interest rate will be adjusted to the prime interest rate that exists at the time of the offering plus two percentage points.
- C. The following costs, in addition to the construction loan expenses, are included in the allowable sales price and are expressed as a percentage of the total price as follows:
 - 1. Construction loan placement fee – 1.5 percent
 - 2. Legal and closing costs – 3.5 percent
 - 3. Marketing expenses and sales commissions – 4.5 percent
 - 4. Builder's overhead expenses – 8 percent
 - 5. Pre-development expenses and contingencies – 5 percent
- D. The allowable sales price includes the following closing costs that are to be paid by the seller:
 - 1. One-half percent for a permanent loan origination fee;
 - 2. County tax certificate, transfer charges, revenue stamps and recordation charges;
 - 3. Title examination, settlement, and attorney fees;
 - 4. Notary fees and fees for preparation of a deed of conveyance, a deed of trust or mortgage, and the deed of trust or mortgage note;
 - 5. House location survey plat; and
 - 6. Appraisal fees and credit report charges.
- E. Fees required to place permanent financing will be permitted to be added to the allowable sales price to determine the final sales price to the purchaser. These fees may include the seller's permanent loan fees (points) that are in excess of one-half percent and any buy-down fees paid to a financial institution to reduce mortgage interest rates on the purchaser's loan below current market interest rates. There will be no additions if the buyers secure their own financing.
- F. The above prices for single-family, semi-detached, and townhouses include the cost of a basement. A basement cost will not be permitted on back-to-back or piggyback townhouses unless one or more of the following criteria are satisfied:
 - 1. The MPDUs are attached units and are scattered among market rate units with basements; or
 - 2. The MPDUs are constructed on land where the topography necessitates the construction of basements and the developer can demonstrate such topographical requirements to the satisfaction of the Department.

- G. In any instance where a townhouse MPDU is constructed as an end unit dwelling, the allowable structure cost will be adjusted to reflect the increased costs associated with the construction of the end unit.
- H. The allowable sales prices listed in Section 14 may be adjusted for the dwellings where space for future bedrooms that can be finished by the purchaser is provided. For each potential additional bedroom where adequate space is provided, the square foot price for this area will be reduced by ten (10) dollars per square foot from the square foot price. The minimum area, height, lighting, and ventilation must be provided in an MPDU in order to meet the requirements of the MPH ordinance. Expandable space must include the installation of heating and air conditioning ductwork, rough electrical wiring, rough-in plumbing, and insulation. Walkout basements will not be considered as expandable space.
- I. Water and sewer house connection fees are not included in the calculation of the MPDU base sales price. In any instance where water and sewer connection charges are not deferred, the allowable sales price will be adjusted to reflect this increased cost to the developer.
- J. When permitted by the city manager, significant items included in the minimum MPDU specifications, but which are not constructed in a unit will result in an adjustment to the allowable sales prices to reflect these omissions. Minimum specifications for MPDUs that exceed building code requirements are shown on the attached Addendum 1. It is the responsibility of the developer/builder to provide these items, or otherwise to obtain permission from the city manager not to meet the minimum standards.
- K. When a gas heating and air conditioning system is substituted for an electric system in an MPDU, the allowable sales price will be adjusted by the city manager.
- L. When the buyer and seller of an MPDU agree to modify the unit structurally to facilitate access or use by a disabled person(s), the city manager may adjust the allowable sales price by the amount of the additional costs. The builder/developer must obtain approval of the price from the City Manager prior to executing a sales contract.
- M. The city manager may adjust the allowable sales price of an MPDU if the developer/builder can demonstrate that additional unusual costs have been incurred (i.e., costs not already included in the allowable structure or lot development costs) which are directly attributable to and benefit the MPDUs and which are the result of the following:
 - 1. conditions or fees, such as impact or similar fees imposed by a governmental unit or as condition for building permit approvals;
 - 2. additional considerations or fees as a condition of obtaining governmental financing programs; or
 - 3. additional fees imposed by public utilities.

Documentation for such costs must accompany the sales offering agreement submitted to the Department. Requests for price adjustments must be initiated by the builder/developer. Additional costs for correcting or adapting the usability of marginal land, soils, or topography will not result in an increase to the allowable sales price.

- N. The city manager may permit an increase in the allowable sales price of an MPDU in exceptional cases when the city manager finds that a price increase is justified to cover the cost of modifying the external design of the MPDU that is necessary to reduce excessive visual and marketing impact of the MPDUs on

the market-rate units in the subdivision. The increase in the allowable sales price will only be permitted in accordance with the following conditions:

1. 1.The MPDUs are interspersed among or adjacent to the market rate houses and are plainly visible to
 2. the occupants of the market rate housing. A site plan must be submitted which shows the location of the MPDUs and the market priced units.
 3. The design elements requested will be similar to those elements used on the market-rate housing units in order to reduce substantial differences in appearance. Compensation may be allowed for full or half brick veneer facades and the sides of end units, roofing material, window and door treatments, materials for walkways, and similar architectural elements approved on a case- by- case basis.
 4. Compensation will be based upon the cost difference between the design elements included in the calculation of the MPDU allowable structure cost and those design elements for which the builder is requesting compensation. Cost estimates for construction bids must be submitted that will establish this difference in cost. The city manager may establish standard costs for approved design elements. The final determination of the amount of the compensation will be made by the city manager
 5. The increase approved for architectural compatibility will be limited to ten (10) percent of the allowable base cost for each unit increased by the direct cost percentages listed below. The allowable base cost will be determined using the square foot and lot development costs contained in Section 3 of this regulation.
 - a. Construction loan interest – prime rate plus 2 percent;
 - b. Construction loan expenses – 1.5 percent;
 - c. Builder's overhead expenses – 8 percent;
 - d. Pre-development expenses and overhead – 5 percent
- O. When the State of Maryland Community Development Administration's Homeownership Development Program is utilized to provide permanent financing for purchasers of MPDUs, the seller must exclude closing costs from the authorized sales price. The resulting sales price must reflect a deduction which equals the actual closing costs paid by the buyer. This provision only applies to those MPDUs for which a commitment of permanent financing has been received from the State of Maryland Development Administration in association with the Homeownership Development Program.
- P. The maximum, allowable sales price for new MPDUs sold to the housing agency, or to a non-profit corporation approved and certified by the Mayor and Council will be reduced to reflect the reduced selling and marketing costs associated with these units. In such cases, the maximum allowable sales price will be reduced by 4.5 percent.
- Q. The loan amount, but not the final sales price, may be increased to cover the cost of amortizing the mortgage insurance premium on FHA and Commission/FHA loans.
- R. The MPDU Pricing Standards and provisions of this regulation apply to all MPDUs offered for sale through Department on or after the effective date of this regulation. The maximum allowable sales price for the MPDUs will be fixed when the city signs the offering agreement.

MPDU PRICING STANDARDS

For pricing standards, please use the following link to the MPDU Pricing Standards.

https://montgomerycountymd.gov/DHCA/Resources/Files/min_specs_and_standards_0217.pdf

MPDU SPECIFICATIONS

ITEM	SFD	SEMIDETACHED TOWNHOUSES	BACK TO BACK TOWNHOUSES	PIGGYBACK TOWNHOUSES	GARDENS	
No. Bdrms	2, 3, 4, 5	2, 3	1, 2, 3, 4	1, 2, 2, 3, 4	0, 1, 2, 3	
No. Baths	1, 1.5, 2, 2	1, 1.5				
Electric Hot Water Heater (gallon)	40, 50, 50, 80	40, 50	30, 40, 50, 50	40, 50, 50, 50	50, 50, 40, 40	40, 40, 50, 50
Gas Hot Water Heater (gallon)	30, 40, 40, 50	30, 40	30, 30, 40, 40	40, 40, 30, 30	30, 30, 30, 40	30, 30, 30, 40

Note:

- a. Square foot prices are based upon heat pump systems for heating and air conditioning. Sales prices may be adjusted for units having other HVAC systems.
- b. Rough-in plumbing and electrical installation must meet the following conditions to qualify for a pricing addition:
 - 1) Plumbing rough-in: the installation of all parts of the plumbing system that can be completed prior to the installation of fixtures, appliances, or equipment must be included. This includes drainage, water supply, vent piping, and necessary supports and backboards. All piping must be tied-in and capped off after penetrating the wall or floor surface. Ductwork for the future installation of exhaust fans must be installed. Rough-in must pass air or water tests as required by the BOCA or WSSC Codes.
 - 2) Electrical rough-in: Wiring must be installed from service panel box to the location of item to be served (e.g. appliance, junction box switch or outlet) of the appliance to be and terminated at an outlet of the appliance to be serve.