

**M E M O R A N D U M**

September 8, 2021

TO: Planning, Housing, and Economic Development Committee

FROM: Linda McMillan, Senior Legislative Analyst

SUBJECT: Proposed Executive Regulation 9-21, Sales Prices of Moderately Priced Dwelling Units (MPDUS)

PURPOSE: Worksession; Vote Expected

***Expected for this session:***

Aseem Nigam, Director, Department of Housing and Community Affairs (DHCA)  
Frank Demarais, Deputy Director, DHCA  
Somer Cross, Program Manager, Affordable Housing Programs Section

At this session, the Joint Committee will review the proposed executive regulation that will adjust and increase the pricing structure for for-sale MPDUs in line with overall changes to the Consumer Price Index (CPI). This is a Method 1 regulation and does not become effective until is approved by the Council. The regulation specifies that it will become effective 7 days after it is approved by the Council. Most often, a regulation become effective immediately, but a specific effective date can be identified. The 7 days is also a change from the advertised regulation that proposed an effective date of 30 days after approval. This will allow the adjustment to become effective sooner but also give DHCA a time to transition to the new structure.

A memo from Director Nigam to the County Executive with an overview of the issues and the expected temporary regulation are attached at © 1-54. Some summary points are:

- Nothing in the proposed regulation impacts **rental** MPDU pricing and affordability.
- Nothing in the proposed regulation impacts the **re-sale** pricing and process for MPDUs.

- The last pricing adjustment for new for-sale MPDUs was in 2016. Adjustments have generally reflected changes in the Consumer Price Index (CPI).
- The proposed regulation provides a 6.5% increase to pricing standards to reflect the change in the CIP since 2016.
- The other substantial change in the proposed regulation is the replacement of six separate credit items into one single 3% closing cost credit that is provided to the purchaser at the time of closing. Previously, the allowable sales price including these costs to be paid by the seller: (1) ½% for permanent loan origination fee; (2) County tax certificate, transfer charges, revenue stamps, or 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.
- Including the 3% closing cost credit, DHCA has estimated the new prices for an average 3-bedroom townhouse, 2-bedroom garden condominium and 1-bedroom high-rise condominium and estimates that they will continue to be affordable to households between 50% and 70% of area median income. It must be noted that there is no one price for each for-sale MPDU as price adjustments are allowed for architectural compatibility (exteriors of MPDUs must be similar to market units), and certain options such as additional vanities, doors for walk-out basements, or certain appliances.
- The final sales price is fixed when the offering agreement is signed by DHCA.

DHCA has also stated that they will be conducted a more comprehensive review of the pricing standards and minimum specifications for MPDUs and that this regulation is meant to address the immediate need for a CPI adjustment and not larger issues.

**Council staff recommends approval. Council staff notes that it is important that MPDUs stay affordable to the income range that Montgomery County has targeted. While comparisons to neighboring jurisdictions are interesting, for-sale MPDUs in Montgomery County are targeting households that would have a difficult time becoming homeowners in the marketplace. The longer-term study should also retain this targeted income level.**

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Marc Elrich  
County Executive

OFFICES OF THE COUNTY EXECUTIVE

MEMORANDUM

August 31, 2021

TO: Tom Hucker, President  
Montgomery County Council

FROM: Marc Elrich, County Executive 

SUBJECT: Executive Regulation 9-21, Sales Prices of Moderately Priced Dwelling Units –  
Moderately Priced Housing

Executive Regulation 9-21 proposes an adjustment to the sales prices of Moderately Priced Dwelling Units (MPDUs) based on the Consumer Price Index (CPI) increase since Council adopted the last price adjustment in 2016.

This Regulation was published in the County Register on July 1, 2021. Two comments were received during the 30-day comment period. The first is a letter from Griffin Benton, VP Government Affairs of the Maryland Building Industry Association, supporting the regulation. The second was an email to Lisa Schwartz, Manager, Affordable Housing Programs Section from David Toaff, a Loan Officer at First Home Mortgage Corporation asking for clarification of the 3% closing credit.

Following the comment period, it was recommended to change a section of the regulation regarding the effective date. As a result, the effective date is now proposed to be seven (7) days from the date of adoption, and not the previously proposed thirty (30) time period.

On Monday, September 13<sup>th</sup>, the Department of Housing and Community Affairs (DHCA) will provide the Planning, Housing, and Education (PHED) Committee of County Council with an overview of the proposed Executive Regulation. Please see the attached memo from Aseem Nigam, Director of DHCA, providing an overview of this regulation and the necessity for the amendment.

By the terms of the Montgomery County Code, this Regulation must proceed under the Method 1 process for approval. As such, I am transmitting this Regulation to you for your approval.



DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Marc Elrich  
County Executive

Aseem K. Nigam  
Director

MEMORANDUM

August 24, 2021

TO: Marc Elrich, County Executive

FROM: Aseem K. Nigam, Director *AN*  
Department of Housing and Community Affairs (DHCA)

SUBJECT: Executive Regulation 9-21, Sales Prices of Moderately Priced Dwelling Units –  
Moderately Priced Housing

The Department of Housing and Community Affairs is transmitting an Executive Regulation that proposes to adjust the sales prices of Moderately Priced Dwelling Units (MPDUs) based on the Consumer Price Index for All Urban Consumers (CPI). Per the terms of the Montgomery County Code, this regulation must be adopted under the Method 1 procedure, which requires approval by the County Council. This regulation was published in the County Register on July 1, 2021.

The enclosed regulation will provide a CPI increase to the pricing standards while maintaining the affordability of for-sale MPDUs to lower and moderate-income households. MPDU rents are calculated differently and will not be affected by this regulation.

The last time DHCA published a regulation setting out the MPDU For-Sale Pricing Standards was in 1990 with Executive Regulation 35-90. After 1990, the Department of Housing and Community Affairs (DHCA) provided updates to the pricing standards by issuing Executive Orders adjusting the sales prices based on the CPI rates for the Washington DC area. The MPDU pricing standards were last updated in 2016 through Executive Order 163-16, which was the tenth CPI increase provided to the MPDU pricing standards reflecting CPI changes from 2012 to 2016.

**CHANGES MADE BY THIS REGULATION**

Executive Regulation 9-21 makes the following changes to Executive Regulation 35-90 that was published in 1990:

- Provides a 6.5% increase to the pricing standards, which reflects the change in the CPI since 2016.

Office of the Director

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- Reorganizes the standards into a more user-friendly arrangement.
- Includes in the price of the MPDU a 3% closing cost credit, which is credited to the MPDU purchaser at settlement. This closing cost credit replaces a complicated list of six items in the current regulation that developers were to include in the price and provide as a credit to the MPDU buyer. The 3% closing cost credit is easier to understand and is consistent with mortgage lending industry standards for seller contribution.

**MPDU AFFORDABILITY MAINTAINED**

DHCA evaluated the effect of the proposed price increase on three MPDU unit types with three different price points: a traditional townhome, a garden apartment, and a high-rise apartment. The chart below shows that prices for these MPDUs, including the 3% credit, will not result in a significant impact to the purchaser. The monthly mortgage payment will likely increase between \$50 and \$70 a month, and the purchaser will receive a defined closing cost credit to address the cash to close needs of first-time homebuyers.

	<b>Current Base Price</b>	<b>Proposed Base Price</b>	<b>Proposed Total Price</b>	<b>% Change*</b>	<b>Est Monthly Payment Impact **</b>	<b>Guaranteed Closing Cost Assistance</b>
<b>3 Bedroom Townhouse</b>	\$161,852	\$171,537	\$176,683	9.16%	\$71	\$5,146
<b>2 Bedroom Garden Condo</b>	\$107,085	\$113,886	\$117,303	9.54%	\$49	\$3,417
<b>1 Bedroom High Rise (5-6 Stories)</b>	\$146,336	\$156,452	\$161,146	10.12%	\$71	\$4,694

\*Percent Change includes CPI adjustment plus 3% closing cost credit included in proposed total price

\*\* Payment Impact Interest Rate: 4%

The estimated price for each unit type at the three price points continues to remain well below the maximum affordability for households with an income at 70% of the Area Median Income (AMI) even after the proposed increase, and below maximum affordability for most unit types for households even at the 50% AMI level. High-rise condominium fees create affordability limitations for under 50% AMI at current and proposed pricing.

	Proposed Price Under New Regulation	Maximum Affordable Price		Assumed Household Size
		50% AMI	70% AMI	
<b>3 Bedroom Townhouse</b>	\$176,683	\$220,819	\$341,215	4 people
<b>2 Bedroom Garden Apartment</b>	\$117,303	\$165,776	\$274,596	3 people
<b>1 Bedroom High Rise (5-6 Stories)</b>	\$161,146	\$109,437	\$204,365	2 people

The 3% buyer’s credit will be added to the sales price and credited to the buyer at closing. Under the current regulation, a list of six (6) items (a percentage of the loan origination fee, notary and appraisal fees, county tax and recordation charges, and survey and certain settlement costs) are to be added to the MPDU sales price; but in application, they have been difficult for the lender, the buyer, and the seller to understand and have not been consistently managed.

Providing a set 3% credit will benefit MPDU buyers by reducing the amount of additional cash they will need to provide for closing and by making this credit predictable and easy to apply.

**REGULATION JUSTIFICATION**

The COVID pandemic and demands for housing have caused dramatic increases in prices in construction goods. For instance, a recent submission to DHCA of construction costs for a 16-foot-wide townhouse showed that the price of lumber doubled between April 2020 and May 2021. Although the price of lumber has come down this past month lumber is only one element of construction. Other construction supplies have increased in price as well.

This regulation’s 6.5% increase, based on the CPI increase since 2016, will help developers to manage the additional costs they are encountering today, while keeping MPDUs affordable to households with incomes ranging from 50% to 70% AMI.

**COMMENTS RECEIVED**

Pursuant to the Method 1 adoption process for regulations, this Executive Regulation was published in the July 2021 County Register, with a 30-day comment period. The only comments DHCA received were a letter of support from the Maryland Builders Industry Association (MBIA) and a request for clarification from a loan officer. MBIA supported the proposal and a planned future study of MPDU pricing. The loan officer asked only for clarification of the 3% buyer’s credit. Copies of those documents are provided as Enclosure C to this memo.

The effective date of the regulation was discussed in a follow-up conversation between MBIA and DHCA staff. The current draft had followed previous regulations and proposed a 30-day period between adoption and effectiveness. Staff recommends reducing that 30-day period to one week (7 days). Making this regulation effective sooner would be beneficial to the entire community to bring units online to our certificate holders with minimal delay, as developers

would delay sales at the allowed higher price until the regulations were finalized. Staff still suggests maintaining a period of a week to allow them to finalize and publish the documents that will need to be amended due to the pricing changes.

The only change to the regulations as they were published in the July Register, therefore, is to modify the effective date from 30 days to 7 days after adoption.

### **FUTURE STUDY PLANNED**

DHCA is planning to conduct an extensive review later this year of the pricing standards and minimum specifications of for-sale MPDUs in consultation with planners and the development community. The proposed regulation, therefore, does not try to address any of the larger issues to be considered in the future study.

### **CONCLUSION**

Executive Regulation 9-21 is a necessary and regular adjustment to the pricing standards for Moderately Priced Dwelling Units. The proposed price increase based on the CPI adjustments since the last amendment reflects previous price adjustment amounts and is warranted in times like these, where a significant gap has developed between the cost-based pricing structure and the market cost factors. That gap differential is due, in large part, to the rising construction costs of the past year.

The other proposed changes in this regulation help clarify existing policy. The regulation has been reorganized at the advice of County Attorney to be more user-friendly and to reflect the current organization and structure of other regulations. Additionally, the currently permitted sales price addition and buyer credit of six (6) items has been modified to an across the board 3% line-item which will be easier to apply and understand.

Enclosures:   Enclosure A – Comparison with Neighboring Jurisdictions  
                  Enclosure B – MPDU Pricing  
                  Enclosure C – Comments on Regulation from 30 Day Comment Period

## ENCLOSURE A

### COMPARISON WITH NEIGHBORING JURISDICTIONS

The proposed new rates will still produce MPDUs that are more affordable than the Inclusionary Zoning programs in most neighboring jurisdictions. The Household AMI served by MPDUs in Montgomery County ranges from 50% AMI to 70% AMI, generally lower than most of the MPDUs created in neighboring jurisdictions.

The following are typical MPDU townhouse prices in neighboring jurisdictions, including the applicable household AMI for each jurisdiction:

Jurisdiction	Typical Townhouse Price	Household AMI Served
Fairfax County*	\$200,000-\$230,000	70%
District of Columbia	\$231,000 maximum \$395,000 maximum	50% 80%
City of Rockville	\$340,000	80%
City of Gaithersburg**	\$165,000	65%

\*Fairfax's sales price calculation method is similar to the County's, but their base unit cost for a 3-bedroom townhouse is 100 square feet smaller and almost \$22,000 more expensive than what is required for a 3 bedroom townhouse base unit under the proposed Montgomery County Executive Regulation.

\*\*The City of Gaithersburg uses the County's MPDU Pricing Standards.

Although within the Washington Metropolitan Area, Prince George's County and Frederick County could not be included in the comparison. Prince George's County does not have a comparable program to Montgomery County's MPDU program. Frederick County is currently not offering any applications for their MPDU Program because MPDU housing units are not being developed.



## **ENCLOSURE B**

### **MPDU PRICING**

#### **A. SALES UNITS**

The sales prices for Moderately Priced Dwelling Units (MPDUs) are based on the construction costs of the development and are determined when a developer submits an Offering Agreement for MPDUs. An MPDU Sales Offering Agreement is entered into with the builder before the MPDUs are marketed to income-eligible households. The Offering Agreement describes each MPDU, sets the price, and identifies the date when the units will be made available for sale to MPDU certificate holders.

A sales price calculation begins with the cost of construction for the unit. The MPDU regulation provides minimum specifications for such a unit (called a “base unit”), such as the minimum square footage based on unit type, the number of baths required to correlate with the number of bedrooms, and the minimum amenities that must be provided. A base unit structure cost is prescribed in the regulation for those minimum specifications. The regulation then provides adjustments that can be made to that price from a list of common amenities that a developer may provide, but are not required, such as sliding doors, additional vanities, and Energy Star appliances. A set price adjustment is included in the regulation for some elective amenities that are added to a unit, while other elective amenities are based on cost. DHCA staff reviews the number and cost of amenities added to ensure that the final cost is still within the affordability range for MPDU purchasers.

To the cost of construction, unusual costs may be added. These are generally items that are particular to the development and are evaluated on a case-by-case basis.

The MPDU sales price then adds soft costs, expense items that are not otherwise calculated as a direct construction cost. Included with soft costs will be the newly proposed 3% closing cost credit, which is credited back to the seller at settlement. This closing cost credit replaces a list of six (6) items in the current regulation that sellers later credit to the buyer. This list of items has been very difficult for staff to track to ensure that it is being applied properly and has produced very different sums from builder to builder, so the 3% credit will provide more consistency.

Additionally, up to 10% of the allowable base cost may be included in the sales price to provide MPDU units with architectural compatibility features. Finally, a builder’s extended warranty and condominium financing costs may be included in the sales price. With the inclusion of those items, a final sales price is calculated.

Each development submits a sales price calculation to DHCA when MPDUs are scheduled to be offered. Sales price worksheets must be accompanied by supporting documentation such as

receipts and bids to verify the amounts. DHCA staff reviews each application to confirm that sufficient documentation is provided and to confirm that the ultimate sales price is within the affordability parameters of MPDU certificate holders.

## **B. RENTAL UNITS**

Maximum rents will not be affected by this regulation. While MPDU sales prices are based on construction, MPDU rental rates are based on a household's ability to afford the units. Rental rates are calculated using the AMI for the Washington Metropolitan Statistical Area which is published annually by the U.S. Department of Housing and Urban Development (HUD). The household maximum income for renters in the MPDU program is set at 65% AMI for garden apartments and 70% AMI for high rises. DHCA uses a formula by which a household (based on household size) pays 25% of gross monthly income towards rent. Rents may be adjusted to reflect utilities paid by the apartment complex. A chart of permitted rental rates for new rental complexes is recalculated annually after the publication of the new AMI rates and is published on DHCA's website. Once the initial MPDU rents are set, rents may be raised each year by the County's Voluntary Rent Guideline, which is based on the CPI.

**ENCLOSURE C**  
**COMMENTS ON REGULATION FROM 30 DAY COMMENT PERIOD**

Hon. Hans Riemer  
Chair, PHED Committee  
100 Maryland Avenue  
Rockville, MD 20910

**Re: MCER 9-21 – MPDU Pricing and Sales Price – Emergency Increase**

Dear Chair Riemer and Committee Members,

The Maryland Building Industry Association is submitting a letter of support for MCER 9-21 that would establish the requirements and procedures for setting sales prices for the Moderately Priced Dwelling Unit (MPDU) Program. MBIA strongly supports the CPI adjustment as an interim measure to reflect a portion of the increase in purchasing power of MPDU purchasers and increase in construction costs. Over the last 12 months, costs of materials have gone up exponentially due to high demand and major supply chain issues. For example, lumber prices are more than 3.8 times higher (\$323.40/1,000 board feet on 10/9/16 to \$1,238.60 on 4/1/21). While prices have begun to decrease due to society opening back up, it will be years before they get back to pre-pandemic price points. The county needs more housing, affordable housing, and more builders. The \$40-\$50k losses are causing builders to either not take on these projects or build elsewhere.

MBIA strongly supports DHCA's comprehensive review of overall pricing for sales prices including cost adjustments to reflect all of the changes in housing affordability and the cost to deliver MPDUs. Builder costs have been rising since 2016 with a dramatic increase over the last 12 months. While buyer income limits have been adjusted annually, the maximum allowable sales prices of MPDUs also should have been adjusted annually as required by county code. As a result, current Offering Agreements are based on lower sales price than required by regulation and it is equitable for builders to amend those agreements to use the proposed prices. Builders with approved Offering Agreements should have the ability to have a simplified approval of the worksheets with the new math and a simplified Agreement for recordation.

This should be applicable to all MPDUs that are not under contract. Since the pricing has not been amended every year, the prices set in recent Offering Agreements are lower than they should have been which forces builders to lose money while the average incomes increased more than the CPI which should have led to even higher MPDU prices. The revised Offering Agreement should reference the original recorded document, reference that all provisions remain in effect (with the exception of updated pricing and MPDUs that have been sold or are currently under contract), and attach the new pricing and applicable worksheets. MBIA strongly supports DHCA's comprehensive review of sales prices, construction costs, fees, etc. to reflect the myriad changes since 2016. The study should reflect that land development and house construction costs have materially changed since 2016.

We thank the staff at DHCA for working with us and their efforts on putting together this document. We look forward to working with DHCA and the County Council on creating a consistent pricing schedule that brings more affordable housing to Montgomery County.

If you have any questions or concerns, please contact Griffin Benton, Vice President of Government Affairs at [gbenton@marylandbuilders.org](mailto:gbenton@marylandbuilders.org) or (202)-815-4239.

Respectfully,

Griffin Benton  
VP Government Affairs, MBIA

cc: PHED Committee Members/Staff

**From:** [David Toaff](#)  
**To:** [Schwartz, Lisa](#)  
**Cc:** [Thomas, Denise](#); [Joshua Thompson](#)  
**Subject:** RE: MPDU borrower  
**Date:** Wednesday, July 14, 2021 11:08:35 AM  
**Attachments:** [image001.png](#)  
[image003.png](#)  
[image006.png](#)  
[image007.jpg](#)  
[image008.jpg](#)  
[image009.jpg](#)

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[EXTERNAL EMAIL]

Thanks Lisa, we appreciate your help.

**David Toaff – Sr. Loan Officer - First Home Mortgage Corp. NMLS ID# 1065782**  
**Top 1,100 U.S. Originators '17-'18 & '20 FHMC – Leader's Club '16-'21, Elite 8 '17-'18 & 100M Club '20**  
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**From:** Schwartz, Lisa <[Lisa.Schwartz@montgomerycountymd.gov](mailto:Lisa.Schwartz@montgomerycountymd.gov)>  
**Sent:** Wednesday, July 14, 2021 11:07 AM  
**To:** David Toaff <[DToaff@firsthome.com](mailto:DToaff@firsthome.com)>  
**Cc:** Thomas, Denise <[Denise.Thomas@montgomerycountymd.gov](mailto:Denise.Thomas@montgomerycountymd.gov)>; Joshua Thompson <[JThompson2@firsthome.com](mailto:JThompson2@firsthome.com)>  
**Subject:** RE: MPDU borrower

Hello David,

Emilia has retired, and Denise Thomas is now our Sales Program Manager. There is currently no 3% seller credit to the buyer for new MPDUs. The current requirement for seller credit to the buyer is the same as it has been for years:

- (1) One-half of one percent for the 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) Appraisal fee and credit report fee; and
- (6) House location survey plat.

There is a proposed regulation (MCER No. 9-21) that would substitute a 3% seller credit to the buyer for the above list. The regulation is currently being advertised in the County Register, and the deadline for comments is July 31. Here is a link to the proposed regulation:

<https://www.montgomerycountymd.gov/exec/register/regs/2021/Jul21ProposedReg.html>

If you would like to provide comments on this regulation, you can send an email to me.

(Note: there was a plan to implement a temporary regulation, identical to the permanent regulation, that would have been effective in mid-July, but the temporary regulation is not going forward at this point.)

Best,

*Lisa S. Schwartz*

Manager, Affordable Housing Programs Section  
Montgomery County DHCA

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**From:** David Toaff <[DToaff@firsthome.com](mailto:DToaff@firsthome.com)>

**Sent:** Tuesday, July 13, 2021 2:08 PM

**To:** McCarthy, Emilia <[Emilia.McCarthy@montgomerycountymd.gov](mailto:Emilia.McCarthy@montgomerycountymd.gov)>

**Cc:** Proano-Sanchez, Maria <[Maria.Proano@montgomerycountymd.gov](mailto:Maria.Proano@montgomerycountymd.gov)>; Joshua Thompson <[JThompson2@firsthome.com](mailto:JThompson2@firsthome.com)>

**Subject:** RE: MPDU borrower

[EXTERNAL EMAIL]

Hi Emilia & Maria,

Is 3% seller credit an automatic assumption on MPDU new construction sales? Is the builder allowed to make it contingent upon which lender is chosen?

Please let Josh and I know.

Thank you,

**David Toaff – Sr. Loan Officer - First Home Mortgage Corp. NMLS ID# 1065782**  
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**Fiscal Impact Statement**  
**Regulation 9-21, Sales Prices of Moderately Priced Dwelling Units -**  
**Moderately Priced Housing**

**1. Legislative Summary**

Executive Regulation 9-21 repeals and replaces the provisions of Executive Regulation 35-90 which establishes the requirements and procedures for setting sales prices for the Moderately Priced Dwelling unit (MPDU) Program.

The Zoning Ordinance and Chapter 25A require that developers must provide Moderately Priced Dwelling Units (MPDUs). The MPDU Law and Regulations establish the process for developers to build MPDUs, and require at Sec. 25A-7, Maximum prices and rents, that “The sale price of any MPDU, including closing costs and brokerage fees, must not exceed an applicable maximum sale price established from time to time by the County Executive in regulations adopted under method (1).” The last regulation regarding the pricing of for-sale MPDUs was published in 1990. The pricing standards have been updated by the Consumer Price Index (CPI) since 1990. This Executive Regulation 9-21, Sales Prices of Moderately Priced Dwelling Units - Moderately Priced Housing, states the guidelines and standards for the pricing of MPDUs, and provides the first CPI increase since 2016. Construction costs have increased since the last approved pricing increase, making this CPI increase in the allowable sales price necessary.

**2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.**

The regulations implementing the MPDU Law provide the standards for the pricing of MPDUs. The new pricing standards will have no impact on County revenue or expenditures.

**3. Revenue and expenditure estimates covering at least the next 6 fiscal years.**

Per Question #2, these regulations do not impact County revenue or expenditures.

**4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.**

Not applicable.

**5. An estimate of expenditures related to County’s information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.**

Not applicable.

**6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.**

Not applicable, these regulations do not authorize future spending.

**7. An estimate of the staff time needed to implement the bill.**

Not applicable.

**8. An explanation of how the addition of new staff responsibilities would affect other duties.**

Not applicable.

**9. An estimate of costs when an additional appropriation is needed.**

No additional appropriation is needed to implement these regulations.

**10. A description of any variable that could affect revenue and cost estimates.**

Not applicable.

**11. Ranges of revenue or expenditures that are uncertain or difficult to project.**

Not applicable.

**12. If a bill is likely to have no fiscal impact, why that is the case.**

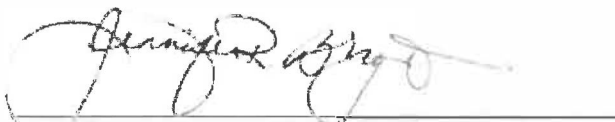
These regulations establish the prices of for-sale MPDUs that will be purchased by MPDU participants, and do not carry a fiscal impact for the County.

**13. Other fiscal impacts or comments.**

Not applicable.

**14. The following contributed to and concurred with this analysis:**

Frank Demarais, Deputy Director, Department of Housing and Community Affairs  
Stephanie Killian, Department of Housing and Community Affairs  
Lisa Schwartz, Department of Housing and Community Affairs  
Pofen Salem, Office of Management and Budget



Jennifer R. Bryant, Director  
Office of Management and Budget

8-6-21  
Date

**SALES PRICES OF MODERATELY PRICED DWELLING UNITS**

—

**MODERATELY PRICED HOUSING**

**DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

**AMENDED REGULATIONS**

**AUGUST 2021**

**REDLINED COPY**



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

<b>Subject</b> Moderately Priced Dwelling Unit Program	<b>Number</b> 9-21
<b>Originating Department</b> Department of Housing and Community Affairs	<b>Effective Date</b>

Department of Housing and Community Affairs  
Montgomery County Regulation on:

## SALES PRICES OF MODERATELY PRICED DWELLING UNITS - MODERATELY PRICED HOUSING DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Issued by: County Executive  
Regulation No. 9-21

Authority: Code Section: 25A

Supersedes: Executive Regulation No. 35-90, COMCOR 25A.00.01

Council Review: Method One (1) Under Code Section 2A-15  
Register Vol. 38 No. 7

Comment Deadline: July 31, 2021

Effective Date: \_\_\_\_\_

Sunset Date: None

### SUMMARY:

This Executive Regulation repeals and replaces the provisions of Executive Regulation 35-90 which established the requirements and procedures for setting sales prices for the Moderately Priced Dwelling Unit (MPDU) Program

### ADDRESSES:

Information and copies of this regulation are available from the Department of Housing and Community Affairs (Department), Division of Housing, 1401 Rockville Pike, 4<sup>th</sup> Floor, Rockville, MD 20852

### STAFF CONTACT:

Lisa Schwartz, Manager, Affordable Housing Programs Section,  
email: [lisa.schwartz@montgomerycountymd.gov](mailto:lisa.schwartz@montgomerycountymd.gov)

### BACKGROUND INFORMATION:

Chapter 25A of the Montgomery County Code, 2014, as amended, established the provisions of the Moderately Priced Housing (MPH) Law. This regulation establishes the requirements and procedures for setting sales prices for MPDUs created by the MPH Law.



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- 6.2 Revisions



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## EXECUTIVE REGULATION

### COMCOR 25A.00.01 Sales Prices for Moderately Priced Dwelling Units - Moderately Priced Housing

#### 25A.00.01.01 Applicability

- 1.1 Purpose of Regulation. [These prices and price calculation procedures are applicable to new houses constructed and sold in fulfillment of the Moderately Priced Housing Law requirements.] This regulation contains the prices and procedures for calculating the approved maximum allowable sales price, including closing costs and sales commission fees, of Moderately Priced Dwelling Units (MPDUs) offered for sale through the Department of Housing and Community Affairs (Department). The current sales prices for MPDUs are increased by 6.5% to accommodate increases in the Consumer Price Index and the cost of construction materials since the last price increase established by Executive Order in 2016. [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 Department of Housing and Community Development (Department) has obtained information relative to housing prices and construction costs through consultation with the building industry, employers and professional and citizen groups having information relative to moderate income housing.]
- 1.2 Applicability of Regulation. The MPDU Pricing Standards and provisions of this regulation are applicable to new homes constructed and sold in accordance with the requirements of Chapter 25A of the Montgomery County Code, 2014 (Code), as amended (the MHP Law) on or after the effective date of this regulation.
- 1.3 Sales Price Establishment Date. The Final Unit Sales Price for the MPDUs will be fixed when the Offering Agreement is signed by the Department.

#### 25A.00.01.02 Definitions

- 2.1 The following words and phrases have the following meanings, as used in this regulation:
  - (a) Applicant – Applicant has the meaning provided in Section 25A-3 of the Code; usually the developer or the builder of the MPDUs under Section 25A-5 of the Code.



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- (b) Base Unit - Base Unit MPDUs are standard sized units for each structure type that provide the minimum necessary amenities and features as described in Section 25A.00.01.03.
- (c) Base Unit Structure Cost – The sales price of the building aspect of a Base Unit MPDU as provided in the table found in Section 4.2 of this regulation, prior to any adjustments in price or addition of Soft Costs.
- (d) Development Impact Tax - Impact tax for transportation and schools under Sections 52-41 and 52-54 of the Code.
- (e) Final Unit Sales Price – The final sales price for which an Applicant can sell an MPDU as calculated under Section 4.1 of this regulation.
- (f) Lot Development Cost – The cost to prepare undeveloped land for development, including engineering inspection, permitting, road work, clearing, grading, earthwork, driveways, site drainage, and installation of utilities, excluding water and sewer house connection fees.
- (g) Moderately Priced Dwelling Unit or MPDU – A dwelling unit which meets the definition provided in Section 25A-3 of the Code.
- (h) Offering Agreement – A signed agreement between the Applicant and the Department identifying the MPDUs in a development, describing each MPDU, providing the price of each MPDU, and identifying the date on which the MPDUs will be marketed to eligible households.
- (i) Options – Amenities not included in the Final Unit Sales Price that may be voluntarily selected by a purchaser of an MPDU, including upgrades of standard features of the home, and which may be charged at market rate. Options are subject to the limitations in Section 5.9.
- (j) Soft Costs – Expense items for development that are not considered direct construction costs, as outlined in Section 5.5.
- (k) Square Foot – Square foot is calculated as finished square footage. Finished square footage is measured from the face of the interior wall, and includes any space with flooring, wall covering and ceilings, such as finished storage space, stairwells, and hallways inside the unit. Finished square footage does not include unfinished basement or attic storage areas, common stairwells, and common hallways.



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- (l) System Development Charge – A fee imposed by the Washington Suburban Sanitary Commission (WSSC) on new development to connect to the water and sewer system and to pay for the construction of major water and sewer facilities needed to accommodate growth.

### 25A.00.01.03 Base Unit

3.1 Base Unit Standards. At a minimum, MPDUs must be constructed to provide the number of bedrooms required for each unit, as described in the table below, based on the type of dwelling unit constructed. The number of bathrooms and the hot water heater capacity must correspond with each unit’s bedroom count.

#### Minimum Standards for MPDUs (For Sale and Rental)

<u>Item</u>	<u>Single-Family Detached</u>		<u>Townhouse &amp; Duplex</u>		<u>Piggyback Townhouse</u>	
<u>No. of Bedrooms</u>	<u>3</u>	<u>4</u>	<u>3</u>	<u>4</u>	<u>2</u>	<u>3</u>
<u>No. of Bathrooms</u>	<u>1 1/2</u>	<u>2</u>	<u>1 1/2</u>	<u>2</u>	<u>1</u>	<u>1 1/2</u>
<u>Electric Hot Water Heater (gallon)</u>	<u>50</u>	<u>50</u>	<u>50</u>	<u>50</u>	<u>40</u>	<u>40</u>
<u>Gas Hot Water Heater (gallon)</u>	<u>40</u>	<u>40</u>	<u>40</u>	<u>40</u>	<u>30</u>	<u>40</u>

<u>Item</u>	<u>Garden Condominium/Apt. (up to 4 stories)</u>				<u>High Rise (5+ stories)</u>			
<u>No. of Bedrooms</u>	<u>0</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>0</u>	<u>1</u>	<u>2</u>	<u>3</u>
<u>No. of Bathrooms</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1 1/2</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1 1/2</u>
<u>Electric Hot Water Heater (gallon)</u>	<u>30</u>	<u>30</u>	<u>30</u>	<u>50</u>	<u>30</u>	-	-	-





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<u>Gas Hot Water Heater (gallon)</u>	<u>30</u>	<u>30</u>	<u>30</u>	<u>40</u>	<u>30</u>	-	-	-
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**3.2 Required Features of a Base Unit MPDU.** In addition to the requirements of Section 3.1 above, all MPDUs must also:

- (a) Be equipped with a refrigerator that is at least 15 cubic ft., frost-free, and meets "builders grade" specifications;
- (b) Have a standard 30" electric or gas range/oven with clock/timer and a range hood;
- (c) Be equipped with a garbage disposal;
- (d) Have a rough-in connection for a dishwasher, except as provided in Section 3.5(g);
- (e) Have complete electrical and plumbing, as well as a dryer exhaust, for a clothes washer and a dryer, except as provided in Section 3.5(g);
- (f) Include a linen closet or storage shelf system within a clothes closet in the unit; and
- (g) Include a full bath within one floor of each level that includes a bedroom and the main bathroom must include a vanity.

**3.3 Consistent Heating and Air Systems.** The Square Foot prices for MPDUs are based upon heat pump systems for heating and air conditioning (HVAC) systems. However, if the market rate units in the development are equipped with gas appliances and systems, the MPDUs must be equipped in the same way.

**3.4 Livability.** Bedrooms in MPDUs are expected to have full height walls, doors that lock, and closets. The primary (master) bedroom must be able to accommodate a double bed, two nightstands and a chest of drawers. Secondary bedrooms must be able to accommodate a single bed, a nightstand, and a chest of drawers. The living/dining space is expected to be adequate to accommodate a dining room set and a sofa set appropriate for the number of occupants of the unit.

**3.5 Additional Considerations for Multi-Family Buildings.** In multi-family buildings, MPDUs must also meet the following standards:



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- (a) The bedroom mix of the MPDUs must match the bedroom mix of the market-rate units in the subdivision unless the Director approves an MPDU agreement under Section 25A-5 of the Code that does not increase the number of MPDUs required, but approximates the total floor area for the MPDUs required, and alters the bedroom mix of the MPDUs or the number of MPDUs.
- (b) The minimum size of MPDUs in multi-family buildings is based on the type of structure as specified below. At the discretion of the Department, the minimum size of any type of unit, by bedroom size, may be reduced to the minimum size of comparable market rate units in the same building with the same number of bedrooms.
  - (1) Garden (up to 4 stories): The minimum sizes of MPDUs should be as follows: 0 BR = 500 SF; 1 BR = 650 SF; 2 BR = 800 SF; 3 BR = 1100 SF.
  - (2) High Rise (5+ stories): The minimum size of MPDUs should be as follows: 0 BR = 450 SF; 1 BR = 575 SF; 2 BR = 725 SF; 3 BR = 1000 SF.
- (c) MPDUs are not required to be located on "premium" floors, and are not required to have "premium" locations on a floor (for example, in terms of view, access to building amenities, etc.).
- (d) No more than 40 percent of the total number of units on any floor should be MPDUs. This requirement does not apply to buildings that are sold or rented under an approved federal, state, or local housing program designed to assist the construction or occupancy of housing for households of low or moderate income.
- (e) Bedrooms without windows are only permitted if market rate units also have bedrooms without windows, and must have adequate artificial lighting per building code requirements.
- (f) Applicants must make parking available to MPDU tenants or owners according to the number of parking spaces approved for the MPDUs at certified site plan. MPDU residents must be charged no more than the regular market rate for parking, and must not be required to purchase or rent parking. No fee may be charged for non-structured parking in rental buildings.
- (g) Clothes washer and dryer equipment and a dishwasher must be provided in each rental MPDU unless this equipment is not provided in the market rate units.
- (h) Condominium developments must have FHA approval or approval of similar financing.



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3.6 Omissions of Minimum Standards. Although every effort should be made to provide all Base Unit standards and features, the Department may waive any of the provisions found in Sections 3.1 through 3.5 if an Applicant shows good cause concerning why the Applicant cannot construct an MPDU to the minimum requirements. Examples include situations in which a development is a residential conversion of a non-residential building, rehabilitation of an existing residential unit that was not built to current standards, or other circumstances where there are physical constraints to providing the Base Unit requirements. The Applicant must obtain a written waiver from the Department to forego some of the minimum standards. When adjustments to the minimum standards are permitted by the Department, the sales price may be adjusted to reflect those omissions.

**25A.00.01.[02]04 [Maximum, Allowable] Calculation of Sales Prices for MPDUs and Base Unit Sales Prices**

4.1 Final Unit Sales Price. The Final Unit Sales Price is calculated by adding together:

- (a) The Base Unit Structure Costs as calculated in Section 4.2 and adjusted under Sections 5.1 and 5.2;
- (b) The Lot Development Cost as calculated in Section 4.2 and adjusted under Section 5.3;
- (c) Additional Unusual Costs, if applicable, as specified in Section 5.4;
- (d) The Soft Costs as specified in Section 5.5;
- (e) Architectural Compatibility Costs, if applicable, as specified in Section 5.6; and
- (f) Builder’s Extended Warranty and/or Condominium Financing Costs, if applicable, as specified in Section 5.7.

4.2[1] Base Unit Structure and Lot Development Costs. [The following schedule contains the approved maximum, allowable sales prices of basic units, including closing costs and sales commission fees for Moderately Priced Dwelling Units (MPDUs) sold in accordance with the requirements of Chapter 25A of the Montgomery County Code, 1984, as amended.] The following schedule contains the Base Unit Structure Costs and Lot Development Costs for MPDUs. These prices are subject to the adjustments contained in 25A.00.01.0[3]5.



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<b>MPDU Pricing Standards</b>									
<u>UNIT DESCRIPTION</u>					<u>UNIT SIZE (SF=square feet)</u>		<u>COST</u>		
<u>Unit Type</u>	<u>No. of Stories</u>	<u>No. of BRs</u>	<u>No. of Baths</u>	<u>Base in SF</u>	<u>Min. in SF</u>	<u>Max. in SF</u>	<u>SF Cost</u>	<u>Base Unit Structure Cost</u>	<u>Lot Dev. Cost</u>
<u>Single-Family Detached</u>	<u>1-2</u>	<u>3-4</u>	<u>1 ½-2</u>	<u>1,400</u>	<u>1,100</u>	<u>2,000</u>	<u>\$77</u>	<u>\$107,360</u>	<u>\$23,010</u>
<u>Duplex</u>	<u>1-2</u>	<u>3-4</u>	<u>1 ½</u>	<u>1,200</u>	<u>1,100</u>	<u>1,900</u>	<u>\$71</u>	<u>\$84,350</u>	<u>\$18,860</u>
<u>Townhouse/ Four-plex</u>	<u>2-3</u>	<u>3</u>	<u>1 ½</u>	<u>1,200</u>	<u>1,050</u>	<u>1,800</u>	<u>\$67</u>	<u>\$79,240</u>	<u>\$16,190</u>
<u>Townhouse/ Four-plex</u>	<u>2-3</u>	<u>4</u>	<u>2</u>	<u>1,260</u>	<u>1,120</u>	<u>1,900</u>	<u>\$67</u>	<u>\$83,200</u>	<u>\$16,190</u>
<u>Piggyback Townhouse</u>	<u>1-2</u>	<u>2-3</u>	<u>1-1 ½</u>	<u>1,200</u>	<u>1,050</u>	<u>1,600</u>	<u>\$58</u>	<u>\$69,020</u>	<u>\$13,530</u>
<u>Garden Condo</u>	<u>2-4</u>	<u>0-3</u>	<u>1-1 ½</u>	<u>950</u>	<u>Based on bedroom size, see Section 25A.00.01.03.5.(b)(1)</u>	<u>1,400</u>	<u>\$64</u>	<u>\$60,710</u>	<u>\$12,150</u>
<u>High Rise 1</u>	<u>5-6</u>	<u>0-3</u>	<u>1-1 ½</u>	<u>850</u>	<u>Based on bedroom size, see Section 25A.00.01.03.5.(b)(2)</u>	<u>1,100</u>	<u>\$118</u>	<u>\$99,580</u>	<u>\$16,830</u>
<u>High Rise 2</u>	<u>7+</u>	<u>0-3</u>	<u>1-1 ½</u>	<u>850</u>	<u>Based on bedroom size, see Section 25A.00.01.03.5.(b)(2)</u>	<u>1,100</u>	<u>\$169</u>	<u>\$143,030</u>	<u>\$21,520</u>



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## **25A.00.01.0[3]5 Price Adjustments for Variations from [Basic] Base Unit Standards and Other Costs**

[3.1 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. Minimum and maximum sizes of units are shown on the MPDU standards addendum to these regulations.]

**5.1 Base Unit Structure Cost Adjustments.** Cost adjustment may be applied to the Base Unit Structure Cost of the MPDU as provided in Section 4.2 for variations in the size of the unit and additional structural amenities above the required Base Unit features found in Sections 3.1 thru 3.3 as follows:

- (a) If garages are added to the unit, the additional cost per Square Foot may be added to the base sales price as provided in the table below.
- (b) Additional cost credit is only allowed for baths provided above the minimum specification for the unit as required in the table in Section 3.1, according to the adjustments provided in the table below. Roughed-in bath and powder rooms require that the plumbing and electrical installations meet the following conditions to qualify for a cost increase to the MPDU sales price:
  - (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. Duct work for the future installation of exhaust fans must be installed. Roughed-in plumbing must pass air or water tests by the applicable BOCA or WSSC Codes.
  - (2) Electrical rough-in: wiring must be installed from service panel box and terminated at an outlet of the appliance or fixture that is to be served.
- (c) For units differing in size (Square Foot area) from the Base Unit Square Footage under the unit description in Section 4.2., the structure cost will be increased or decreased at one-half the unit type Square Foot cost, as provided in the table below. If the size of the unit is different from the base in Square Footage, the Base Unit Structure Cost will be adjusted using the Square Foot change from base in the last column below. No additions will be made over the maximum floor areas shown in Section 4.2.



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<u>Base Unit Structure Cost Adjustments</u>						
<u>ADDITION/SUBTRACTION ADJUSTMENTS</u>						
<u>Unit Type</u>	<u>Garage (per SF)</u>	<u>Bath</u>		<u>Powder Room</u>		<u>SF Change from Base (+/-)</u>
	<u>Attached/Detached</u>	<u>Finished</u>	<u>Rough-In</u>	<u>Finished</u>	<u>Rough-In</u>	
<u>Single-Family Detached</u>	<u>\$16/\$32</u>	<u>\$3,780</u>	<u>\$1,260</u>	<u>\$2,520</u>	<u>\$920</u>	<u>\$39.00</u>
<u>Duplex</u>	<u>\$16/\$32</u>	<u>Prices for bath and powder room adjustments are the same for all units regardless of type</u>				<u>\$36.00</u>
<u>Townhouse/ Four-plex</u>	<u>\$16/\$32</u>					<u>\$34.00</u>
<u>Townhouse/ Four-plex</u>	<u>\$16/\$32</u>					<u>\$34.00</u>
<u>Piggyback Townhouse</u>	<u>\$16/\$32</u>					<u>\$29.00</u>
<u>Garden Condo</u>	<u>N/A</u>					<u>\$32.00</u>
<u>High Rise 1</u>	<u>N/A</u>					<u>\$59.00</u>
<u>High Rise 2</u>	<u>N/A</u>					<u>\$85.00</u>



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[Unit Type	No. of Bedrooms	Basic Unit Size	Basic Unit Sales Price
Detached	2 or 3	1,000 sq. ft.	\$73,776
Detached	4	1,100 sq. ft.	79,350
Detached	5	1,200 sq. ft.	84,925
Semi-detached	2 or 3	1,000 sq. ft.	72,189
Townhouse/four-plex	2 or 3	1,120 sq. ft.	67,020
Townhouse/four-plex	4	1,200 sq. ft.	70,892
Back-to-Back Townhouse 2 story	2 or 3	1,000 sq. ft.	53,405
Back-to-Back Townhouse 3 story	3 or 4	1,400 sq. ft.	66,995
Piggyback Townhouse	2 or 3	1,000 sq. ft.	53,405
Multi-Family (non Elevator)	1 to 3	850 sq. ft.	48,643
Multi-Family (Elevator)	1 to 3	850 sq. ft.	69,547]

- (d) If a separate linen closet is provided, \$520 will be added to the price.
- (e) If additional vanities are provided to any bath, \$290 will be added to the base price for each vanity in excess of the first mandatory vanity.
- (f) 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. The end unit credit may not be claimed for duplex units. For end unit townhouses, add \$2,980 for each unit; for end unit piggyback townhouses add \$2.290 for each unit.
- (g) Walkout basement with a 5 foot sliding glass door. add \$1.890; for a unit with a 6 foot sliding glass door, add \$2,170.
- (h) The allowable MPDU sales price may be increased based on the cost difference between electric and gas appliances and systems.
- (i) Cost credit is allowed when energy-efficient appliances are furnished to provide the required appliances listed in Section 3.2, and for other energy-saving measures.
- (j) The cost to install a sprinkler system has not been included in the Square Foot prices. If the Code requires the installation of a sprinkler system, the allowable price will be increased for this expense.



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(k) A dishwasher may be added to the price.

(l) If the structure is provided with a deck or terrace, the cost may be added to the price.

[3.2. The Construction loan interest rate used to calculate construction financing costs is based upon a prime interest rate of 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.]

[3.3 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:

- (a) Construction loan placement fee – 1.5 percent
- (b) Legal and closing costs – 3.5 percent
- (c) Marketing expenses and sales commissions – 4.5 percent
- (d) Builder’s overhead expenses – 8 percent
- (e) Pre-Development Expenses and contingencies – 5 percent]

[3.4 The allowable sales price includes the following closing costs which are to be paid by the seller:

- (a) one-half percent for a permanent loan origination fee;
- (b) County tax certificate, transfer charges, revenue stamps and recordation charges;
- (c) title examination, settlement, and attorney fees;
- (d) 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;
- (e) house location survey plat; and
- (f) appraisal fees and credit report charges.]

[3.5 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) which 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.]

[3.6 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:

- (a) the MPDUs are attached units and are scattered among market-rate units with basements, or;





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(b) the MPDUs are constructed on land where the topography necessitates the construction of basements and the Applicant can demonstrate such topographical requirements to the satisfaction of the Director of the Department.]

[3.7 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.]

[3.8 The allowable sales prices listed in Section 2.1 may be adjusted for 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 dollars per square foot from the square foot price. The minimum area, height, lighting, and ventilation as defined by the Montgomery County Code, must be provided in a MPDU in order to meet the requirements of the MPH Law. Expandable space must include the installation of heating and air conditioning duct work, rough electrical wiring, rough-in plumbing, and insulation. Walkout basements will not be considered as expandable space.]

[3.9 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 Applicant.]

[3.10 When permitted by the Director, 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 which exceed building code requirements are shown on the attached addendum. It is the responsibility of the Applicant to provide these items, or otherwise to obtain permission from the Department not to meet the minimum standards.]

[3.11 When a gas heating and air-conditioning system is substituted for an electric system in a MPDU, the allowable sales price will be adjusted by the Department.]

5.2[3.12] ADA Compliance. When the buyer and seller of an [a] MPDU agree to modify the unit structurally to facilitate access or use by a disabled person(s), the Department may adjust the allowable sales price by the amount of the additional costs. The Applicant must obtain approval of the price from the Department prior to executing a sales contract.



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5.3 Allowances and Considerations to Lot Development Cost. Additional cost adjustments provided below may be applied to the sales price of the MPDU for additional considerations of the Lot Development Cost:

- (a) The Lot Development Cost found in Section 4.2 does not include water and sewer house connection fees; the actual cost of the connection fees may be added to the allowable sales price in any instance where water and sewer connection charges are not deferred.
- (b) The Lot Development Cost found in Section 4.2 does not include the Development Impact Tax or the System Development Charge for water or sewer; these fees will be waived if permitted under applicable law. A letter to the County requesting the waiver, which must specifically identify the MPDUs in the development by street address, lot and block, must be sent by the Applicant to (a) the Department to the attention of its Affordable Housing Programs (AHP) Section, (b) WSSC and (c) the County’s Department of Permitting Services.

5.4[3.13] Considerations for Additional Unusual Costs (Does not apply to garden buildings and high rises).

The Department may adjust the allowable sales price of an [a] MPDU if the Applicant can demonstrate that additional unusual costs have been incurred (i.e., costs not already allowed [included] in the [allowable] structure or Lot Development Costs ) which are directly attributable to and benefit the MPDUs and which are the result of:

- (a) conditions or fees, such as impact or similar fees imposed by a governmental unit or as condition for building permit approvals;
- (b) additional considerations or fees as a condition of obtaining governmental financing programs; or
- (c) additional fees imposed by public utilities.

A narrative explanation in addition to documentation [Documentation]required under Section 5.8 for such costs must accompany the Offering Agreement [submitted to the Department]. Requests for price adjustments must be initiated by the Applicant. Additional costs for correcting or adapting the usability of marginal land, soils, or topography will not result in an increase in [to] the allowable sales price.



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### 5.5 Soft Costs Included in Sales Price.

(a) The following costs are included in the allowable sales price for MPDUs, and are expressed as a percentage of the total price as follows:

- (1) Construction loan financing expenses - (prime rate + 2%) x .50 x .75 x .75. This assumes an average take down rate over 6 months, the length of the loan is 9 months, and that 75% of the unit sales price was borrowed;
- (2) Construction loan placement fee - 1.5 percent;
- (3) Legal and closing costs - 3.5 percent;
- (4) Marketing expenses and sales commissions – 1.5 percent;
- (5) Builder's overhead expenses - 8 percent;
- (6) Engineering and architecture fees – 5 percent
- (7) General requirements – 3 percent; and,
- (8) Buyer's closing costs – 3 percent, to be given as a credit to the buyer.

(b) The construction loan interest rate used to calculate construction financing costs is based upon a prime interest rate of 3.25 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.

### 5.6[3.14] Architectural Compatibility Expenses (Does not apply to garden buildings and high rises).

The [Director may permit an increase in the] allowable sales price of an [a] MPDU may be increased to compensate for [in exceptional cases when the Director finds that a price increase is justified to cover] the cost of modifying the exterior [external] design (including site improvements) of the MPDU that is necessary to make [reduce excessive visual and marketing impact of] the MPDUs compatible in exterior design with [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:]

- (a) The MPDUs are interspersed among or adjacent to the market rate houses and are plainly visible to the occupants of the market rate housing. A site plan must be submitted which shows the



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location of the MPDUs and the market priced units.]

(a)[b] The exterior design elements requested must [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 exterior [full or half-brick veneer] facades and the sides of end units, roofing structure and material, window and door treatments, materials for walkways, and similar architectural elements. [approved on a case-by-case basis.]

(b)[c] Compensation shall [will] be based upon the cost difference between the exterior design elements included in the calculation of the MPDU allowable structure cost and those design elements for which the Applicant is requesting compensation. Cost estimates or construction bids [must be submitted] that document the [will establish this] difference in cost must be submitted. [The Department may establish standard costs for approved design elements. The final determination of the amount of the compensation will be made by the Department.]

(c)[d] The increase approved for architectural compatibility shall [will] be limited to 10 percent of the allowable base cost for each unit increased by the direct costs percentages listed below: [. The allowable base cost will be determined using the square foot and Lot Development Costs contained in Addendum No. I of this regulation.]

- (1) Construction loan interest – (prime rate plus 2 percent) x .50 x .75 x .75;
- (2) Construction loan placement fee [expenses] – 1.5 percent;
- (3) Overhead and general requirement [builder’s overhead] expenses – 8 percent; and
- (4) Engineering and architectural expenses [pre-development expenses and overhead]– 5 percent.

[3.15 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 Community Development Administration in association with the Homeownership Development Program.]



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[3.16 The maximum, allowable sales price for new MPDUs sold to the Housing Opportunities Commission (Commission), or to a non-profit corporation approved and certified by the Commission 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.]

[3.17 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.]

[3.18 The MPDU Pricing Standards and provisions of this regulation apply to all MPDUs offered for sale through the Department on or after the effective date of this regulation. The maximum allowable sales price for the MPDUs will be fixed when the Offering Agreement is signed by the Department.]

### 5.7 Builder’s Extended Warranty and Condominium Financing Costs.

(a) The cost of a builder’s extended warranty may be added to the sales price.

(b) The expense of obtaining FHA approval for condominium developments may be added to the sales price.

5.8 Documentation. All cost additions that are not monetarily specified in these Pricing Standards must be documented with contracts, estimates, bids, or invoices verifying actual costs.

5.9 Options. If the Applicant intends to provide Options, a list of options and their respective prices must be submitted with the Offering Agreement. Selections of Options must be at the discretion of the purchaser and may not exceed 10% of the Final Unit Sales Price. Luxury items may not be included as Options. Options and their selling price must be listed on a separate addendum to the sales contract. Documentation verifying actual costs is not required for Options.

### 25A.00.01.[04]06 Effective Date and Revisions

6[4].1 Effective Date. This Executive Regulation will become effective [30] 7 days after the date of approval by the Montgomery County Council.

6.2 Revisions. The maximum allowable sales prices of MPDUs may be revised no more than annually by Method 1 regulation by adjusting the prior year’s maximum prices by (a) the percentage change in the consumer price index for urban consumers (CPI-U) for the Washington Metropolitan Area for the



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preceding 12-month period; or alternatively, (b) the prices may be re-estimated using actual current prices and costs, or commercially available standard building industry cost estimating products.

[Addendum No. 1  
MPDU PRICING STANDARDS  
Effective Date September 1, 1990

UNIT DESCRIPTION				UNIT SIZE			COST			ADDITION/SUBTRACTION ADJUSTMENTS						
Unit Type	No. of Stories	No. of BR	No. of Baths	Base-ment	Base in SF	Min. in SF	Max. in SF	Sq. Ft. Cost	Structure Cost	Lot Dev. Cost	Base-ment	Bath		Powder Room		Sq. Ft. Change from Base in SF
												Finished	Rough	Finished	Rough	
S.F. Detch.	2-Jan	3-Feb	1 1/2	yes	1000	960	1200	\$41.30	\$41,300	\$13,398	\$6,065	\$1,935	\$610	\$1,465	\$485	\$20.65
S.F. Detch.	2-Jan	4	2	yes	1100	1000	1400	\$41.30	\$45,430	\$13,398	\$6,065					\$20.65
S.F. Detch.	2-Jan	5	2	yes	1200	1000	1500	\$41.30	\$49,560	\$13,393	\$6,065					\$20.65
Semi-Detch.	2-Jan	3-Feb	1 1/2	yes	1100	960	1200	\$38.70	\$42,570	\$10,925	\$5,152					\$19.35
Townhouse or Four-plex	3-Feb	3-Feb	1 1/2	yes	1120	1020	1160	\$35.85	\$40,152	\$9,510	\$4,245					\$17.92
Townhouse or Four-plex	3-Feb	4	2	yes	1160	1120	1200	\$35.85	\$41,586	\$9,510	\$4,245	Prices for bath and powder room adjustments are the same for all units regardless of type				\$17.92
Back-to-Back and Piggyback Townhouse	2-Jan	3-Jan	1 1/2	no	1000	750	1200	\$31.65	\$31,650	\$7,940	\$3,645					\$15.82
Back-to-Back Townhouse	3	4-3-Jan	1 1/2	no	1400	1300	1500	\$29.80	\$41,720	\$7,940	\$3,645					\$14.90
Garden Apts.	4-Feb	3-Jan	1	no	850	600	1000	\$34.65	\$29,452	\$6,600	N/A					\$17.32
High Rise	5+	3-Jan	1	no	850	600	1000	\$60.65	\$51,552	N/A	N/A					\$30.32

[Allowances:

1. End unit for townhouses and back-to-back townhouses, add \$1475.
2. Unfinished space which is only roughed-in, deduct \$10.00 per square foot from the base square foot price (Basements are not considered unfinished space).
3. Walkout basement with 5 ft. sliding glass door, add \$828; with 6 ft. door, add \$875.]

[NOTES:

1. The structure cost will be adjusted upward or downward based on the actual square footage of space constructed at the square foot adjustment factor from the last column. No additions will be made over the maximum floor areas shown.
2. The lot development cost does not include a Development Impact Fee; if your development is in an area where this fee is required you must submit documentation to show the fee has been paid.
3. The cost for installing a sprinkler system has not been included in the square foot prices. If County Codes require the installation of such a system, the allowable price will be increased for this cost. Please provide verification of your actual costs.]



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[Addendum No. 2

## MINIMUM SPECIFICATIONS FOR MPDUs

Effective Date September 1, 1990

Item	S.F. Detached				SF Detached		Townhouses				Back-to-Back TH				Piggyback TH BR/Stories					Garden Apts.				Elevators				
No. of BR	2	3	4	5	2	3	1	2	3	4	1	2	2	3	4	4/2	3/2	2/2	2/1	1/1	0	1	2	3	0	1	2	3
No. of Baths	1	1½	2	2	1	1½	1	1	1½	2	1	1	1	1½	2	2	1½	1	1	1	1	1	1	1½	1	1	1	1½
Elec. Hot Water Heater (gallon)	30	50	50	80	30	50	30	30	50	50	30	30	50	50		50	50	30	30		30	30	30	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) All MPDUs must include air-conditioning. Square foot prices are based upon heat pump systems for heating and air conditioning. DHCA will adjust the sales price for units having other specifications.
- (b) A disposal is required on all units.
- (c) A plumbing and electrical rough-in for a dishwasher is required for all units.
  - (1) Plumbing rough-in: To qualify for an additional price, 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 to 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 and required by the BOCA or WSSC Codes.
  - (2) Electrical rough-in: Wiring to be installed from service panel box to the location of items to be served (i.e. appliance, equipment, or outlet). Wiring is to be run to the panel box and terminated at an outlet or junction box at the location of the item to be served.
- (c) [sic] All MPDUs must have a refrigerator, range and range hood, a rough-in connection for a dishwasher and complete electrical and plumbing connections and a dryer exhaust duct for a clothes washer and dryer.
- (d) "Builders" grade or better refrigerators and ranges are to be supplied. Refrigerator to be 15± cu. ft., range and range hood to be 30 inches.
- (e) All carpeting must meet FHA minimum specifications.
- (f) There is a landscaping requirement which includes a minimum of 2 shade trees and 5 shrubs for each unit.
- (g) For townhouses there is required 8 ft. section of privacy fence to be installed; end units must have section on both sides.
- (h) For piggyback and back-to-back townhouses, there must be a provision for enclosed space for outside trash disposal as required and approved by MNCPPC.
- (i) The following options are permitted to be added to the allowable sales price and may be included in the mortgage.



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Selection of options must be at the sole determination of the purchaser. Options and their selling price must be listed on a separate addendum to the sales contract.

1. Washer and dryer
2. Dishwasher
3. Upgraded refrigerator and range
4. Upgraded kitchen cabinets
5. Upgraded carpet and padding
6. Upgraded resilient flooring.]

Marc Elrich  
County Executive

Date: 08/31/2021

Approved as to Form and Legality  
Office of the County Attorney

By:   
Date: 8-24-21



**SALES PRICES OF MODERATELY PRICED DWELLING UNITS**

—

**MODERATELY PRICED HOUSING**

**DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

**AMENDED REGULATIONS**

**AUGUST 2021**

**CLEAN COPY**



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Department of Housing and Community Affairs  
Montgomery County Regulation on:

### SALES PRICES OF MODERATELY PRICED DWELLING UNITS - MODERATELY PRICED HOUSING DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Issued by: County Executive  
Regulation No. 9-21  
Authority: Code Section: 25A  
Supersedes: Executive Regulation No. 35-90, COMCOR 25A.00.01  
Council Review: Method One (1) Under Code Section 2A-15  
Register Vol. 38 No. 7  
Comment Deadline: July 31, 2021  
Effective Date: \_\_\_\_\_

Sunset Date: None

**SUMMARY:**

This Executive Regulation repeals and replaces the provisions of Executive Regulation 35-90 which established the requirements and procedures for setting sales prices for the Moderately Priced Dwelling Unit (MPDU) Program

**ADDRESSES:**

Information and copies of this regulation are available from the Department of Housing and Community Affairs (Department), Division of Housing, 1401 Rockville Pike, 4<sup>th</sup> Floor, Rockville, MD 20852

**STAFF CONTACT:**

Lisa Schwartz, Manager, Affordable Housing Programs Section,  
email: [lisa.schwartz@montgomerycountymd.gov](mailto:lisa.schwartz@montgomerycountymd.gov)

**BACKGROUND INFORMATION:**

Chapter 25A of the Montgomery County Code, 2014, as amended, established the provisions of the Moderately Priced Housing (MPH) Law. This regulation establishes the requirements and procedures for setting sales prices for MPDUs created by the MPH Law.



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## EXECUTIVE REGULATION

### COMCOR 25A.00.01 Sales Prices for Moderately Priced Dwelling Units - Moderately Priced Housing

#### 25A.00.01.01 Applicability

- 1.1 Purpose of Regulation. This regulation contains the prices and procedures for calculating the approved maximum allowable sales price, including closing costs and sales commission fees, of Moderately Priced Dwelling Units (MPDUs) offered for sale through the Department of Housing and Community Affairs (Department). The current sales prices for MPDUs are increased by 6.5% to accommodate increases in the Consumer Price Index and the cost of construction materials since the last price increase established by Executive Order in 2016.
- 1.2 Applicability of Regulation. The MPDU Pricing Standards and provisions of this regulation are applicable to new homes constructed and sold in accordance with the requirements of Chapter 25A of the Montgomery County Code, 2014 (Code), as amended (the MHP Law) on or after the effective date of this regulation.
- 1.3 Sales Price Establishment Date. The Final Unit Sales Price for the MPDUs will be fixed when the Offering Agreement is signed by the Department.

#### 25A.00.01.02 Definitions

- 2.1 The following words and phrases have the following meanings, as used in this regulation:
  - (a) Applicant – Applicant has the meaning provided in Section 25A-3 of the Code; usually the developer or the builder of the MPDUs under Section 25A-5 of the Code.
  - (b) Base Unit - Base Unit MPDUs are standard sized units for each structure type that provide the minimum necessary amenities and features as described in Section 25A.00.01.03.
  - (c) Base Unit Structure Cost – The sales price of the building aspect of a Base Unit MPDU as provided in the table found in Section 4.2 of this regulation, prior to any adjustments in price or addition of Soft Costs.



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- (d) Development Impact Tax - Impact tax for transportation and schools under Sections 52-41 and 52-54 of the Code.
- (e) Final Unit Sales Price – The final sales price for which an Applicant can sell an MPDU as calculated under Section 4.1 of this regulation.
- (f) Lot Development Cost – The cost to prepare undeveloped land for development, including engineering inspection, permitting, road work, clearing, grading, earthwork, driveways, site drainage, and installation of utilities, excluding water and sewer house connection fees.
- (g) Moderately Priced Dwelling Unit or MPDU – A dwelling unit which meets the definition provided in Section 25A-3 of the Code.
- (h) Offering Agreement – A signed agreement between the Applicant and the Department identifying the MPDUs in a development, describing each MPDU, providing the price of each MPDU, and identifying the date on which the MPDUs will be marketed to eligible households.
- (i) Options – Amenities not included in the Final Unit Sales Price that may be voluntarily selected by a purchaser of an MPDU, including upgrades of standard features of the home, and which may be charged at market rate. Options are subject to the limitations in Section 5.9.
- (j) Soft Costs – Expense items for development that are not considered direct construction costs, as outlined in Section 5.5.
- (k) Square Foot – Square foot is calculated as finished square footage. Finished square footage is measured from the face of the interior wall, and includes any space with flooring, wall covering and ceilings, such as finished storage space, stairwells, and hallways inside the unit. Finished square footage does not include unfinished basement or attic storage areas, common stairwells, and common hallways.
- (l) System Development Charge – A fee imposed by the Washington Suburban Sanitary Commission (WSSC) on new development to connect to the water and sewer system and to pay for the construction of major water and sewer facilities needed to accommodate growth.

**25A.00.01.03 Base Unit**

3.1 Base Unit Standards. At a minimum, MPDUs must be constructed to provide the number of bedrooms required for each unit, as described in the table below, based on the type of dwelling unit constructed.



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The number of bathrooms and the hot water heater capacity must correspond with each unit's bedroom count.

### Minimum Standards for MPDUs (For Sale and Rental)

Item	Single-Family Detached		Townhouse & Duplex		Piggyback Townhouse	
No. of Bedrooms	3	4	3	4	2	3
No. of Bathrooms	1 1/2	2	1 1/2	2	1	1 1/2
Electric Hot Water Heater (gallon)	50	50	50	50	40	40
Gas Hot Water Heater (gallon)	40	40	40	40	30	40

Item	Garden Condominium/Apt. (up to 4 stories)				High Rise (5+ stories)			
No. of Bedrooms	0	1	2	3	0	1	2	3
No. of Bathrooms	1	1	1	1 1/2	1	1	1	1 1/2
Electric Hot Water Heater (gallon)	30	30	30	50	30			
Gas Hot Water Heater (gallon)	30	30	30	40	30			

3.2 Required Features of a Base Unit MPDU. In addition to the requirements of Section 3.1 above, all MPDUs must also:

- (a) Be equipped with a refrigerator that is at least 15 cubic ft., frost-free, and meets "builders grade" specifications;



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- (b) Have a standard 30" electric or gas range/oven with clock/timer and a range hood;
- (c) Be equipped with a garbage disposal;
- (d) Have a rough-in connection for a dishwasher, except as provided in Section 3.5(g);
- (e) Have complete electrical and plumbing, as well as a dryer exhaust, for a clothes washer and a dryer, except as provided in Section 3.5(g);
- (f) Include a linen closet or storage shelf system within a clothes closet in the unit; and
- (g) Include a full bath within one floor of each level that includes a bedroom and the main bathroom must include a vanity.

3.3 Consistent Heating and Air Systems. The Square Foot prices for MPDUs are based upon heat pump systems for heating and air conditioning (HVAC) systems. However, if the market rate units in the development are equipped with gas appliances and systems, the MPDUs must be equipped in the same way.

3.4 Livability. Bedrooms in MPDUs are expected to have full height walls, doors that lock, and closets. The primary (master) bedroom must be able to accommodate a double bed, two nightstands and a chest of drawers. Secondary bedrooms must be able to accommodate a single bed, a nightstand, and a chest of drawers. The living/dining space is expected to be adequate to accommodate a dining room set and a sofa set appropriate for the number of occupants of the unit.

3.5 Additional Considerations for Multi-Family Buildings. In multi-family buildings, MPDUs must also meet the following standards:

- (a) The bedroom mix of the MPDUs must match the bedroom mix of the market-rate units in the subdivision unless the Director approves an MPDU agreement under Section 25A-5 of the Code that does not increase the number of MPDUs required, but approximates the total floor area for the MPDUs required, and alters the bedroom mix of the MPDUs or the number of MPDUs.
- (b) The minimum size of MPDUs in multi-family buildings is based on the type of structure as specified below. At the discretion of the Department, the minimum size of any type of unit, by bedroom size, may be reduced to the minimum size of comparable market rate units in the same building with the same number of bedrooms.



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- (1) Garden (up to 4 stories): The minimum sizes of MPDUs should be as follows: 0 BR = 500 SF; 1 BR = 650 SF; 2 BR = 800 SF; 3 BR = 1100 SF.
- (2) High Rise (5+ stories): The minimum size of MPDUs should be as follows: 0 BR = 450 SF; 1 BR = 575 SF; 2 BR = 725 SF; 3 BR = 1000 SF.
- (c) MPDUs are not required to be located on "premium" floors, and are not required to have "premium" locations on a floor (for example, in terms of view, access to building amenities, etc.).
- (d) No more than 40 percent of the total number of units on any floor should be MPDUs. This requirement does not apply to buildings that are sold or rented under an approved federal, state, or local housing program designed to assist the construction or occupancy of housing for households of low or moderate income.
- (e) Bedrooms without windows are only permitted if market rate units also have bedrooms without windows, and must have adequate artificial lighting per building code requirements.
- (f) Applicants must make parking available to MPDU tenants or owners according to the number of parking spaces approved for the MPDUs at certified site plan. MPDU residents must be charged no more than the regular market rate for parking, and must not be required to purchase or rent parking. No fee may be charged for non-structured parking in rental buildings.
- (g) Clothes washer and dryer equipment and a dishwasher must be provided in each rental MPDU unless this equipment is not provided in the market rate units.
- (h) Condominium developments must have FHA approval or approval of similar financing.

3.6 Omissions of Minimum Standards. Although every effort should be made to provide all Base Unit standards and features, the Department may waive any of the provisions found in Sections 3.1 through 3.5 if an Applicant shows good cause concerning why the Applicant cannot construct an MPDU to the minimum requirements. Examples include situations in which a development is a residential conversion of a non-residential building, rehabilitation of an existing residential unit that was not built to current standards, or other circumstances where there are physical constraints to providing the Base Unit requirements. The Applicant must obtain a written waiver from the Department to forego some of the minimum standards. When adjustments to the minimum standards are permitted by the Department, the sales price may be adjusted to reflect those omissions.





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## 25A.00.01.04 Calculation of Sales Prices for MPDUs and Base Unit Sales Prices

4.1 Final Unit Sales Price. The Final Unit Sales Price is calculated by adding together:

- (a) The Base Unit Structure Costs as calculated in Section 4.2 and adjusted under Sections 5.1 and 5.2;
- (b) The Lot Development Cost as calculated in Section 4.2 and adjusted under Section 5.3;
- (c) Additional Unusual Costs, if applicable, as specified in Section 5.4;
- (d) The Soft Costs as specified in Section 5.5;
- (e) Architectural Compatibility Costs, if applicable, as specified in Section 5.6; and
- (f) Builder's Extended Warranty and/or Condominium Financing Costs, if applicable, as specified in Section 5.7.

4.2 Base Unit Structure and Lot Development Costs. The following schedule contains the Base Unit Structure Costs and Lot Development Costs for MPDUs. These prices are subject to the adjustments contained in 25A.00.01.05.



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<b>MPDU Pricing Standards</b>									
UNIT DESCRIPTION					UNIT SIZE (SF=square feet)		COST		
Unit Type	No. of Stories	No. of BRs	No. of Baths	Base in SF	Min. in SF	Max. in SF	SF Cost	Base Unit Structure Cost	Lot Dev. Cost
Single-Family Detached	1-2	3-4	1 ½-2	1,400	1,100	2,000	\$77	\$107,360	\$23,010
Duplex	1-2	3-4	1 ½	1,200	1,100	1,900	\$71	\$84,350	\$18,860
Townhouse/ Four-plex	2-3	3	1 ½	1,200	1,050	1,800	\$67	\$79,240	\$16,190
Townhouse/ Four-plex	2-3	4	2	1,260	1,120	1,900	\$67	\$83,200	\$16,190
Piggyback Townhouse	1-2	2-3	1-1 ½	1,200	1,050	1,600	\$58	\$69,020	\$13,530
Garden Condo	2-4	0-3	1-1 ½	950	Based on bedroom size, see Section 25A.00.01.03.5.(b)(1)	1,400	\$64	\$60,710	\$12,150
High Rise 1	5-6	0-3	1-1 ½	850	Based on bedroom size, see Section 25A.00.01.03.5.(b)(2)	1,100	\$118	\$99,580	\$16,830
High Rise 2	7+	0-3	1-1 ½	850	Based on bedroom size, see Section 25A.00.01.03.5.(b)(2)	1,100	\$169	\$143,030	\$21,520

**25A.00.01.05 Price Adjustments for Variations from Base Unit Standards and Other Costs**

5.1 Base Unit Structure Cost Adjustments. Cost adjustments may be applied to the Base Unit Structure Cost of the MPDU as provided in Section 4.2 for variations in the size of the unit and additional structural amenities above the required Base Unit features found in Sections 3.1 thru 3.3 as follows:



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- (a) If garages are added to the unit, the additional cost per Square Foot may be added to the base sales price as provided in the table below.
- (b) Additional cost credit is only allowed for baths provided above the minimum specification for the unit as required in the table in Section 3.1, according to the adjustments provided in the table below. Roughed-in bath and powder rooms require that the plumbing and electrical installations meet the following conditions to qualify for a cost increase to the MPDU sales price:
  - (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. Duct work for the future installation of exhaust fans must be installed. Roughed-in plumbing must pass air or water tests by the applicable BOCA or WSSC Codes.
  - (2) Electrical rough-in: wiring must be installed from service panel box and terminated at an outlet of the appliance or fixture that is to be served.
- (c) For units differing in size (Square Foot area) from the Base Unit Square Footage under the unit description in Section 4.2., the structure cost will be increased or decreased at one-half the unit type Square Foot cost, as provided in the table below. If the size of the unit is different from the base in Square Footage, the Base Unit Structure Cost will be adjusted using the Square Foot change from base in the last column below. No additions will be made over the maximum floor areas shown in Section 4.2.



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Base Unit Structure Cost Adjustments						
Unit Type	ADDITION/SUBTRACTION ADJUSTMENTS					SF Change from Base (+/-)
	Garage (per SF)	Bath		Powder Room		
	Attached/Detached	Finished	Rough-In	Finished	Rough-In	
Single-Family Detached	\$16/\$32	\$3,780	\$1,260	\$2,520	\$920	\$39.00
Duplex	\$16/\$32	Prices for bath and powder room adjustments are the same for all units regardless of type				\$36.00
Townhouse/ Four-plex	\$16/\$32					\$34.00
Townhouse/ Four-plex	\$16/\$32					\$34.00
Piggyback Townhouse	\$16/\$32					\$29.00
Garden Condo	N/A					\$32.00
High Rise 1	N/A					\$59.00
High Rise 2	N/A					\$85.00

- (d) If a separate linen closet is provided, \$520 will be added to the price.
- (e) If additional vanities are provided to any bath, \$290 will be added to the base price for each vanity in excess of the first mandatory vanity.
- (f) 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. The end unit credit may not be claimed for duplex units. For end unit townhouses, add \$2,980 for each unit; for end unit piggyback townhouses add \$2,290 for each unit.
- (g) Walkout basement with a 5-foot sliding glass door, add \$1,890; for a unit with a 6 foot sliding glass door, add \$2,170.
- (h) The allowable MPDU sales price may be increased based on the cost difference between electric and gas appliances and systems.
- (i) Cost credit is allowed when energy-efficient appliances are furnished to provide the required appliances listed in Section 3.2, and for other energy-saving measures.



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- (j) The cost to install a sprinkler system has not been included in the Square Foot prices. If the Code requires the installation of a sprinkler system, the allowable price will be increased for this expense.
- (k) A dishwasher may be added to the price.
- (l) If the structure is provided with a deck or terrace, the cost may be added to the price.

5.2 ADA Compliance. 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 Department may adjust the allowable sales price by the amount of the additional costs. The Applicant must obtain approval of the price from the Department prior to executing a sales contract.

5.3 Allowances and Considerations to Lot Development Cost. Additional cost adjustments provided below may be applied to the sales price of the MPDU for additional considerations of the Lot Development Cost:

- (a) The Lot Development Cost found in Section 4.2 does not include water and sewer house connection fees; the actual cost of the connection fees may be added to the allowable sales price in any instance where water and sewer connection charges are not deferred.
- (b) The Lot Development Cost found in Section 4.2 does not include the Development Impact Tax or the System Development Charge for water or sewer; these fees will be waived if permitted under applicable law. A letter to the County requesting the waiver, which must specifically identify the MPDUs in the development by street address, lot and block, must be sent by the Applicant to (a) the Department to the attention of its Affordable Housing Programs (AHP) Section, (b) WSSC and (c) the County's Department of Permitting Services.

5.4 Considerations for Additional Unusual Costs (Does not apply to garden buildings and high rises). The Department may adjust the allowable sales price of an MPDU if the Applicant can demonstrate that additional unusual costs have been incurred (i.e., costs not already allowed in the structure or Lot Development Costs) which are directly attributable to and benefit the MPDUs and which are the result of:

- (a) conditions or fees, such as impact or similar fees imposed by a governmental unit or as condition for building permit approvals;



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- (b) additional considerations or fees as a condition of obtaining governmental financing programs; or
- (c) additional fees imposed by public utilities.

A narrative explanation in addition to documentation required under Section 5.8 for such costs must accompany the Offering Agreement. Requests for price adjustments must be initiated by the Applicant. Additional costs for correcting or adapting the usability of marginal land, soils, or topography will not result in an increase in the allowable sales price.

### 5.5 Soft Costs Included in Sales Price.

- (a) The following costs are included in the allowable sales price for MPDUs, and are expressed as a percentage of the total price as follows:
  - (1) Construction loan financing expenses -  $(\text{prime rate} + 2\%) \times .50 \times .75 \times .75$ . This assumes an average take down rate over 6 months, the length of the loan is 9 months, and that 75% of the unit sales price was borrowed;
  - (2) Construction loan placement fee - 1.5 percent;
  - (3) Legal and closing costs - 3.5 percent;
  - (4) Marketing expenses and sales commissions – 1.5 percent;
  - (5) Builder's overhead expenses - 8 percent;
  - (6) Engineering and architecture fees – 5 percent
  - (7) General requirements – 3 percent; and,
  - (8) Buyer’s closing costs – 3 percent, to be given as a credit to the buyer.
- (b) The construction loan interest rate used to calculate construction financing costs is based upon a prime interest rate of 3.25 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.



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### 5.6 Architectural Compatibility Expenses (Does not apply to garden buildings and high rises).

The allowable sales price of an MPDU may be increased to compensate for the cost of modifying the exterior design (including site improvements) of the MPDU that is necessary to make the MPDUs compatible in exterior design with the market-rate units in the subdivision.

- (a) The exterior design elements requested must 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 exterior facades and the sides of end units, roofing structure and material, window and door treatments, materials for walkways, and similar architectural elements.
- (b) Compensation shall be based upon the cost difference between the exterior design elements included in the calculation of the MPDU allowable structure cost and those design elements for which the Applicant is requesting compensation. Cost estimates or construction bids that document the difference in cost must be submitted.
- (c) The increase approved for architectural compatibility shall be limited to 10 percent of the allowable base cost for each unit increased by the direct costs percentages listed below:
  - (1) Construction loan interest – (prime rate plus 2 percent) x .50 x .75 x .75;
  - (2) Construction loan placement fee– 1.5 percent;
  - (3) Overhead and general requirement expenses – 8 percent; and
  - (4) Engineering and architectural expenses– 5 percent.

### 5.7 Builder’s Extended Warranty and Condominium Financing Costs.

- (a) The cost of a builder’s extended warranty may be added to the sales price.
- (b) The expense of obtaining FHA approval for condominium developments may be added to the sales price.

5.8 Documentation. All cost additions that are not monetarily specified in these Pricing Standards must be documented with contracts, estimates, bids, or invoices verifying actual costs.

5.9 Options. If the Applicant intends to provide Options, a list of options and their respective prices must be submitted with the Offering Agreement. Selections of Options must be at the discretion of the purchaser



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and may not exceed 10% of the Final Unit Sales Price. Luxury items may not be included as Options. Options and their selling price must be listed on a separate addendum to the sales contract. Documentation verifying actual costs is not required for Options.

### 25A.00.01.06 Effective Date and Revisions

- 6.1 Effective Date. This Executive Regulation will become effective 7 days after the date of approval by the Montgomery County Council.
- 6.2 Revisions. The maximum allowable sales prices of MPDUs may be revised no more than annually by Method 1 regulation by adjusting the prior year's maximum prices by (a) the percentage change in the consumer price index for urban consumers (CPI-U) for the Washington Metropolitan Area for the preceding 12-month period; or alternatively, (b) the prices may be re-estimated using actual current prices and costs, or commercially available standard building industry cost estimating products.

Marc Elrich  
County Executive

Date: 08/31/2021

Approved as to Form and Legality  
Office of the County Attorney

By:   
Date: 8/24/21