

Introduced \_\_\_\_\_  
Public Hearing \_\_\_\_\_  
Council Action \_\_\_\_\_  
Executive Action \_\_\_\_\_  
Effective Date \_\_\_\_\_

## County Council Of Howard County, Maryland

2006 Legislative Session

Legislative Day No. **6**

### Bill No. 22-2006

Introduced by: The Chairman at the request of the County Executive

AN ACT amending moderate income housing unit provisions in the Howard County Code; adding certain authorities of the Housing and Community Development Board; adding references to middle income housing units that may be included in certain zoning districts; adding certain definitions; removing certain alternatives; requiring moderate and middle income housing units to be provided in a certain form; providing options and alternatives; setting forth certain procedural requirements; amending the requirements for information to be provided as part of the Department of Housing and Community Development's annual analysis; amending the amount of units the Housing Commission or a designee may purchase; making technical corrections; and generally relating to moderate and middle income housing in Howard County.

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Introduced and read first time \_\_\_\_\_, 2006. Ordered posted and hearing scheduled.

By order \_\_\_\_\_  
Sheila M. Tolliver, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on \_\_\_\_\_, 2006.

By order \_\_\_\_\_  
Sheila M. Tolliver, Administrator

This Bill was read the third time on \_\_\_\_\_, 2006 and Passed \_\_\_\_, Passed with amendments \_\_\_\_\_, Failed \_\_\_\_\_.

By order \_\_\_\_\_  
Sheila M. Tolliver, Administrator

Sealed with the County Seal and presented to the County Executive for approval this \_\_\_ day of \_\_\_\_\_, 2006 at \_\_\_ a.m./p.m.

By order \_\_\_\_\_  
Sheila M. Tolliver, Administrator

Approved/Vetoed by the County Executive \_\_\_\_\_, 2006

\_\_\_\_\_  
James N. Robey, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN ALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **WHEREAS**, housing prices in Howard County have risen very rapidly in recent years  
2 and are expected to continue to escalate, making it more difficult for the workforce and  
3 residents of Howard County to afford a home in the County; and

4  
5 **WHEREAS**, first-time homebuyers are limited in their opportunities to purchase a home  
6 in Howard County due to the high prices of homes; and

7  
8 **WHEREAS**, nearly 75% of those residents over the age of 65 who are renters pay more  
9 than 35% of their incomes for rent; and

10  
11 **WHEREAS**, over 60% of the workforce in Howard County live outside of the County  
12 and County businesses report that housing prices are an impediment to filling jobs; and

13  
14 **WHEREAS**, new and innovative approaches are needed to encourage the construction of  
15 more moderately priced housing units to meet the needs of the growing demand for  
16 affordable housing; and

17  
18 **WHEREAS**, changes in this legislation do not alter the Howard County Zoning  
19 Regulations and changes in this legislation do not alter, increase, or decrease existing and  
20 permitted zoning densities.

21  
22 *Now, Therefore,*

23  
24 **Section 1. *Be It Enacted*** by the County Council of Howard County, Maryland, that  
25 Subtitle 4 “Moderate Income Housing Units” of Title 13 “Housing and Community  
26 Development” of the Howard County Code is renamed to be “Moderate and Middle  
27 Income Housing Units”.

28  
29 **Section 2. *And Be It Further Enacted*** by the County Council of Howard County,  
30 Maryland, that new paragraph (9) is added to Section 13.202 “Powers and duties” of

1 *Subtitle 2 “Housing and Community Development Board” of Title 13 “Housing and*  
2 *Community Development” of the Howard County Code to read as follows:*

3  
4 **Title 13. Housing and Community Development.**  
5 **Subtitle 4. Moderate and Middle Income Housing Units.**

6  
7 **Section 13.202. Powers and duties.**

8 The board shall have the following powers and duties:

- 9 (9) AT THE DIRECTION OF THE COUNTY EXECUTIVE, OR BY  
10 RESOLUTION OF THE COUNTY COUNCIL, THE BOARD SHALL REVIEW  
11 AND MAKE RECOMMENDATIONS ON ANY MATTER RELATED TO  
12 HOUSING IN THE COUNTY.

13  
14 *Section 3. And Be It Further Enacted by the County Council of Howard County,*  
15 *Maryland, that Section 13.400 “Applicability”, Section 13.401 “Definitions”, Section*  
16 *13.402 “Development procedures; moderate income housing unit agreement;*  
17 *alternative”, Section 13.403 “Prices for moderate income housing units offered for sale;*  
18 *rates for rental units”, Section 13.404 “Sale of moderate income housing unit”, Section*  
19 *13.406 “Certificate of eligibility”, Section 13.407 “Purchase or rent by designee”,*  
20 *Section 13.408 “Foreclosures; waiver”, and Section 13.409 “Regulations”, all of*  
21 *Subtitle 4 “Moderate Income Housing Units” of Title 13 “Housing and Community*  
22 *Development” of the Howard County Code are amended to read as follows:*

23  
24 **Title 13. Housing and Community Development.**  
25 **Subtitle 4. Moderate and Middle Income Housing Units.**

26  
27 **Section 13.400. Applicability.**

28 This subtitle applies to:

- 29 (a) Age-restricted adult housing, in accordance with Section 131.N.1.n of the Howard  
30 County Zoning Regulations;

- 1 (b) Mixed use developments, in accordance with Section 127.C.6.b of the Howard  
2 County Zoning Regulations;
- 3 (c) Planned senior communities, in accordance with Section 127.1.B.8 of the Howard  
4 County Zoning Regulations;
- 5 (d) Residential mobile home developments, in accordance with section 113.F.2 of the  
6 Howard County Zoning Regulations; [[and]]
- 7 (e) Any development for which the provision of moderate income housing is proffered  
8 by the petitioner and made a condition of approval in a preliminary development plan  
9 approved by the zoning [[board.]] BOARD; AND
- 10 (F) RESIDENTIAL DEVELOPMENTS IN THE R-SA-8, R-A-15, CCT, POR, R-SI,  
11 TOD, CAC ZONING DISTRICTS AND ANY OTHER ZONING DISTRICTS THAT  
12 MAY INCLUDE A MODERATE OR MIDDLE INCOME HOUSING UNIT  
13 REQUIREMENT.

14

15 **Section 13.401. Definitions.**

- 16 (a) *In General.* In this subtitle, the following words have the meanings indicated.
- 17 (b) *Commission.* "Commission" means the Howard County Housing Commission.
- 18 (C) *DEPARTMENT.* "DEPARTMENT" MEANS THE HOWARD COUNTY  
19 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.
- 20 (D) [[(c)]] *Designee.* "Designee" means the Howard County Housing Commission, a  
21 nonprofit corporation, or a quasi-public housing development organization designated by  
22 the department as eligible to operate and maintain moderate OR MIDDLE income  
23 housing units on a long-term basis.
- 24 (E) *DIRECTOR.* "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT  
25 OF HOUSING AND COMMUNITY DEVELOPMENT.
- 26 (F) [[(d)]] *Dwelling Unit.* "Dwelling Unit" has the meaning stated in the Howard County  
27 Zoning Regulations.
- 28 (G) [[(e)]] *Eligible Purchaser.* "Eligible purchaser" means a holder of a certificate of  
29 eligibility under section 13.406 of this subtitle, who has received a bona fide mortgage  
30 commitment in an amount sufficient to enable the individual to purchase a moderate OR  
31 MIDDLE income housing unit.

1 (H) [(f)] *First-time home buyer*. "First-time home buyer" means an individual who,  
2 during the 3 years before receiving a certificate of eligibility:

3 (1) Has not owned any property used or usable as a residence; or

4 (2) Has owned a personal residence but, because of the separation or divorce  
5 of the joint tenants or the death of one of the joint tenants, needs to  
6 purchase a personal residence without the former joint tenant.

7 (I) [(g)] *Initial Sale Price*. "Initial sale price" means the price set by the commission  
8 under section 13.403 of this subtitle for the first sale of a type of moderate OR MIDDLE  
9 income housing unit.

10 (J) [(h)] *Median Income*. "Median income" means the median annual income of [(the  
11 Baltimore Metropolitan Statistical Area,)] HOWARD COUNTY as determined by the  
12 U.S. CENSUS BUREAU [(Department of Housing and Urban Development)].

13 (K) *MIDDLE INCOME*. "MIDDLE INCOME" MEANS AN ANNUAL HOUSEHOLD  
14 INCOME ABOVE 80% AND BELOW 110 % OF THE MEDIAN INCOME IN  
15 HOWARD COUNTY.

16 (L) *MIDDLE INCOME HOUSING UNIT*. "MIDDLE INCOME HOUSING UNIT"  
17 MEANS A DWELLING UNIT OFFERED FOR SALE TO HOUSEHOLDS WITH  
18 MIDDLE INCOMES.

19 (M) *MIDDLE INCOME HOUSING UNIT OFFERED FOR SALE*. "MIDDLE INCOME  
20 HOUSING UNIT OFFERED FOR SALE" MEANS A UNIT THAT IS BUILT ON A  
21 SUBDIVIDED LOT OR SUBJECT TO A CONDOMINIUM REGIME, AS PROVIDED  
22 IN A MODERATE OR MIDDLE INCOME HOUSING UNIT AGREEMENT UNDER  
23 SECTION 13.402(B) OF THIS SUBTITLE.

24 (N) *MODERATE INCOME*. "MODERATE INCOME" MEANS AN ANNUAL  
25 HOUSEHOLD INCOME BETWEEN 50% AND 80% OF THE MEDIAN INCOME IN  
26 HOWARD COUNTY.

27 (O) *MODERATE INCOME HOUSING UNIT*. "MODERATE INCOME HOUSING  
28 UNIT" MEANS A DWELLING UNIT OFFERED FOR SALE OR RENT TO  
29 HOUSEHOLDS WITH MODERATE INCOMES.

30 (P) [(i)] *Moderate Income Housing Unit Offered for Sale*. "Moderate Income Housing  
31 Unit Offered For Sale" means a unit that is built on a subdivided lot or subject to a

1 condominium regime, as provided in a moderate OR MIDDLE income housing unit  
2 agreement under section 13.402(b) of this subtitle.

3 ~~[(j)]~~ *Rental Unit*. "Rental unit" means a moderate income housing unit that is not a  
4 moderate income housing unit offered for sale.

5 (k) *Department*. "Department" means the Howard County Department of Housing and  
6 Community Development.]]

7 (Q) ~~[(l)]~~ *Proffered Unit*. "Proffered unit" means a moderate OR MIDDLE income  
8 housing unit in a development for which the provision of moderate OR MIDDLE income  
9 housing is proffered by the petitioner and made a condition of approval in a preliminary  
10 development plan approved by the zoning board.

11 (R) ~~[(m)]~~ *Rehabilitated Existing Moderate Income Housing Unit*. "Rehabilitated  
12 existing moderate income housing unit" means an existing residential housing unit that  
13 has been determined by the department of housing and community development to have  
14 met the specified eligibility criteria and rehabilitation requirements for such units as  
15 provided in this subtitle and that is subject to and bound to comply with all of the  
16 requirements in this subtitle applicable to newly built moderate income housing units.

17 (S) *RENTAL UNIT*. "RENTAL UNIT" MEANS A MODERATE INCOME HOUSING  
18 UNIT THAT IS NOT A MODERATE INCOME HOUSING UNIT OFFERED FOR  
19 SALE.

20

21 **Section 13.402. Development procedures; moderate OR MIDDLE income housing**  
22 **unit agreement; alternative.**

23 (a) *Development Procedures*.

24 (1) When a development is subject to this subtitle, the developer shall submit  
25 to the department of planning and zoning, concurrent with the submission  
26 of the original final plat or original site development plan for approval, as  
27 applicable:

28 (i) An agreement to ~~[[provide]]~~ MEET moderate OR MIDDLE  
29 income housing ~~[[units offered for sale and rental units]]~~ UNIT  
30 REQUIREMENTS; and

1 (ii) Recordable covenants approved by the department and the county  
2 solicitor.

3 (2) Covenants under this subsection shall be recorded among the land records  
4 of Howard County concurrently with the recordation of the final  
5 subdivision plat or site development plan approval, as applicable.

6 (3) Covenants under this subsection shall be extinguished in accordance with  
7 the agreement under subsection (b) of this section.

8 (b) *Moderate OR MIDDLE Income Housing Unit Agreement.* The moderate OR  
9 MIDDLE income housing unit agreement under this section shall be in a form prescribed  
10 by the department and shall include:

11 (1) A statement of the number of moderate OR MIDDLE income housing  
12 units required under the zoning regulations;

13 (2) A requirement that the developer comply with the minimum specifications  
14 for moderate OR MIDDLE income housing units established by the  
15 department; [[and]]

16 (3) A plan for construction of moderate OR MIDDLE income housing units  
17 offered for sale and rental units, which shall, to the extent practicable,  
18 taking into account current market conditions, the needs of eligible  
19 purchasers, and planning considerations, require that each phase of the  
20 development contain its proportionate share of the total number of  
21 moderate OR MIDDLE income housing units required under the approved  
22 final plan or site development [[plan.]] PLAN; AND

23 (4) A STATEMENT OF HOW MODERATE OR MIDDLE INCOME  
24 HOUSING UNITS WILL BE PROVIDED THAT SHALL INCLUDE  
25 THE NUMBER OF UNITS, TYPES OF UNITS, AND LOCATION OF  
26 UNITS.

27 (c) *Covenants.* The covenants under this section shall be in a form prescribed by the  
28 department and shall include provisions prohibiting the SALE OF A MIDDLE INCOME  
29 HOUSING UNIT AND THE sale or rental of a moderate income housing unit except to  
30 an eligible purchaser, the commission, the county, or a designee in accordance with this  
31 subtitle.

1    [[d) *Alternative for age-restricted adult housing outside of planned service area.*

2           (1)    The developer of an age-restricted adult housing development subject to  
3                    this subtitle may pay a fee to the county instead of providing moderate  
4                    income housing units in the development if:

5                    (i)    The development is located outside of the planned service area for  
6                            public water and sewer, as designated in the master plan for water  
7                            and sewerage; and

8                    (ii)   The director of the department of planning and zoning, after  
9                            consultation with the office on aging and the department of  
10                           housing and community development, determines that:

11                           a.    The number of moderate income housing units to be  
12                                    constructed in the development will render the  
13                                    development economically unfeasible; or

14                           b.    The development proposes an indivisible package of  
15                                    services and facilities to all residents that would cost the  
16                                    moderate income housing unit owners so much that the  
17                                    units would be rendered unaffordable to eligible  
18                                    purchasers.

19           (2)    The amount of the fee paid by the developer shall be the initial sales price  
20                    for the relevant type of moderate income housing unit multiplied by the  
21                    number of moderate income housing units the developer would have been  
22                    required to provide if not paying the fee.

23           (3)    Fees paid under this subsection shall be deposited in an account used only  
24                    for senior housing projects or programs located outside of the planned  
25                    service area for public water and sewer, as designated in the master plan  
26                    for water and sewerage.]]

27    [[e) *Alternative for age-restricted adult housing conditional uses within the planned*  
28    *service area or age-restricted adult housing located within a planned senior community*  
29    *zoning district.* The developer of an age-restricted adult housing development subject to  
30    this subtitle may provide the required units at an alternative location if the following  
31    conditions are met:

- 1 (1) The development is located in the planned service area for public water  
2 and sewer, as designated in the master plan for water and sewerage; and
- 3 (2) The development is:
  - 4 (a) An age-restricted adult housing conditional use, approved in  
5 accordance with section 131.N of the Howard County Zoning  
6 Regulations; or
  - 7 (b) A planned senior community zoning district development,  
8 approved in accordance with section 127.1 of the Howard County  
9 Zoning Regulations; and
- 10 (3) Concurrent with or prior to approval of a site development plan for the  
11 development the developer provides an equal number of moderate income  
12 housing units at a location:
  - 13 (i) Determined by the Department of Housing and Community  
14 Development to be better suited for the moderate income housing  
15 units due to design or economic factors; and
  - 16 (ii) For which a site development plan has been approved by the  
17 Department of Planning and Zoning.]]

18 (D) *REQUIREMENT TO PROVIDE ON-SITE AND AS A RATIO OF THE SAME TYPES*  
19 *OF UNITS. EXCEPT AS PROVIDED IN SUBSECTION (E) AND (F) OF THIS*  
20 *SECTION, A DEVELOPER OBLIGATED TO PROVIDE MODERATE OR MIDDLE*  
21 *INCOME HOUSING UNITS IN ACCORDANCE WITH THE ZONING*  
22 *REGULATIONS AS PART OF A DEVELOPMENT SHALL PROVIDE ALL OF THE*  
23 *UNITS ON THE SITE OF THE DEVELOPMENT PROJECT AND IN THE SAME*  
24 *RATIO OF UNIT TYPES AS REQUIRED BY THE PROPOSED DEVELOPMENT.*

25 (E) *OPTIONAL METHODS.*

- 26 (1) A DEVELOPER REQUIRED TO PROVIDE MODERATE OR MIDDLE  
27 INCOME HOUSING UNITS UNDER THE ZONING REGULATIONS  
28 MAY REQUEST PERMISSION TO PROVIDE THE REQUIRED  
29 UNITS:
  - 30 (I) AT A DIFFERENT LOCATION;
  - 31 (II) AS A DIFFERENT RATIO OF UNIT TYPES; OR

1 (III) FOR MODERATE INCOME HOUSING UNITS ONLY,  
2 THROUGH PAYMENT OF A FEE- IN-LIEU IN  
3 ACCORDANCE WITH PARAGRAPH (4) OF THIS  
4 SUBSECTION.

5 (2) A DEVELOPER MAY USE AN OPTIONAL METHOD UNDER THIS  
6 SUBSECTION IF THE DIRECTOR, UPON RECOMMENDATION  
7 FROM THE HOUSING AND COMMUNITY DEVELOPMENT  
8 BOARD AND IN CONSULTATION WITH THE DIRECTOR OF  
9 PLANNING AND ZONING, DETERMINES THAT:

10 (I) A. THE NUMBER OF MODERATE OR MIDDLE INCOME  
11 HOUSING UNITS TO BE CONSTRUCTED IN THE  
12 DEVELOPMENT WILL RENDER THE  
13 DEVELOPMENT ECONOMICALLY UNFEASIBLE; OR  
14 B. THE DEVELOPMENT PROPOSES AN INDIVISIBLE  
15 PACKAGE OF SERVICES AND FACILITIES TO ALL  
16 RESIDENTS THAT WOULD COST THE MODERATE  
17 OR MIDDLE INCOME HOUSING UNIT OWNERS SO  
18 MUCH THAT THE UNITS WOULD BE RENDERED  
19 UNAFFORDABLE TO ELIGIBLE PURCHASERS; AND

20 (II) THE OPTIONAL METHOD RESULTS IN GEOGRAPHIC  
21 DISTRIBUTION OF MODERATE OR MIDDLE INCOME  
22 HOUSING UNITS THROUGHOUT THE COUNTY.

23 (3) A DEVELOPER WHO USES AN OPTIONAL METHOD OF  
24 PROVIDING MODERATE INCOME HOUSING UNITS IN  
25 ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION  
26 SHALL CALCULATE THE NUMBER OF UNITS TO BE PROVIDED  
27 AS SET FORTH BELOW:

28 (I) FOR EVERY ONE MODERATE INCOME SINGLE FAMILY  
29 DETACHED HOUSING UNIT REQUIRED BY THE ZONING  
30 REGULATIONS, THE REQUIREMENT SHALL BE

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INCREASED BY THE MULTIPLIER IN THE FOLLOWING  
CHART:

<b>TYPE OF UNIT</b>	<b>ON-SITE</b>	<b>OFF-SITE</b>
SINGLE FAMILY DETACHED	NOT APPLICABLE	1.5 MODERATE INCOME UNITS
SINGLE FAMILY ATTACHED	1.5 MODERATE INCOME UNITS	1.75 MODERATE INCOME UNITS
APARTMENT	1.75 MODERATE INCOME UNITS	2.0 MODERATE INCOME UNITS

(II) FOR EVERY ONE SINGLE FAMILY ATTACHED  
MODERATE INCOME HOUSING UNIT REQUIRED BY THE  
ZONING REGULATIONS, THE REQUIREMENT SHALL BE  
INCREASED BY THE MULTIPLIER IN THE FOLLOWING  
CHART:

<b>TYPE OF UNIT</b>	<b>ON-SITE</b>	<b>OFF-SITE</b>
SINGLE FAMILY ATTACHED	NOT APPLICABLE	1.5 MODERATE INCOME UNITS
APARTMENT	1.5 MODERATE INCOME UNITS	1.75 MODERATE INCOME UNITS

(III) FOR EVERY ONE MODERATE INCOME APARTMENT  
REQUIRED BY THE ZONING REGULATIONS, THE  
REQUIREMENT SHALL BE MODIFIED BY THE  
MULTIPLIER IN THE FOLLOWING CHART:

<b>TYPE OF UNIT</b>	<b>ON-SITE</b>	<b>OFF-SITE, APARTMENT UNITS</b>
APARTMENT	NOT APPLICABLE	1.5 MODERATE INCOME UNITS
SINGLE FAMILY ATTACHED	NOT APPLICABLE	.67 MODERATE INCOME UNITS

(4) (I) A DEVELOPER REQUIRED TO PROVIDE MODERATE  
INCOME HOUSING UNITS UNDER THE ZONING  
REGULATIONS MAY PAY A FEE-IN-LIEU OF PROVIDING  
MODERATE INCOME HOUSING UNITS BY PAYING AN  
AMOUNT EQUAL TO TWICE THE APPRAISED VALUE OF

1 A FINISHED LOT IN THE PROPOSED DEVELOPMENT FOR  
2 EACH REQUIRED UNIT.

3 (II) THE FEE-IN-LIEU SHALL BE PAID TO THE MODERATE  
4 INCOME HOUSING FUND.

5 (III) THE COMMISSION SHALL USE THE FEE-IN-LIEU TO  
6 PROVIDE AN EQUAL OR GREATER NUMBER OF  
7 MODERATE INCOME HOUSING UNITS THAN THE  
8 DEVELOPER IS REQUIRED TO PROVIDE BY THE ZONING  
9 REGULATIONS.

10

11 *(F) ALTERNATIVE COMPLIANCE TO OPTIONAL METHODS.*

12 (1) A DEVELOPER MAY REQUEST PERMISSION FROM THE  
13 DIRECTOR TO USE A METHOD OTHER THAN THOSE SET FORTH  
14 IN SUBSECTION (E) OF THIS SECTION TO PROVIDE MODERATE  
15 OR MIDDLE INCOME HOUSING UNITS.

16 (2) A REQUEST SHALL INCLUDE THE FOLLOWING INFORMATION:

17 (I) A DESCRIPTION OF THE ALTERNATIVE COMPLIANCE  
18 PROPOSAL, INCLUDING A COMPARISON OF THE  
19 REQUIRED AND PROPOSED UNITS, IN TERMS OF THE  
20 LOCATION, NUMBERS, TYPES, BEDROOMS, AND SQUARE  
21 FOOTAGE; AND

22 (II) THE PROJECTED FAIR MARKET VALUE OF THE  
23 REQUIRED AND PROPOSED UNITS.

24 (3) IN DETERMINING WHETHER TO APPROVE A REQUEST UNDER  
25 THIS SUBSECTION, THE DIRECTOR, UPON RECOMMENDATION  
26 FROM THE HOUSING AND COMMUNITY DEVELOPMENT  
27 BOARD AND IN CONSULTATION WITH THE DIRECTOR OF  
28 PLANNING AND ZONING, SHALL CONSIDER WHETHER:

29 (I) THE PHASING OF MODERATE OR MIDDLE INCOME  
30 HOUSING UNITS WILL BE PROVIDED SOONER THAN

1                   WOULD BE REQUIRED BY THE PHASING OF MARKET  
2                   RATE UNITS;

3                   (II)   THE UNITS PRESENT INNOVATIVE ARCHITECTURE OR  
4                   SITE DESIGN FEATURES THAT CONTRIBUTE TO  
5                   AFFORDABILITY;

6                   (III)   THE DESIGN REDUCES OPERATING AND MAINTENANCE  
7                   COSTS;

8                   (IV)   THE LOCATION OF THE PROPOSED ALTERNATIVE IS  
9                   PART OF A MIXED-USE DEVELOPMENT WITH EXISTING  
10                  OR POTENTIAL TRANSIT SERVICE; AND

11                  (V)   THE DEVELOPMENT PROVIDES A PACKAGE OF  
12                  SERVICES OR AMENITIES FOR THE BENEFIT OF  
13                  MODERATE OR MIDDLE INCOME RESIDENTS.

14           (4)   IN GRANTING A REQUEST UNDER THIS SUBSECTION, THE  
15           DIRECTOR MAY REDUCE THE NUMBER OF UNITS THAT  
16           WOULD HAVE BEEN REQUIRED UNDER SUBSECTION (E) OF  
17           THIS SECTION, BUT MAY NOT REDUCE THE NUMBER OF UNITS  
18           BELOW THE NUMBER REQUIRED BY THE ZONING  
19           REGULATIONS.

20   [[f)] (G) *Alternative of providing rehabilitated existing moderate income housing*  
21   *units.* The developer of a housing development subject to this subtitle may provide up to  
22   five rehabilitated existing moderate income housing units if the developer's requirement  
23   is for 29 or fewer moderate income housing units or, if the developer's requirement is for  
24   30 or more moderate income housing units, the developer may provide a maximum of  
25   20% of the required moderate income housing units by providing rehabilitated existing  
26   moderate income housing units provided that:

27           [[1.]] (1) Prior to approval of a final subdivision plat or, if the property is not  
28           being subdivided, a site development plan:

29           [[a)] (I) The developer provides:

30                   [[1)] A. One rehabilitated existing moderate income housing unit  
31                   certificate approved by the department [[of housing and

1 community development]] as provided below for each  
2 moderate income housing unit required by this subtitle;  
3 [[and/or]] OR  
4 [[(2)] B. Two rehabilitated existing moderate income housing unit  
5 certificates for condominium apartment units approved the  
6 department [[of housing and community development]] as  
7 provided below for each moderate income housing unit  
8 required by this subtitle; and  
9 [[(b)] (II) The developer executes all of the required agreements and  
10 covenants relating to the provision of newly built moderate  
11 income housing units in this subtitle.  
12 [[2.]] (2) [[(a)] (I) If a developer is required to provide age-restricted moderate  
13 income housing units by the zoning regulations [[and this  
14 subtitle]], the developer may use the alternative of providing  
15 rehabilitated units as permitted by this subsection.  
16 [[(b)] (II) A developer may use a non-age restricted rehabilitated unit  
17 instead of an age-restricted rehabilitated unit under this subsection  
18 if the director [[of the department of housing and community  
19 development]], with the concurrence of the chief administrative  
20 officer:  
21 [[(1)] A. Has made a good faith effort to find, but is unable to  
22 find, any eligible purchaser who meets the criteria for the  
23 age-restricted moderate income housing unit consistent  
24 with federal discrimination law exemptions; or  
25 [[(2)] B. Has determined that the unit is not physically suited for  
26 use by an age-restricted eligible purchaser.  
27 [[(c)] (III) The total number of non-age restricted rehabilitated units that  
28 are substituted for age-restricted units shall not exceed 10.  
29 [[3.]] (3) Except as provided in subsection [[(h)] (I) of this section, the  
30 rehabilitated existing moderate income housing units are subject to all of

1 the requirements applicable to newly built moderate income housing units  
2 in this subtitle.

3 ~~[(g)]~~ (H) *Approval of certificates for rehabilitated existing moderate income housing*  
4 *units; sale of certificates.* The application, approval and sale of certificates for  
5 rehabilitated existing moderate income housing units shall be governed by the following  
6 criteria and procedures:

7 ~~[[1.]]~~ (1)(I) The owner of a residential housing unit or units or an applicant  
8 acting on their behalf may apply to the department ~~[[of housing~~  
9 ~~and community development]]~~ for eligibility to apply for a  
10 certificate for a rehabilitated existing moderate income housing  
11 unit.

12 (II) Within 20 business days following application, the department ~~[[of~~  
13 ~~housing and community development]]~~ shall approve such a unit  
14 as eligible for a certificate application if it finds:

15 ~~[(a)]~~ A. That the unit is in need of substantial repairs based on an  
16 itemized estimate of cost of repairs submitted by the  
17 applicant;

18 ~~[(b)]~~ B. That the unit shall not be or previously have been a  
19 moderate income housing unit approved pursuant to this  
20 subtitle; and

21 ~~[(c)]~~ C. That the unit will add to the stock of needed moderate  
22 income housing units in the county.

23 ~~[[2.]]~~ (2)(I) If the department ~~[[of housing and community development]]~~  
24 approves a unit as being eligible for certificate application, the owner of  
25 the unit or an applicant acting in his behalf may apply for that certificate.

26 (II) The department shall approve the application and issue a certificate  
27 for a rehabilitated existing moderate income housing unit if it finds  
28 that the applicant has executed the required moderate income  
29 housing unit covenants and agreements and met the following  
30 rehabilitation requirements for the unit:

- 1                    [[(a)]] A. Kitchen and bath cabinets shall be new or updated in the  
2                    last ten years and in good condition; kitchen and bath  
3                    fixtures shall conform to current maximum water usage  
4                    standards; and all major kitchen appliances shall be new  
5                    and warranted for at least one year;
- 6                    [[(b)]] B. All carpets and flooring shall be new except for  
7                    hardwood flooring that is new or newly refinished;
- 8                    [[(c)]] C. The heating and cooling systems shall be new or have  
9                    been replaced in the last ten years and be in good working  
10                    order;
- 11                    [[(d)]] D. All drywall or other wall materials shall be in good  
12                    condition with no outdated finishes;
- 13                    [[(e)]] E. All doors and locks shall be in good working order;
- 14                    [[(f)]] F. All windows shall be new or replaced in the last ten years,  
15                    have insulated glass or storm windows and be in good  
16                    condition;
- 17                    [[(g)]] G. The roof shall be new or replaced in the last ten years, be  
18                    in good condition, and have at least a twenty year  
19                    manufacturer's warranty remaining at the time of sale;
- 20                    [[(h)]] H. Facia, gutters and downspouts shall be in good condition;
- 21                    [[(i)]] I. [[The building shall be free of asbestos, lead paint, and  
22                    lead piping;]] THE APPLICANT SHALL CERTIFY  
23                    THAT THE UNIT COMPLIES WITH ALL  
24                    APPLICABLE ASBESTOS AND LEAD PAINT LAWS;
- 25                    [[(j)]] J. Exterior paint shall be new and siding shall be new or  
26                    replaced in the last ten years and be in good condition;
- 27                    [[(k)]] K. Decks shall be power washed and stained and be in good  
28                    condition;
- 29                    [[(l)]] L. The yard shall be in good condition with adequate and  
30                    appropriate ground cover, trimmed trees and bushes, if any,  
31                    fences in good condition, if any, and with any sidewalks

1 and driveways in good condition and not in need of repairs;  
2 and

3 ~~[(m)]~~ M. The applicant ~~[(must)]~~ SHALL provide the following  
4 items for the purchaser of the moderate income housing  
5 unit:

6 ~~[(i)]~~ I. A new power mower, for units having a lawn;

7 ~~[(ii)]~~ II. Pruning shears, for units having ~~[(a lawn)]~~

8 SHRUBS OR OTHER SIMILAR LANDSCAPING;

9 ~~[(iii)]~~ III. A power edger, for units having a lawn;

10 ~~[(iv)]~~ IV. A rake, for units having a lawn;

11 ~~[(v)]~~ V. 1 gallon of interior paint in each color used;

12 ~~[(vi)]~~ VI. 1 gallon of exterior paint in each color used,

13 where appropriate; and

14 ~~[(vii)]~~ VII. Paint brushes and rollers for interior and  
15 exterior surfaces.

16 All rehabilitation done to the outside of apartment units pursuant to this section  
17 shall be consistent with other units in the structure.

18 ~~[(3.)]~~ (3) The department ~~[(of housing and community development is responsible  
19 for having)]~~ SHALL HAVE the unit inspected by an independent  
20 inspector who will certify that the unit meets the above rehabilitation  
21 requirements prior to the department's decision on the application. The  
22 applicant shall pay the costs of this inspection before the department  
23 makes a decision on the application.

24 ~~[(4.)]~~ (4) The owner of the rehabilitated existing moderate income housing unit is  
25 the holder of the certificate for that unit once it is issued by the department  
26 ~~[(of housing and community development)]~~ and may:

27 ~~[(a)]~~ (I) Receive credit for providing ~~[(an)]~~ alternative moderate priced  
28 housing ~~[(unit or)]~~ units pursuant to ~~[(section 13.402(f))]~~

29 SUBSECTION (G) OF THIS SECTION, which units shall be sold  
30 and, except as provided in subsection ~~[(h)]~~ (I) of this section,

1 otherwise subject to all of the requirements applicable to newly  
2 built moderate priced housing units in this subtitle; or  
3 ~~[(b)]~~ (II) Sell the certificate and the unit to which it applies to a  
4 developer of moderate income housing UNITS at a price to be  
5 agreed to by the holder and developer who shall then receive credit  
6 for providing ~~[[an]]~~ alternative moderate income housing ~~[[unit~~  
7 ~~or]]~~ units pursuant to ~~[[section 13.402(f)]]~~ SUBSECTION (G) OF  
8 THIS SECTION, which units shall be subject to all of the  
9 requirements applicable to newly built moderate priced housing  
10 units in this subtitle.

11 ~~[[h)]]~~ (I) *Initial sale price for units sold through the moderate income housing unit*  
12 *community revitalization program.* The commission shall:

- 13 (1) Establish the initial sale price for rehabilitated units provided through the  
14 moderate income housing unit community revitalization program; and
- 15 (2) Adopt regulations setting the standards to be used for establishing the  
16 initial sale price.

17 ~~[[i)]]~~ (J) ~~[[Requirement to do an annual]]~~ ANNUAL analysis of the MODERATE AND  
18 MIDDLE INCOME HOUSING PROGRAMS ~~[[rehabilitated existing moderate income~~  
19 ~~housing unit program]]~~. The Director ~~[[of the Howard County Department of Housing~~  
20 ~~and Community Development]]~~ shall complete an annual analysis of the moderate AND  
21 MIDDLE income housing unit ~~[[community revitalization program]]~~ PROGRAMS and  
22 SHALL ~~[[submit it]]~~ SUBMIT THE ANALYSIS to the county executive and to the  
23 county council. The analysis shall ~~[[include the number of homes that have been~~  
24 ~~renovated and the financial costs of renovation associated with those homes.]]~~

25 INCLUDE:

- 26 (1) THE NUMBER, TYPES, AND LOCATION OF MODERATE AND  
27 MIDDLE INCOME HOUSING UNITS PROVIDED ON-SITE AND AS  
28 REQUIRED BY THE ZONING REGULATIONS;
- 29 (2) MODERATE AND MIDDLE INCOME HOUSING UNITS PROVIDED  
30 AS AN OPTIONAL METHOD UNDER SUBSECTION (E) OF THIS

1 SECTION AND AS AN ALTERNATIVE COMPLIANCE UNDER  
2 SUBSECTION (F) OF THIS SECTION;

- 3 (3) THE NUMBER OF MODERATE AND MIDDLE INCOME HOUSING  
4 UNITS THAT HAVE BEEN RENOVATED AND THE FINANCIAL  
5 COSTS OF RENOVATING THE UNIT  
6 (4) THE RANGE OF SALE PRICES AND RENTAL RATES, INCLUDING  
7 THE AVERAGE SALES PRICE AND RENTAL RATE; AND  
8 (5) INCOME INFORMATION ON THE HOME BUYERS AND RENTERS  
9 PARTICIPATING IN THE PROGRAM.

10  
11 **Section 13.403. Prices for moderate OR MIDDLE income housing units offered for**  
12 **sale; rates for rental units.**

13 (a) *Initial Prices for Moderate OR MIDDLE Income Housing Units Offered for Sale.*

14 The initial sale price for a moderate OR MIDDLE income housing unit shall be  
15 determined by the commission in accordance with this subsection.

- 16 (1) TWICE A YEAR, THE [[The]] commission [[semiannually]] shall  
17 establish the initial sale price for each type of moderate OR MIDDLE  
18 income housing unit offered for sale.  
19 (2) Before establishing the initial sale price under this subsection, the  
20 commission shall publish notice of the real property tax, insurance, and  
21 interest rate factors it proposes to use in establishing the initial sales price  
22 in 2 newspapers of general circulation in the county.  
23 (3) Before establishing the initial sale price for moderate OR MIDDLE  
24 income housing units located in planned senior communities and age-  
25 restricted adult housing developments, the commission shall consult with  
26 the office on aging.  
27 (4) The department shall provide to the commission information concerning  
28 current real property tax and insurance rates.  
29 (5) The initial sale prices for moderate OR MIDDLE income housing units  
30 shall be based upon:  
31 (i) A base size unit of the following types:

1

Type	MODERATE INCOME UNITS - Minimum (Sq. Ft.)	MIDDLE INCOME UNITS- MINIMUM (SQ.FT.)
Single-family detached	1,680	2200
Semi-detached (duplex)	1,500	2000
Townhouse	1,500	2000
Back-to-back townhouse	1,400	1850
Apartments	750	1000

2

3

(ii) Factors established annually by the commission for:

4

a. Real property taxes;

5

b. Insurance rates; and

6

c. Interest rates on FHA 30-year mortgages; and

7

(iii) A written statement from the developer indicating the amount of the homeowners association or condominium fees that will apply to the units.

8

9

10

(6) The department shall provide to the commission the price at which an eligible purchaser with a household income equal to the following percentages [[of median income]], adjusted by family size appropriate to the size and number of bedrooms in the dwelling unit, can afford to purchase a dwelling unit:

11

12

13

14

15

(I) FOR MODERATE INCOME HOUSING UNITS, THE PERCENTAGE OF MEDIAN INCOME SHALL BE:

16

17

[[i)] A. 70% for proffered units and single family homes;

18

[[ii)] B. 65% for semi-detached townhomes; and

19

[[iii)] C. [[60%]] 50% for apartments (condominiums).

20

(II) FOR MIDDLE INCOME HOUSING UNITS, THE PERCENTAGE OF MEDIAN INCOME SHALL BE:

21

22

A. 90% FOR PROFFERED UNITS AND SINGLE FAMILY HOMES;

23

24

B. 75% FOR SEMI-DETACHED TOWNHOMES; AND

25

C. 60% FOR APARTMENTS (CONDOMINIUMS).

26

(7) For the purposes of this subsection:

- 1 (i) A purchaser can afford to purchase a dwelling unit if the  
2 purchaser's monthly income would qualify the purchaser to obtain  
3 a 30-year fixed rate mortgage at the prevailing interest rate in an  
4 amount sufficient to pay 97% of the purchase price of the unit;
- 5 (ii) A purchaser's monthly income qualifies for a mortgage if the  
6 monthly payment required to pay (1) the monthly principal and  
7 interest of the mortgage loan, plus (2) the monthly payment of  
8 taxes and insurance on the property, calculated in accordance with  
9 the factors established by the department under subsection (a) of  
10 this section, plus (3) the monthly payment of homeowners or  
11 condominium association fees, does not exceed 28% of the  
12 purchaser's monthly [[income or, for a proffered unit, 33% of the  
13 purchaser's monthly]] income; and
- 14 (iii) The prevailing interest rate is the prevailing mortgage interest rate  
15 for FHA-insured 30-year fixed-rate mortgages in the Baltimore  
16 metropolitan area, as published periodically by the federal national  
17 mortgage association or other comparable publication as  
18 determined by the department.
- 19 (8) The department shall determine the prevailing interest rate as of December  
20 15 and June 15 of each year.
- 21 (9) As determined by the department, an adjustment in the sales price of a  
22 moderate OR MIDDLE income housing unit may be made for:
- 23 (i) Single-family detached units, semi-detached units, and townhouse  
24 units without basements;
- 25 (ii) End units within a townhouse arrangement;
- 26 (iii) Additional bathrooms or powder rooms;
- 27 (iv) Finished basements; and
- 28 (v) Upgrades in design or amenities to ensure architectural  
29 compatibility with the development's market rate units.
- 30 (b) *Rates for Rental Units.*

- 1 (1) The department shall establish maximum rates for rental units, by  
2 bedroom size, that are equal to 30% of the monthly income of a household  
3 whose annual income does not exceed 60% of the median income.
- 4 (2) The maximum rental rates shall include an allowance for utilities paid by  
5 the tenant. The allowance shall be calculated by the department based  
6 upon the average utility costs prevailing for similar sized units in Howard  
7 County. If required by the lease, all utility costs, including those in excess  
8 of the allowance, shall be paid by the tenant.

9

10 **Section 13.404. Sale of moderate OR MIDDLE income housing unit.**

11 (a) *Initial Sale of Moderate OR MIDDLE Income Housing Unit--Priority Period.*

- 12 (1) (i) Except as provided in section 13.407 of this subtitle, the seller of a  
13 moderate OR MIDDLE income housing unit offered for sale shall  
14 offer the unit for initial sale for a 120-day priority period through  
15 the department to an eligible purchaser.
- 16 (ii) During the priority period, the price for the moderate OR MIDDLE  
17 income housing unit shall not exceed the initial price established  
18 for the unit under section 13.403 of this subtitle.
- 19 (2) (i) A seller shall notify the department of the proposed offering and  
20 the proposed date on which the priority period will begin.
- 21 (ii) The notice shall set forth the number of units offered, the location  
22 of each unit, a description of the amenities offered in each unit, the  
23 sales price and information regarding any mortgage financing  
24 available to buyers.
- 25 (iii) The seller shall also provide a vicinity map of the offering, a copy  
26 of the approved subdivision or site development plan, and such  
27 other information as required by the department.
- 28 (iv) If the department determines that the notice is incomplete, the  
29 department shall notify the seller within 5 business days of receipt  
30 of the notice. The seller shall submit a complete notice before the  
31 priority period begins.

- 1 (3) Within the priority period, the department shall provide the seller with the  
2 name of an eligible purchaser for each unit.
- 3 (4) The seller shall make a good faith effort to enter into a contract with the  
4 eligible purchaser within the priority period. The contract shall allow the  
5 purchaser at least 60 days from the date of the notice provided in  
6 paragraph (3) of this subsection to obtain a financing commitment. The  
7 contract shall require the seller to make a good faith effort to complete  
8 construction of the moderate OR MIDDLE income housing unit within the  
9 time set forth in the purchaser's financing commitment.
- 10 (5) If the seller fails to make a good faith effort under paragraph (4) of this  
11 subsection, the settlement date shall be extended until 10 days after the  
12 date construction is actually completed.
- 13 (6) If the eligible purchaser fails to comply with the conditions of the  
14 commitment for mortgage financing or fails to enter into a purchase  
15 contract, the department may substitute another eligible purchaser.

16 (b) *Same--Settlement.*

- 17 (1) (i) An eligible purchaser who enters into a contract to purchase a  
18 moderate OR MIDDLE income housing unit shall settle on the  
19 property after completion of the construction of the unit.
- 20 (ii) For purposes of this subsection, a moderate OR MIDDLE income  
21 housing unit shall be deemed complete on the date that a use and  
22 occupancy permit for the unit is issued by the department of  
23 inspections, licenses and permits.
- 24 (iii) The seller shall notify the purchaser at least 10 days prior to the  
25 settlement date.
- 26 (iv) The purchaser shall settle on the property within 2 business days of  
27 the settlement date, unless extended by the parties.
- 28 (v) The seller shall make a good faith effort to settle with the  
29 purchaser within the time set forth in the notice.
- 30 (2) (i) If a purchaser fails to settle on the property by the agreed upon  
31 settlement date, the seller shall notify the department and offer to

- 1 extend the priority period for 60 days from the agreed upon  
2 settlement date.
- 3 (ii) The department shall accept or reject the offer within 5 business  
4 days of receipt of the notice.
- 5 (iii) If the department accepts the offer to extend the priority period, the  
6 department shall pay to the seller the seller's reasonable and actual  
7 carrying costs, such as interest, insurance, taxes, utilities,  
8 homeowner association fees, and maintenance costs for the  
9 moderate income housing unit for the period of the extension.
- 10 (iv) The department shall notify eligible households and priority  
11 purchasers of the availability of the moderate OR MIDDLE  
12 income housing unit in accordance with sections 13.406 and  
13 13.407 of this subtitle.

14 (c) *Same--Sale After Priority Period.*

- 15 (1) After the priority period or extension the seller may offer a moderate OR  
16 MIDDLE income housing unit for sale to the general public without  
17 restriction as to price if:
- 18 (i) After the priority period expires an eligible purchaser has not  
19 signed a purchase contract;
- 20 (ii) An eligible purchaser has not settled on the property by the  
21 settlement date and the department has not accepted the seller's  
22 extension offer under subsection (b)(2)(i) of this section; or
- 23 (iii) The extension of the priority period expires and an eligible  
24 purchaser has not signed a purchase contract.
- 25 (2) If the moderate OR MIDDLE income housing unit is offered for sale to  
26 the general public without restriction as to price, the seller shall pay to the  
27 county an amount equal to 50% of the difference between:
- 28 (i) The sale price of the moderate OR MIDDLE income housing unit,  
29 less a 7% reduction for the seller's cost of sale, and less the seller's  
30 reasonable and actual carrying costs from the end of the initial  
31 priority period, if applicable; and

1 (ii) The initial price established for the moderate OR MIDDLE income  
2 housing unit under section 13.403 of this subtitle.

3 (d) *Subsequent Sale of Moderate OR MIDDLE Income Housing Unit.* A subsequent sale  
4 of a moderate OR MIDDLE income housing unit shall be in accordance with the  
5 covenants under section 13.402(c) of this subtitle and procedures developed by the  
6 department under section 13.409 of this subtitle.

7

8 **Section 13.406. Certificate of eligibility.**

9 (a) *Certificate Required.* To be eligible to PURCHASE A MIDDLE INCOME  
10 HOUSING UNIT OR TO purchase or rent a moderate income housing unit, an individual  
11 shall apply to the department for a certificate of eligibility.

12 (b) *Qualifications.* An individual shall receive a certificate of eligibility if the individual  
13 has a verifiable source of income, agrees to occupy the moderate OR MIDDLE income  
14 housing unit as the principal place of residence, and:

15 (1) Has applied to purchase a moderate income housing unit and has an  
16 annual household income equal to or less than 80% of the median income,  
17 provided that assets valued above 25% of the maximum annual household  
18 income shall be considered as income under rules established by the  
19 department;

20 (2) HAS APPLIED TO PURCHASE A MIDDLE INCOME UNIT AND  
21 HAS AN ANNUAL HOUSEHOLD INCOME EQUAL TO OR LESS  
22 THAN 110% OF THE MEDIAN INCOME, PROVIDED THAT ASSETS  
23 VALUED ABOVE 25% OF THE MAXIMUM ANNUAL HOUSEHOLD  
24 INCOME SHALL BE CONSIDERED AS INCOME UNDER RULES  
25 ESTABLISHED BY THE DEPARTMENT;

26 ~~[[2]]~~ (3) Has applied to rent a moderate income housing unit and has an  
27 annual household income equal to or less than 60% of the median income,  
28 provided that assets valued above 25% of the maximum annual household  
29 income shall be considered as income under rules established by the  
30 department; or

1           [[3]] (4)     In a planned senior community or age-restricted adult housing  
2                     development, has at least one household member who is 62 years of age or  
3                     older.

4     (c) *Prospective Purchasers--Notification.* An individual seeking to purchase a moderate  
5     OR MIDDLE income housing unit shall apply to the department for placement on the  
6     waiting list maintained by the department. The department shall maintain the waiting list  
7     by date of application and household size. When a moderate OR MIDDLE income  
8     housing unit becomes available, the department shall notify each eligible purchaser  
9     identified in accordance with subsection (f) of this section of the availability.

10    (d) *Same--Ability To Purchase.* An individual who is notified by the department of the  
11    availability of a moderate OR MIDDLE income housing unit shall contact the department  
12    within 10 days to indicate that the individual is ready and willing to buy the moderate OR  
13    MIDDLE income housing unit.

14    (e) *Same--Selection By Department.*

15           (1)     The department shall select an eligible purchaser to purchase each  
16                     available moderate OR MIDDLE income housing unit.

17           (2)     In selecting an eligible purchaser, the department shall give priority to  
18                     those:

19                   (i)     With the lowest incomes who qualify for mortgage financing  
20                     available at the time;

21                   (ii)    Who are first-time home buyers applying to purchase a moderate  
22                     OR MIDDLE income unit in a mixed use development; and

23                   (iii)   Who reside or work in Howard County.

24    (f) The department shall adopt regulations establishing a process for pre-qualifying  
25    eligible purchasers from those identified by the department under subsection (e) of this  
26    section and providing for a lottery to determine which of the pre-qualified eligible  
27    purchasers will have the option of purchasing a moderate OR MIDDLE income housing  
28    unit except that eligible purchasers who are employed in a mixed use development,  
29    Howard County employees and employees of the Howard County Board of Education  
30    and residents who are dislocated by route 1 redevelopment shall have priority over all

1 other eligible purchasers applying to purchase a moderate OR MIDDLE income housing  
2 unit in that mixed use development.

3  
4 **Section 13.407. Purchase or rent by designee.**

5 (a) *Option To Rent.* A designee shall have the option to rent a moderate income housing  
6 unit in a development.

7 (b) *Commission Purchase Option.* The commission has the option to buy, for its own  
8 programs or programs administered by it, [[up to 60% of]] the available moderate OR  
9 MIDDLE income housing units in a development before the priority period for the initial  
10 sale of the units.

11 (c) *Designee Purchase Option.* A designee other than the commission has the option to  
12 buy [[up to 40% of]] the available moderate OR MIDDLE income housing units in a  
13 development before the priority period for the initial sale of the units. The department  
14 shall adopt regulations governing allocation of units if more than one designee applies to  
15 exercise an option under this subsection.

16 (d) *Same Price Negotiation.* If a designee exercises its purchase option, the designee may  
17 make the purchase for the initial sale price per unit or negotiate a different price for a  
18 larger or enhanced unit.

19 (e) *Assignment of Option.* An option under this section may be assigned to persons of  
20 moderate OR MIDDLE income who are eligible for housing assistance under any federal,  
21 state or local program.

22 (f) *Notice of Availability.* The department shall notify all designees promptly after  
23 receiving notice from a seller of the availability of moderate OR MIDDLE income  
24 housing units. Within 10 days of receiving notice from the department, the designee shall  
25 notify the seller and the department of its intent to exercise its option.

26 (g) *Limit On Rental Units.*

- 27 (1) If moderate income housing units are sold or leased to a designee other  
28 than the commission, the designee may not offer for rent more than 40%  
29 of the units. The 40% limit does not apply to moderate income housing  
30 units in planned senior communities or age-restricted adult housing  
31 developments.

1           (2)     If the commission is the designee or if the county retains ownership of  
2                     moderate income housing units, the commission or the county may not  
3                     offer for rent more than 25% of the units. The 25% limit does not apply to  
4                     moderate income housing units in planned senior communities or age-  
5                     restricted adult housing developments.

6     (h) *Units Offered Through Department.* A MIDDLE INCOME HOUSING UNIT  
7     OFFERED FOR SALE OR A moderate income housing unit offered for sale or rent by a  
8     designee must be offered through the department to holders of a certificate of eligibility.  
9     Except as provided in subsection (j) of this section the moderate OR MIDDLE income  
10    housing unit must be offered at a price or rental rate not to exceed the initial price or  
11    rental rate established under section 13.403 of this subtitle.

12    (i) *Units To Be Maintained.* A designee offering a moderate income housing unit for rent  
13    shall maintain the unit in good condition at all times. The designee shall comply with any  
14    applicable home owner association restrictions or covenants concerning improvements to  
15    or maintenance of the unit.

16    (j) *Co-ownership purchases.*

17           (1)     If a designee purchases a moderate OR MIDDLE income housing unit that  
18                     is located in a mixed use development, the designee may sell the unit  
19                     without restriction as to price if the designee enters into a written  
20                     agreement with the department providing that:

21                     (i)     The designee will sell a co-ownership interest in the unit to a  
22                                 holder of a certificate of eligibility for a price not to exceed the  
23                                 initial sale price;

24                     (ii)    Upon resale of the unit, any net proceeds received by the designee  
25                                 shall be used to purchase a unit in the same mixed use  
26                                 development for resale or rent to an eligible purchaser or another  
27                                 designee;

28                     (iii)   The designee may resell its interest in the unit only if the mixed  
29                                 use development includes, at the time of resale by the designee, at  
30                                 least the minimum number of moderate OR MIDDLE income

1 housing units required by the zoning regulations when the  
2 development was constructed.

3 (2) The resale of a unit subject to a co-ownership agreement is not subject to  
4 the restrictions of this subtitle.

5 (3) The department shall prepare a standard agreement to be used by a  
6 designee that wishes to enter into an agreement under this subsection. The  
7 standard agreement shall not be used until approved by resolution of the  
8 County Council. If the Council fails to act on the standard agreement  
9 within 60 days after receiving it, the failure to act constitutes approval.

10  
11 **Section 13.408. Foreclosures; waiver.**

12 (a) *Notice To Department.* Before a moderate OR MIDDLE income housing unit is sold  
13 in foreclosure proceedings, the person authorized to make the sale shall notify the  
14 Department by certified mail of the time, place, and terms of the sale. The notice shall be  
15 set not later than 10 days before the date of the sale.

16 (b) *Restrictions Terminate After Sale.* If a moderate OR MIDDLE income housing unit is  
17 sold in foreclosure proceedings, the restrictions of this subtitle shall terminate and, if  
18 notice was received under subsection (a) of this section, the County Executive shall  
19 execute a release of the covenants on the property. Proceeds of the sale of the moderate  
20 OR MIDDLE income housing unit are paid to the county as follows:

21 (1) For a unit originally offered for sale, all proceeds in excess of the initial  
22 sale price at the time of the foreclosure sale, plus the reasonable and actual  
23 costs and fees of foreclosure; and

24 (2) For a rental unit, all proceeds attributable to the unit that are in excess of  
25 the initial sale price that would have been permitted if the unit had been  
26 originally offered for sale, as determined by the department, plus the  
27 reasonable and actual costs and fees of foreclosure attributable to the  
28 rental unit.

29 (c) *Variance or Waiver of Restrictions.* The County Executive may vary or waive the  
30 restrictions on the resale price or subsequent rental rates for a moderate OR MIDDLE  
31 income housing unit sold at foreclosure sale if the restrictions conflict with the

1 requirements of a federal or state housing program that affords eligible households the  
2 opportunity to buy or rent a moderate OR MIDDLE income housing unit.

3  
4 **Section 13.409. Regulations.**

5 The department shall adopt, in accordance with the Administrative Procedure Act, the  
6 regulations necessary to implement and administer this subtitle, including regulations to  
7 establish:

- 8 (1) The form of a co-ownership agreement;
- 9 (2) Criteria for determining the eligibility of prospective purchasers or renters  
10 of moderate OR MIDDLE income housing units;
- 11 (3) A process for the selection and notification of eligible purchasers;
- 12 (4) Standard terms of moderate income housing unit agreements;
- 13 (5) Criteria for determining the resale price of a moderate OR MIDDLE  
14 income housing unit and procedures for the subsequent resale;
- 15 (6) Criteria for determining designees;
- 16 (7) Minimum specifications for moderate OR MIDDLE income housing units;
- 17 (8) Criteria governing allocation of units if more than one designee applies to  
18 exercise an option under Section 13.407(c) of this subtitle;
- 19 (9) A co-ownership program for designees in accordance with Section  
20 13.407(j) of this subtitle;
- 21 (10) Criteria for the sale or rental of a moderate OR MIDDLE income housing  
22 unit under section 13.407 of this subtitle; and
- 23 (11) Criteria for administering the moderate income housing unit community  
24 revitalization program.

25  
26 ***Section 4. And Be It Further Enacted*** by the County Council of Howard County,  
27 *Maryland, that this Act shall become effective 61 days after its enactment.*