



Darcy and the Flats
(Source: Stonebridge)



Eleven 55 Ripley
(Source: Shalom Baranes Associates)

Best Practice: Inclusionary Zoning

Montgomery County

Population Estimate (7/1/19): 1,050,688

Partners: [Montgomery County Department of Housing and Community Affairs](#); [Housing Opportunity Commission of Montgomery County \(HOC\)](#), Developers, and approved nonprofit housing providers

Key Takeaway: *Prior to 1973, most homes in a development were sold at market rate. The county recognized the need for affordable housing and was one of the first in the country to adopt inclusionary zoning. By requiring a certain number of homes in each development over 20 units to meet the criteria for Moderately Priced Dwelling Units (MPDU), the county has been successful in creating affordable housing while also benefitting developers at the same time.*

Description

When jurisdictions discover the need to provide affordable housing it can often be a struggle to find the right partners or programs to implement the changes necessary to provide it. Montgomery County realized early on that housing affordability was an issue, enacting its inclusionary zoning program in 1973; one of the first such programs in the country. In exchange for constructing affordable housing, a developer is eligible for certain benefits, such as density bonuses or flexible development standards. The Montgomery County Department of Housing and Community Affairs website includes additional [details on the MPDU program's history](#).

The program advances the following objectives:

- Produce moderately priced housing so that County residents and persons working in the county can afford to purchase or rent decent housing.
 - Help distribute low and moderate-income households throughout the growth areas of the county.
- Expand and retain an inventory of low-income housing in the County by partnering with the Housing Opportunities Commission (HOC) and nonprofit housing providers.

[Requirements and procedures for the Moderately Priced Dwelling Unit Program](#), effective October 23, 2018.

Program Details

The Montgomery County zoning ordinance requires that between 12.5% and 15% of the houses in new subdivisions of 20 or more units be moderately priced dwelling units (MPDUs). The county lowered the unit count requirement from 50 to 20 in 2005. The required percentage of MPDUs in a development is based on the following factors – whether the property is in a specified higher income area, and whether the site’s master plan requires 15% MPDUs, or allows 15% in exchange for a density bonus. Developments that do not qualify for a density bonus or are in an area not designated for a higher MPDU percentage, must meet a 12.5% MPDU requirement. The Montgomery County Planning Board sets the required percentage at the time of preliminary plan or site plan approval. The developer must [execute an agreement](#) to build Moderately Priced Dwelling Units prior to the issuing of any building permits.

The Montgomery County Department of Housing and Community Affairs (DHCA) sets the maximum incomes allowed for both the rental and purchase programs annually, and the department provides a maximum income worksheet summarizing these figures. The maximum income is set at 70% of the area median income, established by the United States Department of Housing and Urban Development (HUD) for a particular fiscal year, adjusted by family size. Developers can alternatively comply with the MPDU requirements, in some instances, using land transfers, requests to provide MPDUs at another location, or, in very limited instances, request to make a payment to the county's Housing Initiative Fund. The law requires that 40% of the MPDUs be offered to the Housing Opportunities Commission (HOC) and other non-profit housing agencies for use by low- and moderate-income families. Since 1976, 16,433 total MPDUs have been produced in the county, with 5,918 of those being rentals and 10,515 homes/units for sale. Currently, more than 10,000 units remain in some stage of the county’s MPDU program.

Connection to 2011 Housing Element

Montgomery County amended the housing element of its comprehensive plan in 2011. In it, the county notes that the MPDU program, while successful, had been insufficient by itself to “satisfactorily address the need for housing that a larger segment of County residents and workers can afford. (page 8)” This is an example of how jurisdictions should evaluate the effectiveness of existing affordable housing programs when preparing a housing element. Since then, the county is actively working on the development of an affordable housing element as part of the [Thrive Montgomery 2050 General Plan](#), which will continue to provide insight into the success of inclusionary zoning and the moderately price dwelling unit program.

Funding Sources

Administration of the program takes place within the Affordable Housing Programs Section of the Division of Housing within the county's Department of Housing and Community Affairs (DHCA). The section includes the Section Manager, five program specialists, and two administrative assistants. Operations are overseen by the Chief of the Housing Division. The current annual operating budget for the MPDU office is approximately \$970,000, and the county creates approximately 345 new units each year. The program is established under county zoning legislation adopted by the County Council and approved by the County Executive. Funding for HOC's acquisition of MPDUs comes from a variety of sources, including federal acquisition-without-rehabilitation program funds, local tax-exempt bonds, private sector investment in federal low-income housing tax credit partnerships, the Montgomery Housing Initiative Fund (a local housing trust fund), and from funding through the Maryland Housing Finance agency.

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