



## Zoning Text Amendment (ZTA) No. 18-06, MPDU- Bonus Density, Amendments

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Completed:8/30/2018

### Description

ZTA No. 18-06 amends the Montgomery County Zoning Ordinance to revise or establish Moderately-Priced Dwelling Unit (MPDU) density bonus standards for certain Residential, Commercial/Residential, Employment, and Overlay zones.

### Summary

#### Background/Analysis

When the Planning, Housing, and Economic Development (PHED) Committee considered Bill 34-17 (Housing- Moderately-Priced Dwelling Units (MPDUs) - Amendments) on June 11, the Committee recommended deleting the bonus density table in Chapter 25A. The Committee recommended placing all bonus density provisions in the zoning code. ZTA 18-06 was introduced to implement the Committee-recommended revisions to Chapter 25A pertaining to the density bonus provisions. ZTA 18-06 would revise or establish Moderately Priced Dwelling Unit (MPDU) bonus density standards for certain Residential, Commercial/Residential, Employment, and Overlay zones and would generally amend provisions concerning MPDUs in the Zoning Ordinance. ZTA 18-06 uses the standards for bonus density currently in Chapter 25A and amends the Zoning Ordinance by allowing a project that includes 15 percent of the residential units as MPDUs to have a maximum bonus density of 22 percent. ZTA 18-06 would also apply a bonus density provision to optional method development in the R-200, R-90, R-60, R-40, and TLD zones (where currently there is not). In addition, bonus density would be calculated as units per acre versus units per acre of "usable area" of the site. The Planning Board approved ZTA 18-06 for transmittal to the County Council on July 19, 2018.

PHED Committee Chair Nancy Floreen has proposed an amendment to ZTA 18-06 that would remove the 22 percent cap on bonus density for certain Residential, Commercial/Residential, Employment, and Overlay Zones. The proposed amendment would allow three tiers of bonus density, dependent on the percentage of Moderately Priced Dwelling Units (MPDUs) provided.

- Projects that provide more than 12.5 percent and up to 15 percent MPDUs are subject to the original provisions in ZTA 18-06 which would allow an .88 percent increase in density for every .1 percent increase in MPDUs, resulting in a maximum 22 percent bonus for providing 15 percent MPDUs.

- Projects that provide more than 15 percent and up to 20 percent MPDUs will have their bonus calculated as .16 percent for every .1 percent increase in MPDUs, with a maximum 30 percent bonus density. For example, a development providing 16 percent MPDUs would earn a density bonus of 23.6 percent (a 22 percent bonus for 15 percent MPDUs plus a 1.6 percent bonus for the 1 percent increase in MPDUs over 15 percent).
- Projects that provide more than 20 percent MPDUs will receive an increase in density equal to 30 percent plus 1 percent for each additional 1 percent of MPDUs provided in excess of 20 percent.

Staff believes that the three-tiered bonus density system proposed in the amendment to ZTA 18-06 meets the County's goal to further incentivize the production of affordable housing. The three-tiered system uses three different methods to calculate bonus density based on the percentage of MPDU provided in a manner that incentivizes affordable housing but is also sensitive to the amount of density given. The current C/R and Employment zone rules regarding bonus density present a precedent to allow uncapped bonus density. The current C/R zone allows for projects that exceed 15 percent MPDUs to have the gross floor area of all MPDUs to be exempt from the calculation of FAR. Currently, Residential zones under MPDU development are allowed a modest bonus density in some zones and relief from development standards (minimum lot sizes are reduced, and additional unit types are allowed for development with MPDUs). While some may be concerned about the new uncapped bonus density in the Residential zones, it will be difficult to achieve any significant bonus in the Residential zones due to the various requirements of the zones (i.e. setbacks and minimum lot sizes).

The amendment to ZTA 18-06 also includes a provision that allows projects in the C/R to receive public benefit points for providing more than 12.5 percent MPDUs, even in areas in which they are required to provide 15 percent MPDUs, except for the Bethesda Overlay Zone. Currently, projects are not allowed to receive public benefit points for amenities that are legally required. Effective October 31, 2018, Planning Areas where at least 45 percent of the United States Census Tracts have a median income 150 percent of Montgomery County's median income will have a legal requirement to provide 15 percent MPDUs. The Planning Areas currently included in this requirement are Goshen, Lower Seneca, Darnestown, Travilah, Potomac, North Bethesda, and Bethesda-Chevy Chase. Under the proposed amendment, projects in these areas will be allowed to receive public benefit points for providing 15 percent, even though it is legally required. Staff believes that this amendment is an important tool in further encouraging the production of affordable housing. This amendment is also consistent with the vision set forth in the recent Sector Plans that were approved by the Council, including the White Flint 2, Rock Spring, Grosvenor-Strathmore, and Westbard Sector Plans. These plans set 15 percent affordable housing as the highest priority public benefit for new residential development, which allows projects in these developments to receive their bonus density and public benefit points for providing 15 percent affordable housing.

#### Attachments:

- A. Memo Councilmember Floreen
- B. Proposed Amendment Chart
- C. Draft changes to ZTA 18-06




MONTGOMERY COUNTY COUNCIL  
ROCKVILLE, MARYLAND

NANCY FLOREEN  
COUNCILMEMBER AT-LARGE

MEMORANDUM

August 24, 2018

TO: Casey Anderson, Montgomery County Planning Board Chair and  
Members of the Montgomery County Planning Board

FROM: Councilmember  Nancy Floreen

SUBJECT: Amendments to ZTA 18-06

I am introducing some amendments to ZTA 18-06 - Bonus Density, and I wanted you and the public to be aware of them in time for the public hearing on September 11. This way, we will have an opportunity to hear what community members think of the amendments as well as of the ZTA as introduced.

My goal is to try to shape the ZTA so that we maximize the number of MPDUs that our developments provide. Giving developers extra density in exchange for giving us more MPDUs has been a successful approach in the past. At the same time, we now have a mixture of systems for calculating how much bonus density developments earn depending on the zone and the number of MPDUs.

The amendments I'm proposing bring order to that system by building on what we do now and incorporating it into a chart that will be an easy reference for the community, the homebuilding industry, and the staff. That chart is attached.

Embedded in the chart are three different approaches:

1. For developments providing 12.6-15% MPDUs, use the same ratio of MPDUs to bonus market rate units we use now, a factor of .88% bonus density for every .1 increase in the percentage of MPDUs provided above 12.5%. For example, a development providing 12.6% MPDUs would earn a bonus density of .88% market units.

2. For developments providing 15.1-20% MPDUs, the density bonus allows for a bonus of .16% for every .1% increase in MPDUs provided above 15%. Thus, for developments providing 15.1-20% MPDUs, density may increase by 22% (the bonus for 15% MPDUs) plus .16% for each .1% increase in MPDUs over 15% up to 20%. Collaboration among Planning Staff, my staff and the industry resulted in a consensus around the new factor, .16%, which results in a 30% bonus density for projects providing 20% MPDUs.

3. For developments providing more than 20% MPDUs, I propose using a system built on what we use today in the C/R zones. In the C/R zones, for each additional square foot of MPDUs provided beyond 12.5%, a development receives an equivalent increase in density to use for market rate units. In this ZTA, that one-for-one ratio becomes the basis for the amount of additional density allowed for developments that provide more than 20% MPDUs.

My amendments will also include removing the cap on bonus density where it exists today. Current law puts no cap on bonus density for providing MPDUs in the C/R zones. We want to increase the number of MPDUs, so I believe that there should be no cap in any zone. In non-multi-family zones, the physical constraints on the property will form an effective limit on density, even without a cap.

One more change would permit developments in the C/R zones to earn public benefit points for providing more than 12.5% MPDUs, even in areas in which they are required to provide 15% MPDUs, except for the Bethesda Overlay Zone. My reasoning for this change is that we want to make it feasible for developments to provide as many MPDUs as possible. We are requiring 15% MPDUs in those areas where we have the biggest need for affordable housing. I want us also to encourage developments that are required to provide the higher percentage of MPDUs by enabling them to obtain the needed public benefit points.

I look forward to our continuing discussions on this important ZTA and welcome your input. I also hope that I can count on your support for continuing to provide incentives that give us the affordable housing our residents need.

cc: Gwen Wright, Planning Director  
Pam Dunn, Chief, Functional Planning  
Lisa Govoni, Housing Research Planner  
Greg Russ, Planning Coordinator (Zoning)



% MPDUs	% Bonus Density
	.88%, 22% + .16%, and 30% + .1% for every .1% increase in MPDUs
12.5	0.00
12.6	0.88
12.7	1.76
12.8	2.64
12.9	3.52
13.0	4.40
13.1	5.28
13.2	6.16
13.3	7.04
13.4	7.92
13.5	8.80
13.6	9.68
13.7	10.56
13.8	11.44
13.9	12.32
14.0	13.20
14.1	14.08
14.2	14.96
14.3	15.84
14.4	16.72
14.5	17.60
14.6	18.48
14.7	19.36
14.8	20.24
14.9	21.12
15.0	22.00
15.1	22.16
15.2	22.32
15.3	22.48
15.4	22.64
15.5	22.80
15.6	22.96
15.7	23.12
15.8	23.28
15.9	23.44
16.0	23.60
16.1	23.76
16.2	23.92
16.3	24.08
16.4	24.24
16.5	24.40
16.6	24.56
16.7	24.72
16.8	24.88

16.9	25.04
17.0	25.20
18.0	26.80
19.0	28.40
20.0	30.00
Over 20.0	30.00 plus 1% for every 1% mpdus above 20%

Zoning Text Amendment No.: 18-06  
Concerning: MPDU- Bonus Density  
Draft No. & Date: 2 - 8/21/18  
Introduced:  
Public Hearing:  
Adopted:  
Effective:  
Ordinance No.:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF  
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN  
MONTGOMERY COUNTY, MARYLAND**

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Lead Sponsor: Councilmember Floreen

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**AN AMENDMENT** to the Montgomery County Zoning Ordinance to:

- revise or establish Moderately-Priced Dwelling Unit (MPDU) density bonus standards for certain Residential, Commercial/Residential, Employment, and Overlay zones; and
- generally amend provisions concerning MPDUs

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 4.4.	"Residential Zones"
Section 4.4.7.	"Residential - 200 Zone (R-200)"
Section 4.4.8.	"Residential - 90 Zone (R-90)"
Section 4.4.9.	"Residential - 60 Zone (R-60)"
Section 4.4.10.	"Residential - 40 Zone (R-40)"
Section 4.4.11.	"Townhouse Low Density Zone (TLD)"
Section 4.4.12.	"Townhouse Medium Density Zone (TMD)"
Section 4.4.13.	"Townhouse High Density Zone (THD)"
Section 4.4.14.	"Residential Multi-Unit Low Density - 30 Zone (R-30)"
Section 4.4.15.	"Residential Multi-Unit Medium Density - 20 Zone (R-20)"
Section 4.4.16.	"Residential Multi-Unit High Density - 10 Zone (R-10)"
DIVISION 4.5.	"Commercial/Residential Zones"
Section 4.5.2.	"Density and Height Allocation"
Section 4.5.4.	"Optional Method Development"
DIVISION 4.6.	"Employment Zones"
Section 4.6.2.	"Density and Height Allocation"
Section 4.6.4.	"Optional Method Development"
DIVISION 4.7.	"Optional Method Public Benefits"
<u>Section 4.7.1</u>	<u>"General Provisions"</u>
Section 4.7.3.	"Public Benefit Descriptions and Criteria"
DIVISION 4.9.	"Overlay Zones"
Section 4.9.17.	"Transferable Development Rights (TDR) Overlay Zone"

**EXPLANATION:** ***Boldface** indicates a Heading or a defined term.*  
*Underlining indicates text that is added to existing law by the original text amendment.*  
*[Single boldface brackets] indicate text that is deleted from existing law by original text amendment.*  
*Double underlining indicates text that is added to the text amendment by amendment.*  
*[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.*  
*\* \* \* indicates existing law unaffected by the text amendment.*

## ORDINANCE

*The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:*



**Sec. 1. DIVISION 59-4.4 is amended as follows:**

**Division 4.4. Residential Zones**

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**Section 4.4.7. Residential - 200 Zone (R-200)**

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**C. R-200 Zone, Optional Method Development Standards**

	MPDU Development			Cluster Development
1. Site	Detached House	Duplex	Townhouse	Detached House
Dimensions (min)				
Usable area	9 acres			5 acres
Specification for Site under MPDU Development				
a. In an optional method MPDU Development, the maximum percentage of duplex or townhouse building types allowed is 40%. The Planning Board may allow up to 100% duplex or townhouse units if it finds that the proposed development is more desirable from an environmental perspective or that, because of site constraints, the proposed number of MPDUs could not be achieved under the development requirements in Division 4.4 for the required number of detached house dwelling units.				
Specification for Site under Cluster Development				
* * *				
Density (max)				
Density (units/acre [of usable area])	[2.44][[2.66]]See Specification for Density			2
Specification for Density				

The density allowed for any application that includes more than 12.5% MPDUs, qualified under Chapter 25A and rounded up to the nearest whole number of units, equals the density allowed under Sec. 4.4.7.B.1 plus an increase of:

- a. .88% for each .1% increase in MPDUs above 12.5% up to and including 15%,
- b. 22% plus .16% for each .1% increase in MPDUs above 15% up to and including 20%, or
- c. 30% plus .1% for each .1% increase in MPDUs above 20%.

[[The maximum density allowed under this provision may not exceed the maximum density under Sec. 4.4.7.C.1.]]

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#### **Section 4.4.8. Residential - 90 Zone (R-90)**

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#### **C. R-90 Zone, Optional Method Development Standards**

1. Site	MPDU Development			Cluster Development		
	Detached House	Duplex	Townhouse	Detached House	Duplex	Townhouse

<b>Dimensions (min)</b>		
Usable area	5 acres	5 acres
<b>Specification for Site under MPDU Development</b>		
a. In an optional method MPDU Development, the maximum percentage of duplex or townhouse building types allowed is 50%. The Planning Board may allow up to 100% duplex or townhouse units if it finds that the proposed development is more desirable from an environmental perspective or that, because of site constraints, the proposed number of MPDUs could not be achieved under the development requirements in Division 4.4 for the required number of detached house dwelling units.		
<b>Specification for Site under Cluster Development</b>		
* * *		
<b>Density (max)</b>		
Density (units/acre [of usable area])	[4.39][[5.90]] <u>See Specification for Density</u>	3.6
<b><u>Specification for Density</u></b>		
<p><u>The density allowed for any application that includes more than 12.5% MPDUs, qualified under Chapter 25A and rounded up to the nearest whole number of units, equals the density allowed under Sec. 4.4.8.B. [[2]]1 plus an increase of:</u></p> <p>a. <u>.88% for each .1% increase in MPDUs above 12.5% up to and including 15%,</u></p> <p>b. <u>22% plus .16% for each .1% increase in MPDUs above 15% up to and including 20%, or</u></p> <p>c. <u>30% plus .1% for each .1% increase in MPDUs above 20%.</u></p> <p><u>[[The maximum density allowed under this provision may not exceed the maximum density under Sec. 4.4.8.C.1.]]</u></p>		

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#### **Section 4.4.9. Residential - 60 Zone (R-60)**

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#### **C. R-60 Zone, Optional Method Development Standards**

1. Site	MPDU Development			Cluster Development		
	Detached House	Duplex	Townhouse	Detached House	Duplex	Townhouse



<b>Dimensions (min)</b>		
Usable area	3 acres	5 acres
<b>Specification for Site under MPDU Development</b>		
a. In an optional method MPDU Development, the maximum percentage of duplex or townhouse building types allowed is 60%. The Planning Board may allow up to 100% duplex or townhouse units if it finds that the proposed development is more desirable from an environmental perspective or that, because of site constraints, the proposed number of MPDUs could not be achieved under the development requirements in Division 4.4 for the required number of detached house dwelling units.		
<b>Specification for Site under Cluster Development</b>		
* * *		
<b>Density (max)</b>		
Density (units/acre [of usable area])	[6.1][[8.86]]See Specification for Density	5
<b>Specification for Density</b>		
<p>The density allowed for any application that includes more than 12.5% MPDUs, qualified under Chapter 25A and rounded up to the nearest whole number of units, equals the density allowed under Sec. 4.4.9.B. [[2]] 1 plus an increase of:</p> <p>a. .88% for each .1% increase in MPDUs above 12.5% up to and including 15%,</p> <p>b. 22% plus .16% for each .1% increase in MPDUs above 15% up to and including 20%, or</p> <p>c. 30% plus .1% for each .1% increase in MPDUs above 20%.</p> <p>[[The maximum density allowed under this provision may not exceed the maximum density under Sec. 4.4.9.C.1.]]</p>		

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#### Section 4.4.10. Residential - 40 Zone (R-40)

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#### C. R-40 Zone, Optional Method Development Standards

1. Site	MPDU Development		
	Detached House	Duplex	Townhouse



<b>Dimensions (min)</b>	
Usable area	3 acres
<b>Density (max)</b>	
Density (units/acre [of usable area])	[10.12][[13.29]] <u>See Specification for Density</u>
<b><u>Specification for Density</u></b>	
<p><u>The density allowed for any application that includes more than 12.5% MPDUs, qualified under Chapter 25A and rounded up to the nearest whole number of units, equals the density allowed under Sec. 4.4.10.B.2 plus an increase of:</u></p> <ul style="list-style-type: none"> <li>a. <u>.88% for each .1% increase in MPDUs above 12.5% up to and including 15%,</u></li> <li>b. <u>22% plus .16% for each .1% increase in MPDUs above 15% up to and including 20%,</u> <u>or</u></li> <li>c. <u>30% plus .1% for each .1% increase in MPDUs above 20%.</u></li> </ul> <p><u>[[The maximum density allowed under this provision may not exceed the maximum density under Sec. 4.4.10.C.1.]]</u></p>	

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#### **Section 4.4.11. Townhouse Low Density Zone (TLD)**

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#### **C. TLD Zone, Optional Method Development Standards**

1. Site	MPDU Development		
	Detached House	Duplex	Townhouse

<b>Dimensions (min)</b>	
Usable area	20,000 SF
<b>Density (max)</b>	
Density (units/acre [of usable area])	[9.76] [[11.07]] <u>See Specification for Density</u>
<b><u>Specification for Density</u></b>	
<p><u>The density allowed for any application that includes more than 12.5% MPDUs, qualified under Chapter 25A and rounded up to the nearest whole number of units, equals the density allowed under Sec. 4.4.11.B.2 plus an increase of:</u></p> <ul style="list-style-type: none"> <li>a. <u>.88% for each .1% increase in MPDUs above 12.5% up to and including 15%,</u></li> <li>b. <u>22% plus .16% for each .1% increase in MPDUs above 15% up to and including 20%,</u> <u>or</u></li> <li>c. <u>30% plus .1% for each .1% increase in MPDUs above 20%.</u></li> </ul> <p><u>[[The maximum density allowed under this provision may not exceed the maximum density under Sec. 4.4.11.C.1.]]</u></p>	

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#### **Section 4.4.12. Townhouse Medium Density Zone (TMD)**

\* \* \*

#### **C. TMD Zone, Optional Method Development Standards**

<b>1. Site</b>	<b>MPDU Development</b>		
	<b>Detached House</b>	<b>Duplex</b>	<b>Townhouse</b>

<b>Dimensions (min)</b>	
Usable area	20,000 SF
<b>Density (max)</b>	
Density (units/acre [of usable area])	[15.25][[14.76]] <u>See Specification for Density</u>
<b><u>Specification for Density</u></b>	
<p>The density allowed for any application that includes more than 12.5% MPDUs, qualified under Chapter 25A and rounded up to the nearest whole number of units, equals the density allowed under Sec. 4.4.12.B.2 plus an increase of:</p> <ul style="list-style-type: none"> <li>a. .88% for each .1% increase in MPDUs above 12.5% up to and including 15%.</li> <li>b. 22% plus .16% for each .1% increase in MPDUs above 15% up to and including 20%, or</li> <li>c. 30% plus .1% for each .1% increase in MPDUs above 20%.</li> </ul> <p>[[The maximum density allowed under this provision may not exceed the maximum density under Sec. 4.4.12.C.1.]]</p>	

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### Section 4.4.13. Townhouse High Density Zone (THD)

\* \* \*

#### C. THD Zone, Optional Method Development Standards

1. Site	MPDU Development		
	Detached House	Duplex	Townhouse
Dimensions (min)			
Usable area	39,200 SF		
Density (max)			
Density (units/acre [of usable area])	[18.30][[18.32]] <u>See Specification for Density</u>		
<u>Specification for Density</u>			



The density allowed for any application that includes more than 12.5% MPDUs, qualified under Chapter 25A and rounded up to the nearest whole number of units, equals the density allowed under Sec. 4.4.13.B.2 plus an increase of:

- a. .88% for each .1% increase in MPDUs above 12.5% up to and including 15%,
- b. 22% plus .16% for each .1% increase in MPDUs above 15% up to and including 20%,  
or
- c. 30% plus .1% for each .1% increase in MPDUs above 20%.

[[The maximum density allowed under this provision may not exceed the maximum density under Sec. 4.4.13.C.1.]]

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#### **Section 4.4.14. Residential Multi-Unit Low Density - 30 Zone (R-30)**

\* \* \*

##### **C. R-30 Zone, Optional Method Development Standards**

1. Site	MPDU Development			
	Detached House	Duplex	Townhouse	Apartment
Dimensions (min)				
Usable area	11,700 SF			
Density (max)				
Density (units/acre [of usable area])	[17.69]See Specification for Density			
<u><b>Specification for Density</b></u>				
<p>The <u>density allowed for any application that includes more than 12.5% MPDUs, qualified under Chapter 25A and rounded up to the nearest whole number of units, equals the density allowed under Sec. 4.4.14.B.2 plus an increase of:</u></p> <p>a. <u>.88% for each .1% increase in MPDUs above 12.5% up to and including 15%,</u></p> <p>b. <u>22% plus .16% for each .1% increase in MPDUs above 15% up to and including 20%, or</u></p> <p>c. <u>30% plus .1% for each .1% increase in MPDUs above 20%.</u></p> <p><u>[[The maximum density allowed under this provision may not exceed the maximum density under Sec. 4.4.14.C.1.]]</u></p>				

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#### **Section 4.4.15. Residential Multi-Unit Medium Density - 20 Zone (R-20)**

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### C. R-20 Zone, Optional Method Development Standards

1. Site	MPDU Development			
	Detached House	Duplex	Townhouse	Apartment
Dimensions (min)				
Usable area	15,600 SF			
Density (max)				
Density (units/acre [of usable area])	[26.47]See Specification for Density			
<u>Specification for Density</u>				
<p><u>The density allowed for any application that includes more than 12.5% MPDUs, qualified under Chapter 25A and rounded up to the nearest whole number of units, equals the density allowed under Sec. 4.4.15.B.2 plus an increase of:</u></p> <p>a. <u>.88% for each .1% increase in MPDUs above 12.5% up to and including 15%,</u></p> <p>b. <u>22% plus .16% for each .1% increase in MPDUs above 15% up to and including 20%, or</u></p> <p>c. <u>30% plus .1% for each .1% increase in MPDUs above 20%.</u></p> <p><u>[[The maximum density allowed under this provision may not exceed the maximum density under Sec. 4.4.15.C.1.]]</u></p>				

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### Section 4.4.16. Residential Multi-Unit High Density - 10 Zone (R-10)

\* \* \*

### C. R-10 Zone, Optional Method Development Standards

1. Site	MPDU Development			
	Detached House	Duplex	Townhouse	Apartment
Dimensions (min)				
Usable area	20,000 SF			
Density (max)				

Density (units/acre [of usable area])	[53.07]See Specification for Density
<b><u>Specification for Density</u></b>	
<p>The <u>density allowed for any application that includes more than 12.5% MPDUs, qualified under Chapter 25A and rounded up to the nearest whole number of units, equals the density allowed under Sec. 4.4.16.B.2 plus an increase of:</u></p> <ul style="list-style-type: none"> <li>a. <u>.88% for each .1% increase in MPDUs above 12.5% up to and including 15%,</u></li> <li>b. <u>22% plus .16% for each .1% increase in MPDUs above 15% up to and including 20%, or</u></li> <li>c. <u>30% plus .1% for each .1% increase in MPDUs above 20%.</u></li> </ul> <p><u>[[The maximum density allowed under this provision may not exceed the maximum density under Sec. 4.4.16.C.1.]]</u></p>	

\* \* \*

**Sec. 2. DIVISION 59-4.5 is amended as follows:**

## **Division 4.5. Commercial/Residential Zones**

\* \* \*

### **Section 4.5.2. Density and Height Allocation**

#### **A. Density and Height Limits**

1. Density is calculated as an allowed floor area ratio (FAR).
2. Each CRN, CRT, and CR zone classification is followed by a number and a sequence of 3 additional symbols: C, R, and H, each followed by another number where:
  - a. The number following the classification is the maximum total FAR allowed unless additional FAR is allowed under Section 4.5.2.C or Section [4.7.3.D.6.c]4.5.2.D;
  - b. The number following the C is the maximum nonresidential FAR allowed;
  - c. The number following the R is the maximum residential FAR allowed unless additional residential FAR is allowed under

Section 4.5.2.C or Section [4.7.3.D.6.c]4.5.2.D; and

- d. The number following the H is the maximum building height in feet allowed unless additional height is allowed under Section 4.5.2.C, Section [4.7.3.D.6.c]4.5.2.D, or Section 4.5.2.A.2.e.
  - e. With Planning Board approval, any Optional Method project in a CR zone that includes the provision of a major public facility under Section 4.7.3.A may add the height of any floor mostly used for above grade parking to the maximum height otherwise allowed, when the major public facility diminishes the ability of the applicant to provide parking at or below grade.
3. The following limits apply unless additional total FAR, residential FAR, or height is allowed under Section 4.5.2.C, Section [4.7.3.D.6.c]4.5.2.D, or Section 4.5.2.A.2.e:

\* \* \*

**C. Development with Moderately Priced Dwelling Units**

For any application that includes more than 12.5% of the gross residential floor area as Moderately Priced Dwelling Units (MPDUs), qualified under Chapter 25A, the following provisions apply:

- 1. Residential density [[equals]] may be increased above the mapped residential FAR by: [plus an increase of .88% for each .1% increase in MPDUs above 12.5%]
  - a. .88% for each .1% increase in MPDUs above 12.5% up to and including 15%,
  - b. 22% plus .16% for each .1% increase in MPDUs above 15% up to and including 20%, or
  - c. 30% plus .1% for each .1% increase in MPDUs above 20%.



2. [[The increased residential density under this provision is limited to the first 15% of MPDUs in the project.]] Total density may be increased above the number following the zoning classification on the zoning map by an amount equal to the residential density achieved under Sec. 4.5.2.C.1.
3. Any increase in density allowed under this section must be calculated after the base density of the property has been increased under Sec. 4.5.2.B for development using FAR Averaging.
- [[3]]4. To achieve an increase in density under Section 4.5.2.C, at least one more MPDU than would be required at 12.5% must be provided.
- [[4]]5. The floor area counted as MPDU floor area includes a proportional share of the gross floor area not devoted to residential units.
- [[5]]6. The height limit of the applicable zone and master plan does not apply to the extent required to provide the MPDUs. The additional height is calculated as the floor area provided for MPDUs above 12.5% divided by the average residential floor plate area, where each whole number and each remaining fraction allows an increase of 12 feet.

**[C]D. Special Provisions for "T" Zones Translated from Certain Zones Existing Before October 30, 2014**

1. These special provisions apply to certain properties rezoned by District Map Amendment to implement this Chapter and are indicated on the zoning map as the zoning classification followed by a T, such as "CR2.0 C1.5 R1.5 H75 T".
2. For Commercial/Residential-zoned properties designated with a T, the following provisions apply:
  - a. Residential density may be increased above the number following the R on the zoning map in proportion to:



- i. any MPDU density bonus achieved under Section 4.5.2.C [Chapter 25A for providing more than 12.5% of the residential units as Moderately Priced Dwelling Units (MPDUs), qualified under Chapter 25A]; or
  - ii. any workforce housing floor area that satisfies Chapter 25B; however, the increased residential density under this provision is limited to 10% of the floor area indicated on the zoning map.
- [b. Total density may be increased above the number following the zoning classification on the zoning map by an amount equal to the residential floor area allowed under Sec 4.5.2.D.2.a.
- c. In any case, to achieve a density bonus under Section 4.5.2.C.2, at least one more MPDU than would be required at 12.5% must be provided.]
- [d]b. On a property within a designated central business district mapped at a height up to 145 feet, height may be increased above the number following the H on the zoning map by up to 1.5 times if:
  - i. the height is the minimum necessary for both:
    - (A) the floor area devoted to a publicly owned or operated facility; plus
    - (B) the floor area provided for workforce housing units, divided by the average residential floor plate area, where each whole number and each remaining fraction allows an increase of 12 feet; or

ii. additional height is specifically recommended for the provision of MPDUs above 12.5% in an applicable master plan.

[e]c. Property within a designated central business district and not located in a designated density transfer area[,] is exempt from Section 4.5.2.B.2.d.

[f]d. Height on a portion of a building may be increased above the number following the H on the zoning map so long as the average height of the building is no greater than the maximum height allowed by the mapped zone. Average building height is calculated as the sum of the area of each section of the roof having a different height multiplied by that height, divided by the total roof area. Height is measured at the midpoint of each roof section along each frontage.

[g]e. Any density or height increases under Section 4.5.2.C or 4.5.2.D requires site plan approval under Section 7.3.4.

\* \* \*

#### **Section 4.5.4. Optional Method Development**

The CRT and CR zone allow development under the optional method.

\* \* \*

#### **B. Development Standards**

\* \* \*

##### **2. Lot, Density, and Height**

- a. Lot standards for detached house, duplex, and townhouse building types are determined by the site plan approval process under Section 7.3.4.
- b. The maximum total, nonresidential, and residential FARs and

the maximum height are established by the mapped zone unless increased under Section 4.5.2.C and Section [4.7.3.D.6.c]4.5.2.D.

- c. In the CR zone, a designated historic resource that does not occupy more than 10% of the gross floor area is excluded from the FAR calculation.

\* \* \*

**Sec. 3. DIVISION 59-4.6 is amended as follows:**

**Division 4.6. Employment Zones**

\* \* \*

**Section 4.6.2. Density and Height Allocation**

**A. Density and Height Limits**

1. Density is calculated as an allowed floor area ratio (FAR).
2. Each GR, NR, LSC, and EOF zone classification is followed by a number and symbol: H, which is followed by another number where:
  - a. The number following the classification is the maximum total FAR allowed unless additional FAR is allowed under Section 4.6.2.C or Section [4.7.3.D.6.c]4.6.2.D; and
  - b. The number following the H is the maximum building height in feet allowed unless additional height is allowed under Section [4.7.3.D.6.c]4.6.2.C.
3. The following limits apply unless additional total FAR, residential FAR, or height is allowed under Section 4.6.2.C and Section [4.7.3.D.6.c]4.6.2.D.

\* \* \*

**C. Development with Moderately Priced Dwelling Units**



For any application that includes more than 12.5% of the gross residential floor area as Moderately Priced Dwelling Units (MPDUs), qualified under Chapter 25A, the following provisions apply:

1. Residential density [[equals]] may be increased above the mapped residential FAR by: [plus an increase of .88% for each .1% increase in MPDUs above 12.5%]
  - a. .88% for each .1% increase in MPDUs above 12.5% up to and including 15%,
  - b. 22% plus .16% for each .1% increase in MPDUs above 15% up to and including 20%, or
  - c. 30% plus .1% for each .1% increase in MPDUs above 20%.
2. [[The increased residential density under this provision is limited to the first 15% of MPDUs in a project.]] Total density may be increased above the number following the zoning classification on the zoning map by an amount equal to the residential density achieved under Sec. 4.6.2.C.1.
3. Any increase in density allowed under this section must be calculated after the base density of the property has been increased under Sec. 4.6.2.B for development using FAR Averaging.
- ~~[[3]]~~4. To achieve an increase in density under Section 4.6.2.C, at least one more MPDU than would be required at 12.5% must be provided.
- ~~[[4]]~~5. The floor area counted as MPDU floor area includes a proportional share of the gross floor area not devoted to residential units.
- ~~[[5]]~~6. The height limit of the applicable zone and master plan does not apply to the extent required to provide the MPDUs. The additional height is calculated as the floor area provided for MPDUs above 12.5% divided



by the average residential floor plate area, where each whole number and each remaining fraction allows an increase of 12 feet.

\* \* \*

**[C]D. Special Provisions for "T" Zones Translated from Certain Zones  
Existing Before October 30, 2014**

1. These special provisions apply to certain properties rezoned by District Map Amendment to implement this Chapter and are indicated on the zoning map as the zoning classification followed by a T, such as "EOF2.0 H60 T".
2. For Employment-zoned properties designated with a T, the following provisions apply:
  - a. [Residential density may be increased above the maximum allowed in the zone in proportion to any MPDU density bonus achieved under Chapter 25A for providing more than 12.5% of the residential units as Moderately Priced Dwelling Units (MPDUs).
  - b.] In the LSC zone, to allow construction of all workforce housing units on-site, residential density may be increased by a maximum of 5% and building height may be increased up to a maximum building height of 200 feet. Density and building height may only be increased to the extent required for the number of workforce housing units that are constructed.
  - [c. In any case, to achieve a density bonus under Section 4.6.2.C.2, at least one more MPDU than would be required at 12.5% must be provided.
  - d]b. Any density increase under Section 4.6.2.C requires site plan approval under Section 7.3.4.

\* \* \*

#### **Section 4.6.4. Optional Method Development**

The LSC and EOF zone allow development under the optional method.

\* \* \*

#### **B. Development Standards**

\* \* \*

##### **2. Lot, Density, and Height**

- a. Lot standards for detached house, duplex, and townhouse building types are established by the site plan approval process.
- b. The maximum total FAR and the maximum height are established by the mapped zone unless increased under Section [4.7.3.D.6.c.]4.6.2.C or Section 4.6.2.D.
- c. In the GR, NR, and EOF zones, gross floor area of all Household Living uses is limited to 30% of the gross floor area on the subject site.

\* \* \*

#### **Sec. 4. DIVISION 59-4.7 is amended as follows:**

#### **Division 4.7. Optional Method Public Benefits**

\* \* \*

##### **Section 4.7.1. General Provisions**

\* \* \*

#### **B. General Public Benefit Considerations**

[[Granting]] Except for on-site MPDUs exceeding 12.5% of a project's dwelling units, granting points as a public benefit for any amenity or project feature otherwise required by law is prohibited. In approving any incentive FAR based on the provision of public benefits, the Planning Board must

consider:

\* \* \*

### **Section 4.7.3. Public Benefit Descriptions and Criteria**

\* \* \*

#### **D. Diversity of Uses and Activities**

\* \* \*

**6. Moderately Priced Dwelling Units:** There is no limitation on the number of points for providing more than 12.5% of the residential units as MPDUs as required under Chapter 25A.

[a.] Points are calculated as follows:

[i]a. 12 points are granted for every 1% of MPDUs greater than 12.5%. Any fraction of 1% increase in MPDUs entitles the applicant to an equal fraction of 12 points.

[ii]b. An additional 2 points are granted for every 1% of 2-bedroom MPDUs not otherwise required.

[iii]c. An additional 5 points are granted for every 1% of 3-bedroom MPDUs.

[iv]d. In any case, for [density and] points to be awarded, at least one more MPDU than would be required at 12.5% must be provided to take advantage of the MPDU public benefit points in any zone.

[v]e. For a project providing a minimum of 15% MPDUs, one less benefit category than is required under Section 4.5.4.A.2 and Section 4.6.4.A.2 must be satisfied. A project that provides a minimum of 20% MPDUs does not have to satisfy any other benefit category under Section 4.5.4.A.2 and Section 4.6.4.A.2.

[b. In a zone with a "T" designation, if a project exceeds 12.5%

MPDUs, residential density may be increased under Section [4.5.2.C](#) in the Commercial/Residential zones or under Section [4.6.2.C](#) in the Employment zones.

- c. In a zone without a "T" designation:
  - i. If a project exceeds 12.5% MPDUs, the height limit of the applicable zone and master plan does not apply to the extent required to provide the MPDUs. The additional height is calculated as the floor area provided for MPDUs above 12.5% divided by the average residential floor plate area, where each whole number and each remaining fraction allows an increase of 12 feet.
  - ii. For a project providing less than 15% MPDUs, the gross floor area of any MPDUs provided above 12.5% is exempt from the calculation of FAR.
  - iii. For a project providing a minimum of 15% MPDUs, the gross floor area of all MPDUs provided is exempt from the calculation of FAR.]

\* \* \*

**Sec. 5. DIVISION 59-4.9 is amended as follows:**

**Division 4.9. Overlay Zones**

\* \* \*

**Section 4.9.17. Transferable Development Rights (TDR) Overlay Zone**

\* \* \*

**B. Optional Method**

**1. In General**

The TDR Overlay optional method of development permits an increase in the maximum residential density, if the development



satisfies the requirements for optional method development using Transferable Development Rights under Section 4.9.17.B.

\* \* \*

**d. Development with Moderately Priced Dwelling Units**

- i. A property developed under Section 4.9.17.B must satisfy Chapter 25A.
- ii. [A density bonus allowed under Chapter 25A] Any increase in density allowed under the optional method of development for the provision of MPDUs is calculated after the base density of the property has been increased under Section 4.9.17.B through TDRs.
- iii. In a Rural Residential or Residential zone with a TDR density designation of less than three units per acre, development using TDRs and providing MPDUs above 12.5% must follow the requirements under optional method MPDU Development. Any other optional method development in a Rural Residential or Residential zone must satisfy the requirements of Section 4.9.16.B.

\* \* \*

**Sec. 6. Effective date.** This ordinance becomes effective 20 days after the date of Council adoption.

This is a correct copy of Council action.

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Megan Davey Limarzi, Esq.  
Clerk of the Council