

**THE CITY OF FREDERICK  
MAYOR AND BOARD OF ALDERMEN**

**ORDINANCE NO: 13-02**

**AN ORDINANCE** concerning

**Affordable housing – Payment in lieu option**

**FOR** the purpose of providing developers of projects subject to a requirement to construct Moderately Priced Dwelling Units (MPDUs) with the option to pay a certain fee in lieu of such construction; and providing for the termination of this ordinance.

**BY** adding

Sec. 19-6.1  
The Code of the City of Frederick, 1966 (as amended)

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**WHEREAS**, in 2008, the Board of Aldermen adopted Chapter 19 of the Frederick City Code, pertaining to affordable housing, specifically the construction, sale, and rental of moderately priced dwelling units (MPDUs); and

**WHEREAS**, the local housing market has changed dramatically since 2008, such that there are now a significant number of previously foreclosed homes, many of which would be considered affordable for first-time homebuyers and others seeking moderately-priced housing; and

**WHEREAS**, the Board of Aldermen believes that it is in the best interests of the citizens of The City of Frederick to provide an option for developers to pay a fee in lieu of the construction of MPDUs.

**SECTION I. NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK**, that Sec. 19-6.1 of The Code of the City of Frederick, 1966 (as amended) is hereby added to read as follows:

**Sec. 19-6.1. Payment in lieu of building MPDUs.**

(a) **In general.** In lieu of submitting an MPDU Agreement providing for the construction of MPDUs as set forth in Sec. 19-6 of this chapter, a developer may elect to pay a “per dwelling unit payment in lieu” calculated as described in subsection (b) of this section and included in a written MPDU Payment Agreement between the developer and the City. A “per dwelling unit payment in lieu” must be paid prior to the issuance of a building permit for any residential unit in the associated development project.

(b) **Calculation of fees.**

(1) The total MPDU payment in lieu for a development is calculated by multiplying \$16,100 by the number of MPDUs required per Sec. 19-6(b) of this Chapter. The density bonus described in Sec. 19-7 of this chapter may not be used for a development project that fulfills the requirements of this chapter by making a payment in lieu of building MPDUs.

- (2) The per dwelling unit payment in lieu is calculated by dividing the total MPDU payment in lieu (per paragraph (1) of this subsection) by the total number of residential units in the development project

**(c) MPDU Payment Agreements.**

- (1) Each MPDU Payment Agreement must specify the total MPDU payment in lieu calculated under subsection (b)(1) of this section and the per dwelling unit payment in lieu calculated under subsection (b)(2) of this section.
- (2) An MPDU Payment Agreement must be signed by the developer and any other party whose signature is required by law for the effective and binding execution of contracts conveying real property. An MPDU Payment Agreement may be assigned with the prior written consent of the City if the assignee agrees to fulfill the requirements of this chapter.
- (3) The developer shall record an MPDU Payment Agreement in the Land Records of Frederick County. The Planning Commission or Planning Department may not unconditionally approve a site plan, preliminary subdivision plat, or master plan for the development project until the MPDU Payment Agreement is recorded.

**(d) Permits.** If a developer chooses the payment in lieu option provided under this section, the developer shall submit the per dwelling unit payment in lieu required under the MPDU Payment Agreement prior to the issuance of a building permit for any residential unit in the associated development project.

**(e) Approved projects.** This subsection applies to any development project that before the effective date of this section has obtained site plan, preliminary subdivision plat, or master plan approval including an obligation to build MPDUs. A developer may elect the per dwelling unit payment in lieu option provided in this section if construction of MPDUs has not started before the effective date of this section.

**(f) Housing fund.** Fees paid under this section shall be deposited into the City Housing Fund established by Sec. 19-18 of this chapter. At least once each calendar year, the Director shall submit a report to the Mayor and Board of Aldermen detailing the amount and use of the fees collected pursuant to this section.

**SECTION II. AND BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK** that this ordinance shall take effect on the date it is approved by the Mayor and all other ordinances or parts of ordinances inconsistent with the provisions of this ordinance will as of that date be repealed to the extent of such inconsistency.

**SECTION III. AND BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK** that this ordinance remain effective until December 31, 2016, on which date, with no further action required by the Board of Aldermen, this ordinance shall be abrogated and of no further force and effect.

**SECTION IV. AND BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK** that in the event any provision, section, sentence, clause, or part of this ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause, or part of this ordinance, it being the intent of the City that such remainder shall be and shall remain in full force and effect.

**PASSED:**



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Randy McClement, President,  
Board of Aldermen

**DATE:**

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January 17, 2013

**APPROVED:**

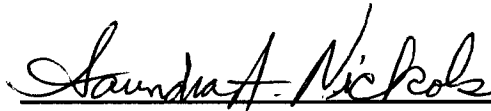


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Randy McClement, Mayor

**DATE:**

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January 17, 2013

**Approved for Legal Sufficiency:**

  
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