

ORDINANCE NO. O-12-06

AN ORDINANCE TO AMEND CHAPTER 24 OF THE CITY CODE
ENTITLED “ZONING” SO AS TO CREATE NEW ARTICLE XVI
ENTITLED “AFFORDABLE HOUSING REQUIREMENTS” SO AS TO REQUIRE THE
INCLUSION OF MODERATELY PRICED DWELLING UNITS AND WORK FORCE
HOUSING UNITS IN NEW RESIDENTIAL DEVELOPMENTS

Text Amendment **T-379**

BE IT ORDAINED, by the City Council of the City of Gaithersburg, in public meeting assembled, that Chapter 24 of the City Code, (City Zoning Ordinance) is hereby amended to create New Article XVI entitled Affordable Housing Requirements, Section 24-248 through Section 24-256 to read as follows:

ARTICLE XVI: AFFORDABLE HOUSING REQUIREMENTS

Sec. 24-249. Purpose and intent.

It is the purpose and intent of this Article to ensure that affordable housing opportunities are created for both homeownership and rental units within the City of Gaithersburg for households earning 60 to 120 percent of Area Median Income.

Sec. 24-250. Definitions.

For the purposes of this Article, the following definitions shall apply:

Area Median Income (AMI): the median income for the Washington Metropolitan Area, adjusted for household size, as determined by the U.S. Department of Housing and Urban Development (HUD).

Approved Sale Price: price at which a for-sale unit is determined to be affordable. For Moderately Priced Dwelling Units, the approved sales price will be affordable to households earning 70 percent of Area Median Income adjusted for household size. For Workforce Housing Units, the approved sales price will be affordable to households earning 90 percent of Area Median Income adjusted for household size.

Approved Rental Price: price at which rental units are determined to be affordable. The approved rental price will be affordable to households earning 60 percent of Area Median Income adjusted for household size.

Affordable: as defined in the Administrative Regulations adopted pursuant to Section 24-256 of this Article.

Affordable Housing Fund: a fund established to support the creation and maintenance of affordable housing in the City of Gaithersburg and to which payments will be made by developers in lieu of construction of units required but not built.

Moderately Priced Dwelling Unit (MPDU): MPDU that is offered to eligible participants under the terms of the affordable housing program and is affordable to households earning at least sixty (60) percent of AMI, but not more than eighty (80) percent of AMI, adjusted for household size.

Undue Economic Hardship: the deprivation of all viable economic use of land.

Work Force Housing Unit (WFHU): WHFU that is offered to eligible participants under the terms of the affordable housing program and is affordable to households earning at least eighty 80 percent of AMI, but no more than one hundred twenty (120) percent of AMI adjusted for household size.

Sec. 24-251. Applicability.

Except as otherwise provided in Section 24-254, the requirements of this Chapter shall apply to any new residential development or redevelopment that includes 20 or more dwelling units. This article shall not apply to any residential development that has received Schematic Development Plan approval or Preliminary Site Plan approval prior to the effective date of this ordinance. Additionally, this Article shall not apply to any property that is subject to an annexation agreement that provides for an affordable housing component.

Sec. 24-252. Requirement to build and sell affordable housing in for sale developments.

(a) Seven and one half (7.5) percent of the total dwelling units shall be developed and initially sold as MPDUs at a price affordable to households earning 70 percent of AMI adjusted for household size. The City Manager shall determine the approved sales price of MPDUs based on a pricing formula set forth in the Administrative Regulations adopted pursuant to Section 24-256 of this Article.

(b) Seven and one half (7.5) percent of the total dwelling units shall be developed and initially sold as WFHUs at a price affordable to households earning 90 percent of AMI adjusted for household size. The City Manager shall determine the approved sales price of WFHUs based on a pricing formula set forth in the Administrative Regulations adopted pursuant to Section 24-256 of this Article.

(c) Upon a finding that MPDUs and WFHUs would not be affordable in a development due to high common ownership community fees, the Mayor and City Council may, by Resolution, permit an applicant to contribute a fee to a City affordable housing fund rather than

constructing the affordable units. This fee shall be calculated as the difference between the actual sales price of the market rate unit and the actual cost of construction.

Sec. 24-253. Requirement to build and lease affordable housing in rental developments.

(a) Fifteen (15) percent of the total dwelling units shall be developed and maintained for a period of 30 years from the date of initial occupancy as MPDUs at a rent affordable to households earning 60 percent of AMI adjusted for household size. The City Manager shall determine, and revise annually, the approved rental price based on a formula set forth in the Administrative Regulations adopted pursuant to Section 24-256 of this Article.

(b) In the event the owner of any affordable rental housing units required by this section should convert the affordable units to condominiums, WFHUs and MPDUs shall be initially offered for sale at a price consistent with the requirements of Section 24-251.

Sec. 24-254. Materials, appearance, and distribution of affordable housing units.

MPDUs and WFHUs shall be of the same appearance and use comparable exterior materials to the market rate units of the same unit type. Additionally, these units must be generally dispersed throughout the development.

Sec. 24-255. Affordable housing requirements for developments in the Olde Towne Central Business District.

The requirements of Section 24-251, 24-252, and Section 24-253 shall not apply to residential construction in the Olde Towne Central Business District; however, developers shall be required to pay a per unit fee for each dwelling unit to a City affordable housing fund. This fee shall be determined by regulation pursuant to Section 24-256 of this article.

Sec. 24-256. Waiver of affordable housing requirements.

(a) An applicant may make a formal written request that the requirements of this Article be waived, reduced, or adjusted, partially or in their entirety.

(b) The City Council may grant such a waiver or adjustment only upon a documented showing of

- (1) Undue economic hardship on the part of the applicant in fulfilling the requirements of the law; or
- (2) The absence of a reasonable relationship or nexus between a proposed project and the provisions of this Article.

Sec. 24-257. Administrative regulations.

The City Council shall adopt regulations pursuant to Section 2-10 of this Code to implement this Article with respect to, but not limited to, administration, enforcement, pricing, eligibility requirements for purchasers and renters, control period for ownership units, procedures governing waiver requests, and resale restrictions.

ADOPTED this 6th day of November, 2006 by the City Council of Gaithersburg, Maryland.

JOHN B. SCHLICHTING
Vice President of the Council

DELIVERED to the Mayor of the City of Gaithersburg, Maryland, this 6th day of November, 2006, APPROVED by the Mayor of the City of Gaithersburg, Maryland, this 6th day of November, 2006.

SIDNEY A. KATZ, MAYOR

*Due to a conflict, Mayor Katz recused himself from discussions regarding this issue.

THIS IS TO CERTIFY that the foregoing ordinance was adopted by the City Council of Gaithersburg, in public meeting assemble, on the 6th day of November, 2006 and that the same was approved by the Mayor of the City of Gaithersburg on the 6th day of November, 2006. This Ordinance will become effective on the 27th day of November, 2006.

David B. Humpton, City Manager