

HOUSE BILL 1406

L6

0lr1696

By: **Delegate Stewart**

Introduced and read first time: February 7, 2020

Assigned to: Environment and Transportation

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 9, 2020

CHAPTER _____

1 AN ACT concerning

2 **Land Use – ~~Development~~ Comprehensive Plan – Middle Housing**
3 **~~(Modest Home Choices Act of 2020)~~**
4 **(Planning for Modest Homes Act of 2020)**

5 FOR the purpose of requiring local governments to allow the development of certain units
6 ~~in certain qualifying zones, with certain exceptions; authorizing local governments~~
7 ~~to establish and implement certain regulations; requiring the Department of~~
8 ~~Housing and Community Development to develop a model middle housing ordinance~~
9 ~~by a certain date; prohibiting local governments from preventing the authorization~~
10 ~~of certain housing by imposing certain regulations; prohibiting the development of~~
11 ~~certain houses that will cause a net loss of naturally occurring affordable housing;~~
12 ~~authorizing the Department to grant local governments certain extensions of time to~~
13 ~~adopt certain regulations or amend certain plans under certain circumstances;~~
14 ~~requiring the Department to grant or deny a request for an extension within a certain~~
15 ~~time period after receipt; requiring the Department to adopt rules regarding the form~~
16 ~~and substance of a local government's application for a certain extension; a local~~
17 jurisdiction to address middle housing as a component of the housing element of a
18 certain plan; requiring the housing element of a certain plan to state the number of
19 additional housing units the local jurisdiction will need by a certain point in time
20 based on certain forecasts; providing for the effective date of this Act; defining certain
21 terms; and generally relating to land use and development of housing units.

22 BY repealing and reenacting, with amendments,

23 Article – Land Use

24 Section ~~1–401(b)(20) through (25) and 10–103(b)(19) and (20)~~ 3–114

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



Annotated Code of Maryland
(2012 Volume and 2019 Supplement)
(As enacted by Chapters 713 and 714 of the Acts of the General Assembly of 2019)

~~BY adding to~~

~~Article – Land Use~~

~~Section 1–401(b)(20); 7–501 through 7–504 to be under the new subtitle “Subtitle 5.
Modest Homes Choices”; and 10–103(b)(20)~~

~~Annotated Code of Maryland~~

~~(2012 Volume and 2019 Supplement)~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Land Use

3–114.

(a) (1) In this section the following words have the meanings indicated.

(2) “Area median income” has the meaning stated in § 4–1801 of the
Housing and Community Development Article.

(3) **“COTTAGE CLUSTER” MEANS A GROUPING OF NOT FEWER THAN
FOUR DETACHED HOUSING UNITS PER ACRE WITH A FOOTPRINT OF LESS THAN 900
SQUARE FEET EACH AND THAT INCLUDES A COMMON COURTYARD.**

(4) “Low-income housing” means housing that is affordable for a household
with an aggregate annual income that is below 60% of the area median income.

(5) **“MIDDLE HOUSING” MEANS:**

(I) **DUPLEXES;**

(II) **TRIPLEXES;**

(III) **QUADPLEXES;**

(IV) **COTTAGE CLUSTERS; AND**

(V) **TOWN HOUSES.**

(6) **“TOWN HOUSE” MEANS A DWELLING STRUCTURE CONSTRUCTED
IN A ROW OF TWO OR MORE ATTACHED UNITS, WHERE EACH DWELLING UNIT:**

(I) **IS LOCATED ON AN INDIVIDUAL LOT OR PARCEL; AND**

(II) SHARES AT LEAST ONE COMMON WALL WITH AN ADJACENT DWELLING UNIT.

~~[(4)] (7)~~ “Workforce housing” has the meaning stated in § 4–1801 of the Housing and Community Development Article.

(b) A housing element may include goals, objectives, policies, plans, and standards.

(c) A housing element shall address the need for affordable housing within the local jurisdiction, including:

(1) workforce housing; [and]

(2) low-income housing; AND

(3) MIDDLE HOUSING.

(D) TO THE EXTENT PRACTICABLE, A HOUSING ELEMENT SHALL ESTIMATE THE NUMBER OF ADDITIONAL HOUSING UNITS THE LOCAL JURISDICTION WILL NEED OVER THE NEXT 10 YEARS TO MANAGE CHANGES IN ITS POPULATION AS PROJECTED IN POPULATION FORECASTS.

~~4–401.~~

~~(b) The following provisions of this division apply to a charter county:~~

~~(20) TITLE 7, SUBTITLE 5 (MODEST HOME CHOICES);~~

~~[(20)] (21) § 8–401 (Conversion of overhead facilities);~~

~~[(21)] (22) for Baltimore County only, Title 9, Subtitle 3 (Single County Provisions – Baltimore County);~~

~~[(22)] (23) for Frederick County only, Title 9, Subtitle 10 (Single County Provisions – Frederick County);~~

~~[(23)] (24) for Howard County only, Title 9, Subtitle 13 (Single County Provisions – Howard County);~~

~~[(24)] (25) for Talbot County only, Title 9, Subtitle 18 (Single County Provisions – Talbot County); and~~

~~[(25)] (26) Title 11, Subtitle 2 (Civil Penalty).~~

~~SUBTITLE 5. MODEST HOME CHOICES.~~~~7-501.~~

~~(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(B) "COTTAGE CLUSTER" MEANS A GROUPING OF NOT FEWER THAN FOUR DETACHED HOUSING UNITS PER ACRE WITH A FOOTPRINT OF LESS THAN 900 SQUARE FEET EACH AND THAT INCLUDES A COMMON COURTYARD.~~

~~(C) "DEPARTMENT" MEANS THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.~~

~~(D) "HIGH OPPORTUNITY TRACT" MEANS A RESIDENTIAL TRACT WITH A MEDIAN HOUSEHOLD INCOME OF AT LEAST TWO TIMES THE AREA MEDIAN INCOME FOR A FOUR PERSON HOUSEHOLD.~~

~~(E) "HIGH QUALITY BUS CORRIDOR" MEANS A CORRIDOR WITH A FIXED ROUTE BUS SERVICE WITH AN AVERAGE SERVICE INTERVAL OF 10 MINUTES OR LESS DURING PEAK WEEKDAY COMMUTE HOURS.~~

~~(F) (1) "JOBS RICH CENSUS TRACT" MEANS A RESIDENTIAL CENSUS TRACT WITH AT LEAST 5,000 JOBS PER SQUARE MILE.~~

~~(2) "JOBS RICH CENSUS TRACT" DOES NOT INCLUDE A CENSUS TRACT WITH A MEDIAN INCOME LESS THAN THE AREA MEDIAN INCOME.~~

~~(G) "MAJOR TRANSIT STOP" MEANS AN EXISTING RAIL TRANSIT STATION SERVED BY A RAIL TRANSIT SERVICE.~~

~~(H) "MIDDLE HOUSING" MEANS:~~

~~(1) DUPLEXES;~~

~~(2) TRIPLEXES;~~

~~(3) QUADPLEXES;~~

~~(4) COTTAGE CLUSTERS; AND~~

~~(5) TOWN HOUSES.~~

~~(I) "QUALIFYING CENSUS TRACT" MEANS A JOBS RICH CENSUS TRACT, A TRANSIT RICH CENSUS TRACT, OR A HIGH OPPORTUNITY TRACT.~~

~~(J) "TOWN HOUSE" MEANS A DWELLING STRUCTURE CONSTRUCTED IN A ROW OF TWO OR MORE ATTACHED UNITS, WHERE EACH DWELLING UNIT:~~

~~(1) IS LOCATED ON AN INDIVIDUAL LOT OR PARCEL; AND~~

~~(2) SHARES AT LEAST ONE COMMON WALL WITH AN ADJACENT DWELLING UNIT.~~

~~(K) (1) "TRANSIT RICH CENSUS TRACT" MEANS A CENSUS TRACT WITH RESIDENTIAL DEVELOPMENT, HAVING PARCELS THAT ARE ALL WITHIN:~~

~~(I) A 1 MILE RADIUS OF A MAJOR TRANSIT STOP; OR~~

~~(II) A ONE QUARTER MILE RADIUS OF A STOP ON A HIGH QUALITY BUS CORRIDOR.~~

~~(2) "TRANSIT RICH CENSUS TRACT" DOES NOT INCLUDE A CENSUS TRACT WITH A MEDIAN INCOME LESS THAN THE AREA MEDIAN INCOME.~~

~~7-502.~~

~~(A) EACH LOCAL GOVERNMENT IN THE STATE SHALL ALLOW THE DEVELOPMENT OF A TRIPLEX ON EACH LOT OR PARCEL ZONED FOR RESIDENTIAL USE IN QUALIFYING CENSUS TRACTS THAT ALLOWS FOR THE DEVELOPMENT OF DETACHED SINGLE FAMILY DWELLINGS.~~

~~(B) THIS SECTION DOES NOT APPLY TO LAND THAT IS NOT ZONED FOR RESIDENTIAL USE, INCLUDING LAND ZONED PRIMARILY FOR A COMMERCIAL, INDUSTRIAL, AGRICULTURAL, OR PUBLIC USE.~~

~~(C) A LOCAL GOVERNMENT MAY REGULATE SITING AND DESIGN OF MIDDLE HOUSING REQUIRED TO BE ALLOWED UNDER THIS SECTION IF THE REGULATIONS DO NOT, INDIVIDUALLY OR CUMULATIVELY, DISCOURAGE THE DEVELOPMENT OF ALL MIDDLE HOUSING TYPES ALLOWED IN THE AREA THROUGH UNREASONABLE COSTS OR DELAY.~~

~~(D) THIS SECTION DOES NOT PROHIBIT A LOCAL GOVERNMENT FROM ALLOWING:~~

~~(1) SINGLE FAMILY DWELLINGS IN AREAS ZONED TO ALLOW FOR SINGLE FAMILY DWELLINGS; OR~~

~~(2) MIDDLE HOUSING IN AREAS NOT REQUIRED UNDER THIS SECTION.~~

~~(E) ON OR BEFORE OCTOBER 1, 2022, TO CARRY OUT THIS SUBTITLE EACH LOCAL GOVERNMENT SHALL:~~

~~(1) ADOPT LAND USE REGULATIONS; OR~~

~~(2) AMEND ITS COMPREHENSIVE PLAN.~~

~~(F) THIS SUBTITLE DOES NOT APPLY TO INDUSTRIAL OR AGRICULTURAL LAND, INCLUDING THE AGRICULTURAL RESERVE OF MONTGOMERY COUNTY.~~

~~(G) THE DEPARTMENT SHALL DEVELOP A MODEL MIDDLE HOUSING ORDINANCE NOT LATER THAN APRIL 1, 2021.~~

~~(H) IN ADOPTING REGULATIONS OR AMENDING A COMPREHENSIVE PLAN UNDER THIS SECTION, A LOCAL GOVERNMENT SHALL CONSIDER WAYS TO INCREASE THE AFFORDABILITY OF MIDDLE HOUSING.~~

~~(I) A LOCAL GOVERNMENT MAY NOT PREVENT THE AUTHORIZATION OF MIDDLE HOUSING BY IMPOSING ONEROUS ZONING REGULATIONS, INCLUDING SETBACKS AND MINIMUM LOT SIZES.~~

~~7-503.~~

~~NOTWITHSTANDING § 7-502(A) OF THIS SUBTITLE, A LOCAL GOVERNMENT MAY NOT ALLOW THE DEVELOPMENT OF NEW TRIPLEXES IF THE DEVELOPMENT WILL CAUSE A NET LOSS OF NATURALLY OCCURRING AFFORDABLE HOUSING.~~

~~7-504.~~

~~(A) THE DEPARTMENT MAY GRANT A LOCAL GOVERNMENT THAT IS SUBJECT TO THIS SUBTITLE AN EXTENSION OF THE TIME ALLOWED UNDER § 7-502(E) OF THIS SUBTITLE TO ADOPT LAND USE REGULATIONS OR AMEND A COMPREHENSIVE PLAN.~~

~~(B) AN EXTENSION GRANTED UNDER THIS SECTION MAY BE APPLIED ONLY TO SPECIFIC AREAS WHERE THE LOCAL GOVERNMENT HAS IDENTIFIED WATER, SEWER, STORM DRAINAGE, OR TRANSPORTATION SERVICES:~~

~~(1) THAT ARE EITHER SIGNIFICANTLY DEFICIENT OR ARE EXPECTED TO BE SIGNIFICANTLY DEFICIENT ON OR BEFORE DECEMBER 31, 2024; AND~~

~~(2) FOR WHICH THE LOCAL GOVERNMENT HAS ESTABLISHED A PLAN OF ACTION THAT WILL REMEDY THE DEFICIENCY IN THOSE SERVICES THAT THE DEPARTMENT APPROVES.~~

~~(C) AN EXTENSION GRANTED UNDER THIS SECTION MAY NOT EXTEND BEYOND THE DATE BY WHICH THE LOCAL GOVERNMENT INTENDS TO CORRECT THE DEFICIENCY UNDER THE PLAN.~~

~~(D) A LOCAL GOVERNMENT MUST FILE A REQUEST FOR AN EXTENSION WITH THE DEPARTMENT ON OR BEFORE APRIL 1, 2022.~~

~~(E) THE DEPARTMENT SHALL GRANT OR DENY A REQUEST FOR AN EXTENSION UNDER THIS SECTION WITHIN 90 DAYS AFTER RECEIPT.~~

~~(F) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS REGARDING THE FORM AND SUBSTANCE OF A LOCAL GOVERNMENT'S APPLICATION FOR AN EXTENSION UNDER THIS SECTION.~~

~~(2) THE DEPARTMENT MAY INCLUDE REGULATIONS REGARDING:~~

~~(I) DEFINING AFFECTED AREAS;~~

~~(II) CALCULATING DEFICIENCIES OF WATER, SEWER, STORM DRAINAGE, OR TRANSPORTATION SERVICES;~~

~~(III) SERVICE DEFICIENCY LEVELS REQUIRED TO QUALIFY FOR AN EXTENSION;~~

~~(IV) THE COMPONENTS AND TIMING OF A REMEDIATION PLAN NECESSARY TO QUALIFY FOR AN EXTENSION;~~

~~(V) STANDARDS FOR EVALUATING APPLICATIONS; AND~~

~~(VI) ESTABLISHING DEADLINES AND COMPONENTS FOR APPROVING A PLAN OF ACTION.~~

~~10-103.~~

~~(b) The following provisions of this division apply to Baltimore City:~~

~~(19) Title 7, Subtitle 4 (Inclusionary Zoning); [and]~~

~~(20) TITLE 7, SUBTITLE 5 (MODEST HOME CHOICES); AND~~

~~[(20)] (21) Title 11, Subtitle 2 (Civil Penalty).~~

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 ~~October 1, 2020~~ June 1, 2020, the effective date of Chapters 713 and 714 of the Acts of the
3 General Assembly of 2019. If the effective date of Chapters 713 and 714 is amended, this
4 Act shall take effect on the taking effect of Chapters 713 and 714.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.