

HOUSE BILL 1406

L6

0lr1696

By: **Delegate Stewart**

Introduced and read first time: February 7, 2020

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Land Use – Development – Middle Housing**
3 **(Modest Home Choices Act of 2020)**

4 FOR the purpose of requiring local governments to allow the development of certain units
5 in certain qualifying zones, with certain exceptions; authorizing local governments
6 to establish and implement certain regulations; requiring the Department of
7 Housing and Community Development to develop a model middle housing ordinance
8 by a certain date; prohibiting local governments from preventing the authorization
9 of certain housing by imposing certain regulations; prohibiting the development of
10 certain houses that will cause a net loss of naturally occurring affordable housing;
11 authorizing the Department to grant local governments certain extensions of time to
12 adopt certain regulations or amend certain plans under certain circumstances;
13 requiring the Department to grant or deny a request for an extension within a certain
14 time period after receipt; requiring the Department to adopt rules regarding the form
15 and substance of a local government's application for a certain extension; defining
16 certain terms; and generally relating to land use and development of housing units.

17 BY repealing and reenacting, with amendments,
18 Article – Land Use
19 Section 1–401(b)(20) through (25) and 10–103(b)(19) and (20)
20 Annotated Code of Maryland
21 (2012 Volume and 2019 Supplement)

22 BY adding to
23 Article – Land Use
24 Section 1–401(b)(20); 7–501 through 7–504 to be under the new subtitle “Subtitle 5.
25 Modest Homes Choices”; and 10–103(b)(20)
26 Annotated Code of Maryland
27 (2012 Volume and 2019 Supplement)

28 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



That the Laws of Maryland read as follows:

Article – Land Use

1–401.

(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

1 UNDER THIS SECTION, A LOCAL GOVERNMENT SHALL CONSIDER WAYS TO INCREASE
2 THE AFFORDABILITY OF MIDDLE HOUSING.

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

6 7-503.

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

10 7-504.

11 (A) THE DEPARTMENT MAY GRANT A LOCAL GOVERNMENT THAT IS
12 SUBJECT TO THIS SUBTITLE AN EXTENSION OF THE TIME ALLOWED UNDER §
13 7-502(E) OF THIS SUBTITLE TO ADOPT LAND USE REGULATIONS OR AMEND A
14 COMPREHENSIVE PLAN.

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

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

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

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

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

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

30 (F) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS REGARDING THE
31 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).

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2020.