Maryland REALTORS®

HB 538 - Housing Expansion and Affordability Act of 2024

Effective January 1, 2025

Definitions

For the first time, Maryland law now contains the following definitions:

- Middle Housing, which includes duplexes, triplexes, quadplexes, cottage clusters and townhomes.
- Cottage Clusters, which is a group of at least 4 detached units per acre that have less than a 900 sq. ft. footprint and arranged around a courtyard.

In addition, for the purposes of this bill:

- Affordable housing is a unit that is affordable to households making 60% of the area median income for a term of at least 40 years.
- Mixed-use is a residential use combined with recreational, dining, office, or retail uses, but not with industrial or hazardous uses.

Modular and Manufactured Housing

HB 538 sets out several requirements:

- Localities may not prohibit modular and manufactured housing on properties zoned for single-family residential use.
- The dwelling must be converted into real property under existing law.
- Modular and manufactured housing will be allowed on former U.S. military reservations of 80 acres or more.

Qualified Projects

HB 538 sets out three types of "qualified projects" where bonus density may be awarded in exchange for a percentage of the units being dedicated as affordable housing:

- Government Properties: formerly owned by the state or a former U.S. military reservation of 80+ acres.
- Transit-Oriented: within 0.75 of an existing or planned passenger rail station.
- Non-Profit: property and improvements are wholly owned and controlled by a tax-exempt organization in existence for at least 3 years.

Government-Owned Properties:

- Must contain 25% affordable housing units.
- If zoned for single-family, middle housing units must be allowed.
- If zoned for multi-family, may exceed the underlying density maximum by 30% and mixed-use is allowed.
- If zoned for non-residential or former military use, the density may not exceed the highest multi-family density in the jurisdiction and mixed use is allowed.
- If zoned for mixed-use, the density may not exceed the highest residential density in the jurisdiction or six units per acre, whichever is greater.

Transit-Oriented Properties:

- If the locality does not have existing requirements, must contain 15% affordable units.
- If the locality has existing requirements that meet or exceed this section, must contain 20% affordable units.
- If zoned for single-family, middle housing units must be allowed.
- If zoned for multi-family, may exceed the underlying density maximum by 30% and mixed-use is allowed.
- If zoned for non-residential use, the density may not exceed the highest multi-family density in the jurisdiction.
- If zoned for mixed-use, the density may include 30% more than what a non-qualified project would receive in that same zone.
- Exemptions: properties owned by higher education institutions; properties zoned single-family on January 1, 2024; and parcels where only part is within 0.75 miles of transit.

Non-Profit Owned Properties:

- Must contain 25% affordable housing units.
- If zoned for single-family, middle housing units must be allowed.
- If zoned for multi-family, may exceed the underlying density maximum by 30% and mixed-use is allowed.
- If zoned for non-residential use, the density may not exceed the highest multi-family density in the jurisdiction.
- If zoned for non-residential use, the density may not exceed the highest multi-family density in the jurisdiction.

Other Considerations:

- Applies to both new construction and substantial renovation of existing properties.
- Developments may not receive bonus density from more than one of the above "qualified project" categories.
- Local governments may not impose unreasonable limitations on qualified projects regarding height, setbacks, or other lot characteristics that would constitute a de facto denial of the project or have severe adverse impacts on affordability or allowable density.
- Projects may not exceed the allowable density on agricultural or conservation lands.
- Non-residential projects must receive a public health assessment and approval from DHCD.
- Qualified projects may not be subject to more than:
    - 1 public hearing each for Historic Commissions or Boards of Appeals
    - 2 public hearings each for Planning Commissions or Governing Body

Historic Revitalization Director

HB 538 establishes a Historic Revitalization Director in the Department of Housing and Community Development, who will maintain an inventory of state historic properties and make recommendations for disposition or revitalization of those properties.