

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.



1 Annotated Code of Maryland
 2 (2012 Volume and 2019 Supplement)
 3 (As enacted by Chapters 713 and 714 of the Acts of the General Assembly of 2019)

4 ~~BY adding to~~
 5 ~~Article – Land Use~~
 6 ~~Section 1–401(b)(20); 7–501 through 7–504 to be under the new subtitle “Subtitle 5–~~
 7 ~~Modest Homes Choices”; and 10–103(b)(20)~~
 8 ~~Annotated Code of Maryland~~
 9 ~~(2012 Volume and 2019 Supplement)~~

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

12 **Article – Land Use**

13 3–114.

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

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

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

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

22 (5) **“MIDDLE HOUSING” MEANS:**

23 (I) **DUPLEXES;**

24 (II) **TRIPLEXES;**

25 (III) **QUADPLEXES;**

26 (IV) **COTTAGE CLUSTERS; AND**

27 (V) **TOWN HOUSES.**

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

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

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

3 **[(4)] (7) “Workforce housing” has the meaning stated in § 4–1801 of the**
 4 **Housing and Community Development Article.**

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

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

9 (1) workforce housing; [and]

10 (2) low-income housing; AND

11 **(3) MIDDLE HOUSING.**

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

16 ~~§ 401.~~

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

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

19 ~~**[(20)] (21) § 8-401 (Conversion of overhead facilities);**~~

20 ~~**[(21)] (22) for Baltimore County only, Title 9, Subtitle 3 (Single County**~~
 21 ~~**Provisions Baltimore County);**~~

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

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

26 ~~**[(24)] (25) for Talbot County only, Title 9, Subtitle 18 (Single County**~~
 27 ~~**Provisions Talbot County); and**~~

28 ~~**[(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.~~

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

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

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

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

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

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

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

13 ~~7-502.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

15 ~~7-503.~~

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

19 ~~7-504.~~

20 ~~(A) THE DEPARTMENT MAY GRANT A LOCAL GOVERNMENT THAT IS~~
21 ~~SUBJECT TO THIS SUBTITLE AN EXTENSION OF THE TIME ALLOWED UNDER §~~
22 ~~7-502(E) OF THIS SUBTITLE TO ADOPT LAND USE REGULATIONS OR AMEND A~~
23 ~~COMPREHENSIVE PLAN.~~

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

27 ~~(1) THAT ARE EITHER SIGNIFICANTLY DEFICIENT OR ARE EXPECTED~~
28 ~~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.