

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 891 (Senator M. Washington)
Education, Energy, and the Environment

Land Use and Real Property - Accessory Dwelling Units - Requirements and Prohibitions

This bill establishes a State policy to promote and encourage the creation of accessory dwelling units (ADUs) on land zoned for single-family residential use to meet housing needs. The bill also (1) requires adoption of local laws authorizing ADUs on land zoned for single-family residential use; (2) establishes requirements/prohibitions relating to ADU approval, imposition of development impact fees and building excise taxes on ADUs, and water or sewer connections for ADUs; (3) prohibits a restriction on use of a property from unreasonably limiting the ability of an owner to develop an ADU; and (4) authorizes homeowners associations (HOAs) to treat an ADU as a separate lot for purposes of voting and assessments.

Fiscal Summary

State Effect: The bill is not expected to directly affect State finances.

Local Effect: Local government finances are expected to be affected, as discussed below.
This bill imposes a mandate on a unit of local government.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Policy of the State – and – Effect on Local Zoning Authority

The bill establishes that it is the policy of the State to promote and encourage the creation of ADUs on land zoned for single-family residential use in order to meet the housing needs of the citizens of Maryland.

The bill defines an ADU as a secondary dwelling unit on the same lot, parcel, or tract as a primary dwelling unit that is constructed (1) attached to or through the conversion of a portion of the primary dwelling unit; (2) attached to or through the full or partial conversion of an accessory structure located on the same lot, parcel, or tract as the primary dwelling unit; or (3) as a new building, detached from the primary dwelling unit and any existing accessory structures.

Except as provided in the bill, the bill does not alter or abrogate any zoning power or related authority granted to a local jurisdiction under Title 4 (“Zoning”) of the Land Use Article; however, local jurisdictions must establish policies that further the intent of the bill.

Adoption of Local Law Authorizing Accessory Dwelling Units

The bill requires each legislative body of a local jurisdiction (county or municipality) to adopt – by October 1, 2026 – a local law authorizing the development of ADUs on land zoned for single-family residential use in accordance with the bill.

The bill establishes various requirements and restrictions applicable to a local law adopted under the bill:

- ***Ownership, and Safety Restrictions*** – The law must apply to all land zoned for single-family residential use provided (1) the party developing the ADU owns and has the exclusive right to use the lot, parcel, or tract, and (2) development of new dwelling units on the lot, parcel, or tract is not prohibited due to safe drinking water limitations, due to public health risks associated with sewage disposal limitations, or due to fire, flood, or landslide risks.
- ***Development/Approval Requirements*** – The law must (1) require that the square footage of the ADU be less than the square footage of the primary dwelling unit; (2) require that building code requirements be met; (3) authorize construction of an ADU before or during construction of the primary dwelling unit, except in specified circumstances; (4) exclude the development of an ADU from the calculation of density and application of any residential growth limitation measures; and (5) set

specified conditions for approval of a zoning use permit for an ADU that address objective and measurable requirements.

- ***Restrictions on Law's Provisions*** – The law may not (1) require that the ADU exceed the minimum size for a primary dwelling unit in the zone or district; (2) establish setback requirements for an ADU converted from an existing accessory structure that remains within the dimensions of the structure or that exceed four feet from the side and rear lot lines; (3) require creation of new off-street parking for an ADU within a 0.75-mile radius of a mass transit facility or more than one off-street parking space for an ADU outside of a 0.75-mile radius of a mass transit facility (however, the law may establish other specified off-street parking requirements, provided a parking study is completed and a waiver process is established); or (4) set approval conditions based on subjective criteria.

Accessory Dwelling Unit Approval

A local jurisdiction must approve or deny an application for a zoning use permit for an ADU within 90 days, in a ministerial manner, subject to any delay requested by an applicant.

Development Impact Fees or Building Excise Taxes

The bill prohibits a local jurisdiction from charging a development impact fee or building excise tax on an ADU of less than 750 square feet and a development impact fee or building excise tax charged for development of an ADU of at least 750 square feet must be assessed proportionately in relation to the square footage of the primary dwelling unit and may not create a *de facto* prohibition on the construction of the ADU. A local jurisdiction may establish a process for a development impact fee or building excise tax to be waived or reduced for ADUs.

Water or Sewer Connection

Except for ADUs developed in conjunction with a primary dwelling unit, a utility may not require use of a separate connection between an ADU and the water or sewer main if the existing connection between the primary dwelling unit and the water or sewer main is sufficient to support the addition of the ADU. If an ADU is integrated into the existing connection, a utility may not charge a connection fee associated with the integration.

Restrictions on Use

Except for historic property listed in or eligible for the Maryland Register of Historic Properties, the bill establishes that if a property owner has the exclusive right to use the property and abides by all applicable laws and regulations, a restriction on use (*e.g.*, a

covenant, restriction, or condition in a deed, a contract, a security instrument, or HOA bylaws or rules) regarding land use may not impose or act to impose an unreasonable limitation on the ability of the property owner to develop an ADU on a property zoned for single-family residential use.

An unreasonable limitation includes a limitation that (1) significantly increases the cost of developing an ADU or (2) prohibits, either explicitly or by effect of the restrictions, the development of an ADU.

Homeowners Association Voting and Assessments

The bill authorizes the governing body of an HOA to treat an ADU as a separate lot for purposes of voting on HOA matters and levying assessments.

Current Law: There are no statewide requirements governing ADUs. State law specifies that it is the policy of the State that (1) the orderly development and use of land and structures requires comprehensive regulation through implementation of planning and zoning controls and (2) planning and zoning controls must be implemented by local government. State law includes various provisions authorizing local governments to regulate the location, size, and use of structures through zoning regulations.

Chapters 798 and 799 of 2023 established an Accessory Dwelling Unit Policy Task Force staffed by the Maryland Department of Planning (MDP) that was required to [report](#) its findings and recommendations by June 1, 2024.

Local Fiscal Effect: Local government expenditures and revenues may be affected by the bill, as a result of (1) local jurisdictions' development and adoption of local laws, pursuant to the bill, including any costs of a parking study (required under the bill if parking requirements are established); (2) any increased expenditures and fee revenues associated with review and approval of ADU development that does not occur in the absence of the bill; and (3) the bill's limitations on the extent to which development impact fees, building excise taxes, and water or sewer connections fees can be charged by local jurisdictions for ADUs, to the extent the bill reduces revenue from those fees/taxes that is otherwise generated from ADU development in the absence of the bill (the Accessory Dwelling Unit Policy Task Force's report noted, in discussing whether the amount of impact fees imposed on ADUs should be limited, that while ADUs may generate some additional burden on municipal/county services, the burden is not equivalent to that of a principal dwelling unit).

The net direct impact of the bill on local government finances, however, cannot be reliably estimated, and local jurisdictions indirectly benefit from increased housing for jurisdiction residents resulting from ADU development.

MDP notes that, as part of the Accessory Dwelling Unit Policy Task Force’s work, the department conducted an inventory of ADU ordinances, and of the 155 counties and municipalities inventoried, 81 jurisdictions (52%) had some form of ADU provisions in their zoning regulations.

Small Business Effect: Small businesses engaged in construction, and small business owners of single-family residential properties, may meaningfully benefit from increased development of ADUs resulting from the bill.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See SB 871 and HB 1259 of 2022.

Designated Cross File: HB 1466 (Delegate Stewart) - Environment and Transportation.

Information Source(s): Maryland Association of County Health Officers; Kent, Montgomery, Washington, and Worcester counties; Maryland Association of Counties; Washington Suburban Sanitary Commission; City of Salisbury; City of Westminster; Maryland Municipal League; Town of Bel Air; Office of the Attorney General (Consumer Protection Division); Secretary of State; Judiciary (Administrative Office of the Courts); Maryland Department of the Environment; Maryland Department of Planning; Department of Legislative Services

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