

# HOUSE BILL 778

L6, C9

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By: **Delegates Allen, Behler, and Stewart**

Introduced and read first time: February 4, 2026

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Land Use – Middle Housing Options – Requirements**

3 FOR the purpose of establishing that certain local jurisdictions have an affirmative duty to  
4 create opportunities for housing by evaluating the suitability of certain commercial  
5 or industrial land for housing use; altering the requirements for the housing element  
6 of a certain comprehensive plan; requiring local jurisdictions to establish certain  
7 policies and adopt certain local laws to promote and encourage building middle  
8 housing units on certain land; prohibiting local jurisdictions from imposing certain  
9 unreasonable limitations affecting middle housing applications; and generally  
10 relating to residential development and middle housing.

11 BY repealing and reenacting, with amendments,  
12 Article – Land Use  
13 Section 1–401, 1–407.1, 3–114, and 10–103  
14 Annotated Code of Maryland  
15 (2012 Volume and 2025 Supplement)

16 BY adding to  
17 Article – Land Use  
18 Section 4–601 through 4–604 to be under the new subtitle “Subtitle 6. Middle  
19 Housing”  
20 Annotated Code of Maryland  
21 (2012 Volume and 2025 Supplement)

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

24 **Article – Land Use**

25 1–401.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(a) Except as provided in this section, this division does not apply to charter counties.

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

(1) this subtitle, including Parts II and III (Charter county – Comprehensive plans);

(2) § 1–101(l), (m), and (o) (Definitions – “Plan”, “Priority funding area”, and “Sensitive area”);

(3) § 1–201 (Visions);

(4) § 1–206 (Required education);

(5) § 1–207 (Annual report – In general);

(6) § 1–208 (Annual report – Measures and indicators);

(7) Title 1, Subtitle 3 (Consistency);

(8) Title 1, Subtitle 5 (Growth Tiers);

(9) § 4–104(c) (Limitations – Bicycle parking);

(10) § 4–104(d) (Limitations – Manufactured homes and modular dwellings);

(11) § 4–208 (Exceptions – Maryland Accessibility Code);

(12) § 4–210 (Permits and variances – Solar panels);

(13) § 4–211 (Change in zoning classification – Energy generating systems);

(14) § 4–212 (Agritourism);

(15) § 4–213 (Alcohol production);

(16) § 4–214 (Agricultural alcohol production);

(17) § 4–215 (Pollinator–friendly vegetation management);

(18) § 4–216 (Limitations – Family child care homes and large family child care homes);

(19) Title 4, Subtitle 5 (Accessory Dwelling Units);

(20) **TITLE 4, SUBTITLE 6 (MIDDLE HOUSING);**

(21) § 5–102(d) (Subdivision regulations – Burial sites);

[(21)] (22) § 5–104 (Major subdivision – Review);

[(22)] (23) Title 7, Subtitle 1 (Development Mechanisms);

[(23)] (24) Title 7, Subtitle 2 (Transfer of Development Rights);

[(24)] (25) except in Montgomery County or Prince George’s County, Title 7, Subtitle 3 (Development Rights and Responsibilities Agreements);

[(25)] (26) Title 7, Subtitle 4 (Inclusionary Zoning);

[(26)] (27) Title 7, Subtitle 5 (Housing Expansion and Affordability);

[(27)] (28) § 8–401 (Conversion of overhead facilities);

[(28)] (29) for Baltimore County only, Title 9, Subtitle 3 (Single–County Provisions – Baltimore County);

[(29)] (30) for Frederick County only, Title 9, Subtitle 10 (Single–County Provisions – Frederick County);

[(30)] (31) for Howard County only, Title 9, Subtitle 13 (Single–County Provisions – Howard County);

[(31)] (32) for Talbot County only, Title 9, Subtitle 18 (Single–County Provisions – Talbot County); and

[(32)] (33) Title 11, Subtitle 2 (Civil Penalty).

(c) This section supersedes any inconsistent provision of Division II of this article. 1–407.1.

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

(2) “Affirmatively further fair housing” has the meaning stated in § 2–401 of the Housing and Community Development Article.

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

(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) “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 county, including:

(1) workforce housing; and

(2) low-income housing.

(d) (1) A county has a duty to affirmatively further fair housing through the county’s housing and urban development programs.

(2) The housing element of a comprehensive plan that is enacted or amended on or after January 1, 2025, shall include an assessment of fair housing to ensure that the county is affirmatively furthering fair housing.

(3) On request of a county, the Department of Planning, in consultation with the Department of Housing and Community Development, shall provide technical assistance for the purpose of developing the housing element of the comprehensive plan.

(4) This subsection does not require a county to take, or prohibit a county from taking, a specific action to affirmatively further fair housing.

**(E) (1) A COUNTY HAS AN AFFIRMATIVE DUTY TO CREATE OPPORTUNITIES FOR HOUSING BY EVALUATING THE SUITABILITY OF VACANT, UNUSED, OR UNDERUTILIZED COMMERCIAL OR INDUSTRIAL LAND FOR HOUSING USE.**

**(2) THE HOUSING ELEMENT OF A COMPREHENSIVE PLAN THAT IS ENACTED OR AMENDED ON OR AFTER JANUARY 1, 2027, SHALL INCLUDE:**

**(I) AN ASSESSMENT OF THE SUITABILITY OF ALL VACANT, UNUSED, OR UNDERUTILIZED COMMERCIAL OR INDUSTRIAL LAND FOR HOUSING USE TO CREATE OPPORTUNITIES FOR MORE HOUSING IN AREAS SERVED BY EXISTING PUBLIC WATER AND SEWER SYSTEMS; AND**

**(II) RECOMMENDATIONS TO ALTER LOCAL LAWS AS NECESSARY TO AUTHORIZE HOUSING USE ON VACANT, UNUSED, OR UNDERUTILIZED COMMERCIAL OR INDUSTRIAL LAND THAT IS SUITABLE FOR HOUSING USE.**

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

(2) “Affirmatively further fair housing” has the meaning stated in § 2–401 of the Housing and Community Development Article.

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

(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) “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.

(d) (1) Local jurisdictions have a duty to affirmatively further fair housing through their housing and urban development programs.

(2) The housing element of a comprehensive plan that is enacted or amended on or after January 1, 2023, shall include an assessment of fair housing to ensure that the local jurisdiction is affirmatively furthering fair housing.

(3) On request of a local jurisdiction, the Department of Planning, in consultation with the Department of Housing and Community Development, shall provide technical assistance for the purpose of developing the housing element of the comprehensive plan.

(4) This subsection does not require a local jurisdiction to take, or prohibit a local jurisdiction from taking, a specific action to affirmatively further fair housing.

**(E) (1) LOCAL JURISDICTIONS HAVE AN AFFIRMATIVE DUTY TO CREATE OPPORTUNITIES FOR HOUSING BY EVALUATING THE SUITABILITY OF VACANT, UNUSED, OR UNDERUTILIZED COMMERCIAL OR INDUSTRIAL LAND FOR HOUSING USE.**

**(2) THE HOUSING ELEMENT OF A COMPREHENSIVE PLAN THAT IS ENACTED OR AMENDED ON OR AFTER JANUARY 1, 2027, SHALL INCLUDE:**

**(I) AN ASSESSMENT OF THE SUITABILITY OF ALL VACANT, UNUSED, OR UNDERUTILIZED COMMERCIAL OR INDUSTRIAL LAND FOR HOUSING USE TO CREATE OPPORTUNITIES FOR MORE HOUSING IN AREAS SERVED BY EXISTING PUBLIC WATER AND SEWER SYSTEMS; AND**

**(II) RECOMMENDATIONS TO ALTER LOCAL LAWS AS NECESSARY TO AUTHORIZE HOUSING USE ON VACANT, UNUSED, OR UNDERUTILIZED COMMERCIAL OR INDUSTRIAL LAND THAT IS SUITABLE FOR HOUSING USE.**

**SUBTITLE 6. MIDDLE HOUSING.**

**4-601.**

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

**(B) “COTTAGE CLUSTER” MEANS A GROUPING, INCLUDING A COMMON COURTYARD, OF AT LEAST FOUR DETACHED DWELLING UNITS PER ACRE THAT HAVE A FOOTPRINT OF LESS THAN 900 SQUARE FEET.**

**(C) “DWELLING UNIT” MEANS A SINGLE UNIT PROVIDING COMPLETE, INDEPENDENT LIVING FACILITIES FOR AT LEAST ONE INDIVIDUAL THAT INCLUDES PERMANENT PROVISIONS FOR SANITATION, COOKING, EATING, AND SLEEPING.**

**(D) “MIDDLE HOUSING” MEANS:**

**(1) A DUPLEX;**

**(2) A TRIPLEX;**

**(3) A QUADPLEX;**

**(4) A COTTAGE CLUSTER; OR**

**(5) A TOWN HOUSE.**

**(E) “TOWN HOUSE” MEANS A DWELLING UNIT THAT IS PART OF A GROUPING OF AT LEAST THREE DWELLING UNITS CONSTRUCTED IN A ROW, WHERE EACH DWELLING UNIT:**

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

2           (2)    HAS AT LEAST ONE COMMON WALL WITH AN ADJACENT DWELLING  
3 UNIT.

4           (F)   (1)    “UNREASONABLE LIMITATION” INCLUDES A LIMITATION THAT  
5 PROHIBITS, EXPLICITLY OR BY EFFECT, THE DEVELOPMENT OF MIDDLE HOUSING.

6           (2)    “UNREASONABLE LIMITATION” DOES NOT INCLUDE A LIMITATION  
7 ON THE SHORT-TERM RENTAL OF A MIDDLE HOUSING UNIT.

8           (G)    “ZONING ADMINISTRATOR” MEANS A LOCAL GOVERNMENTAL UNIT  
9 THAT IS RESPONSIBLE FOR REVIEWING DEVELOPMENT PLANS AND PERMIT  
10 APPLICATIONS FOR CONSISTENCY WITH LOCAL ZONING ORDINANCES.

11   4-602.

12           THIS SUBTITLE APPLIES ONLY TO THE DEVELOPMENT OF MIDDLE HOUSING  
13 ON LAND ZONED FOR SINGLE-FAMILY RESIDENTIAL USE.

14   4-603.

15           (A)    IT IS THE POLICY OF THE STATE TO PROMOTE AND ENCOURAGE  
16 BUILDING MIDDLE HOUSING UNITS ON LAND ZONED FOR SINGLE-FAMILY  
17 RESIDENTIAL USE TO MEET THE HOUSING NEEDS OF THE STATE.

18           (B)   (1)    EXCEPT AS PROVIDED IN THIS SUBTITLE AND SUBJECT TO  
19 PARAGRAPH (2) OF THIS SUBSECTION, THIS SUBTITLE DOES NOT ALTER OR  
20 ABROGATE ANY ZONING POWER OR RELATED AUTHORITY GRANTED TO A LOCAL  
21 JURISDICTION UNDER THIS TITLE.

22           (2)    LOCAL JURISDICTIONS SHALL ESTABLISH POLICIES THAT  
23 FURTHER THE INTENT OF THIS SUBTITLE.

24   4-604.

25           (A)    THIS SECTION DOES NOT APPLY TO A RESTRICTION ON USE ON HISTORIC  
26 PROPERTY THAT IS LISTED IN OR DETERMINED BY THE DIRECTOR OF THE  
27 MARYLAND HISTORICAL TRUST TO BE ELIGIBLE FOR INCLUSION IN THE MARYLAND  
28 REGISTER OF HISTORIC PROPERTIES.

(B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, EACH LOCAL JURISDICTION WITH LOCAL ZONING AUTHORITY SHALL BY LOCAL LAW ALLOW, BY RIGHT, MIDDLE HOUSING ON:

(1) ANY INDIVIDUAL LOT, EXISTING BEFORE JANUARY 1, 2015, THAT:

(I) IS LOCATED IN A ZONING DISTRICT THAT ALLOWS CONSTRUCTION OF SINGLE-FAMILY DETACHED DWELLING UNITS; AND

(II) IS VACANT; AND

(2) AT LEAST 25% OF THE LOTS IN ANY NEW RESIDENTIAL SUBDIVISION WITH AT LEAST 20 LOTS FOR SINGLE-FAMILY DWELLING UNITS.

(C) (1) A LOCAL LAW ADOPTED UNDER THIS SECTION SHALL:

(I) REQUIRE FRONT, SIDE, AND REAR SETBACKS THAT ARE NOT GREATER THAN THE SETBACKS REQUIRED FOR A SINGLE-FAMILY DETACHED DWELLING UNIT IN THE SAME ZONING DISTRICT;

(II) EXEMPT MIDDLE HOUSING FROM MINIMUM LOT SIZE REQUIREMENTS;

(III) LIMIT MIDDLE HOUSING TO LOCATIONS SERVED BY PUBLIC WATER AND SEWER SYSTEMS;

(IV) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, IF THE ZONING ADMINISTRATOR DETERMINES THAT ADEQUATE ON-STREET PARKING EXISTS FOR THE PROPOSED MIDDLE HOUSING UNITS, REQUIRE NOT MORE THAN ONE OFF-STREET PARKING SPACE FOR EACH MIDDLE HOUSING UNIT;

(V) PROVIDE THAT A MIDDLE HOUSING ZONING OR BUILDING APPLICATION IS SUBJECT TO THE SAME REVIEW AND APPROVAL PROCEDURES REQUIRED FOR A COMPARABLE SINGLE-FAMILY DETACHED RESIDENTIAL USE APPLICATION; AND

(VI) REQUIRE THAT MIDDLE HOUSING MEET PUBLIC HEALTH, SAFETY, AND WELFARE STANDARDS, INCLUDING RELEVANT BUILDING CODES.

(2) A LOCAL LAW ADOPTED UNDER THIS SECTION MAY REQUIRE MIDDLE HOUSING TO MEET RELEVANT ADEQUATE PUBLIC FACILITIES REQUIREMENTS.



1           **(3) A LOCAL JURISDICTION MAY NOT IMPOSE UNREASONABLE**  
2 **LIMITATIONS AFFECTING MIDDLE HOUSING APPLICATIONS CONCERNING:**

3                   **(I) HEIGHT;**

4                   **(II) SETBACKS;**

5                   **(III) BULK;**

6                   **(IV) PARKING;**

7                   **(V) DIMENSIONS OR AREA; OR**

8                   **(VI) SIMILAR REQUIREMENTS.**

9           **(4) IF THE GUIDELINES WILL NOT IMPOSE AN UNREASONABLE**  
10 **LIMITATION THAT EFFECTIVELY PROHIBITS MIDDLE HOUSING, A LOCAL**  
11 **JURISDICTION MAY ESTABLISH GUIDELINES THAT ARE APPROPRIATE FOR LOCAL**  
12 **CONDITIONS TO ASSIST THE ZONING ADMINISTRATOR IN DETERMINING THE**  
13 **ADEQUACY OF ON-STREET PARKING.**

14 10–103.

15           (a) Except as provided in this section, this division does not apply to Baltimore  
16 City.

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

18                   (1) this title;

19                   (2) § 1–101(m) (Definitions – “Priority funding area”);

20                   (3) § 1–101(o) (Definitions – “Sensitive area”);

21                   (4) § 1–201 (Visions);

22                   (5) § 1–206 (Required education);

23                   (6) § 1–207 (Annual report – In general);

24                   (7) § 1–208 (Annual report – Measures and indicators);

25                   (8) Title 1, Subtitle 3 (Consistency);

(9) Title 1, Subtitle 4, Parts II and III (Home Rule Counties – Comprehensive Plans; Implementation);

(10) § 4–104(c) (Limitations – Bicycle parking);

(11) § 4–104(d) (Limitations – Manufactured homes and modular dwellings);

(12) § 4–205 (Administrative adjustments);

(13) § 4–208 (Exceptions – Maryland Accessibility Code);

(14) § 4–210 (Permits and variances – Solar panels);

(15) § 4–211 (Change in zoning classification – Energy generating systems);

(16) § 4–215 (Pollinator–friendly vegetation management);

(17) § 4–216 (Limitations – Family child care homes and large family child care homes);

(18) Title 4, Subtitle 5 (Accessory Dwelling Units);

(19) **TITLE 4, SUBTITLE 6 (MIDDLE HOUSING);**

**(20)** § 5–102(d) (Subdivision regulations – Burial sites);

**[(20)] (21)** Title 7, Subtitle 1 (Development Mechanisms);

**[(21)] (22)** Title 7, Subtitle 2 (Transfer of Development Rights);

**[(22)] (23)** Title 7, Subtitle 3 (Development Rights and Responsibilities Agreements);

**[(23)] (24)** Title 7, Subtitle 4 (Inclusionary Zoning);

**[(24)] (25)** Title 7, Subtitle 5 (Housing Expansion and Affordability); and

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

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2027.