

Department of Legislative Services  
Maryland General Assembly  
2026 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 778  
Economic Matters

(Delegate Allen, *et al.*)

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Land Use - Middle Housing Options - Requirements

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The bill establishes (1) a State policy to promote and encourage building middle housing units on land zoned for single-family residential use, to meet housing needs; (2) an affirmative duty for a county (including Baltimore City) to create opportunities for housing by evaluating the suitability of vacant, unused, or underutilized commercial or industrial land for housing use; and (3) that counties must include an assessment of the suitability of such land for housing use in the housing element of a comprehensive plan enacted or amended on or after January 1, 2027. The bill requires adoption of specified local laws authorizing middle housing, by right, on specified land zoned for single-family residential use. The bill also prohibits specified unreasonable limitations affecting middle housing applications. **The bill takes effect January 1, 2027.**

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Fiscal Summary

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

**Local Effect:** Local government finances may be affected, as discussed below. **This bill may impose a mandate on a unit of local government.**

**Small Business Effect:** Potential meaningful.

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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 building middle housing units on land zoned for single-family residential use to meet the housing needs of the State.

The bill defines “middle housing” as a duplex, a triplex, a quadplex, a cottage cluster, or a town house. “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) is located on an individual lot or parcel and (2) has at least one common wall with an adjacent dwelling unit.

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.

### *Applicability*

The bill’s Title 4, Subtitle 6 (“Middle Housing”) applies statewide and only to the development of middle housing on land zoned for single-family residential use.

### *Adoption of Local Law Authorizing Middle Housing*

Except for historic property listed in or eligible for the Maryland Register of Historic Properties, the bill requires that each local jurisdiction (county or municipality) with local zoning authority, by local law, authorize, by right, middle housing on (1) any individual lot, existing before January 1, 2015, that is located in a zoning district that allows construction of single-family detached dwelling units, and 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.

A local law adopted under the bill must:

- 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;
- exempt middle housing from minimum lot size requirements;
- limit middle housing to locations served by public water and sewer systems;
- require not more than one off-street parking space for each middle housing unit, if the zoning administrator determines that adequate on-street parking exists for the proposed middle housing units (this determination may be assisted by guidelines that are appropriate for local conditions to assist the zoning administrator in determining the adequacy of on-street parking, provided the guidelines will not impose an unreasonable limitation that effectively prohibits middle housing);
- 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
- require that middle housing meet public health, safety, and welfare standards, including relevant building codes.

A local jurisdiction may not impose unreasonable limitations affecting middle housing applications concerning height, setbacks, bulk, parking, dimensions or area, or similar requirements.

“Unreasonable limitation” includes a limitation that prohibits, explicitly or by effect, the development of middle housing, and does not include a limitation on the short-term rental of a middle housing unit.

A local law adopted under the bill may require middle housing to meet relevant adequate public facilities requirements.

### *Housing on Vacant, Unused, and Underutilized Commercial or Industrial Land*

#### *Affirmative Duty*

The bill establishes an affirmative duty for a county (including Baltimore City) to create opportunities for housing by evaluating the suitability of vacant, unused, or underutilized commercial or industrial land for housing use.

#### *Comprehensive Plans – Housing Element*

The housing element of a county’s (including Baltimore City) comprehensive plan that is enacted or amended on or after January 1, 2027, must include:

- 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
- 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.

### **Current Law:**

#### *Land Use – Generally*

The regulation of land use in the State, through planning and zoning, is implemented by local governments, subject to applicable State law. Planning and zoning authority is delegated by the State to local governments primarily under the Land Use Article and, for certain counties, the Express Powers Act (Title 10 of the Local Government Article). Both the Land Use Article and Express Powers Act contain the State’s policy statement 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.

### *Housing Expansion and Affordability Act of 2024*

Chapter 122 of 2024 (the Housing Expansion and Affordability Act of 2024), among other things, requires local jurisdictions to allow specified densities and uses in certain zoning areas for “qualified projects” (residential construction or renovation projects that include specified amounts of affordable housing) on specified property. When a qualified project is in an area zoned for single-family residential use, a qualified project may include middle housing units (duplexes, triplexes, quadplexes, cottage clusters, or town houses).

### *Prohibition on Unreasonable Limitations*

Chapter 122 also prohibits a local jurisdiction from imposing any unreasonable limitations or requirements on a qualified project, including limitations on or requirements concerning (1) height; (2) setback; (3) bulk; (4) parking; (5) loading, dimensional, or area; or (6) similar requirements. “Unreasonable limitation or requirement” includes any limitation or requirement that amounts to a de facto denial by having a substantial adverse impact on (1) the viability of an affordable housing development in a qualified project; (2) the degree of affordability of affordable dwelling units in a qualified project; or (3) the allowable density or number of units of the qualified project.

Chapters 197 and 198 of 2025 (Accessory Dwelling Units) establish, under the Real Property Article, that – except for historic property listed in or eligible for the Maryland Register of Historic Properties – 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 homeowners association’s 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 or offer for rent an accessory dwelling unit (ADU). An unreasonable limitation (1) includes a limitation that prohibits, either explicitly or by effect of the restrictions, the development of an ADU and (2) does not include a limitation on the short-term rental of an ADU.

### *Comprehensive Plans – Housing Element and Housing Planning Principle*

Local jurisdictions must enact, adopt, amend, and execute a comprehensive plan; the plan must include provisions and elements specified in statute. At least once every 10 years, each planning commission must review the comprehensive plan and, if necessary, revise or amend the plan to include all required elements and planning principles.

The comprehensive plan must include a housing “element” and implement a housing “planning principle”:

- *Housing Element* – The housing element may include goals, objectives, policies, plans, and standards, and must address the need for affordable housing within the local jurisdiction, including workforce housing and low-income housing.
- *Housing Planning Principle* – Enable a mix of quality housing types and affordability options to accommodate all who want to live in the State.

Chapters 713 and 714 of 2019 require that comprehensive plans include a housing element that addresses the need for affordable housing within the jurisdiction, including specified workforce housing and low-income housing. Chapters 751 and 752 of 2021 (commission counties and municipalities) and Chapters 89 and 90 of 2024 (charter counties, including Baltimore City, and certain code counties) established that (1) local jurisdictions have a duty to affirmatively further fair housing through their housing and urban development programs and (2) the housing element of a comprehensive plan must include an assessment of fair housing to ensure that the local jurisdiction is affirmatively furthering fair housing.

#### *Development Mechanisms*

Section 7-101 of the Land Use Article authorizes and encourages a local jurisdiction – in order to encourage the preservation of natural resources or the provision of affordable housing and to facilitate orderly development and growth – to enact local laws providing for or requiring (1) the planning, staging, or provision of adequate public facilities and affordable housing; (2) off-site improvements or the dedication of land for public facilities essential for a development; (3) moderately priced dwelling unit programs; (4) mixed use developments; (5) cluster developments; (6) planned unit developments; (7) alternative subdivision requirements that meet minimum performance standards set by the local jurisdiction and reduce infrastructure costs; (8) floating zones; (9) incentive zoning; and (10) performance zoning.

#### *Inclusionary Zoning*

Title 7, Subtitle 4 (Inclusionary Zoning) of the Land Use Article, authorizes a legislative body of a local jurisdiction – in order to promote the creation of housing that is affordable by individuals and families with low or moderate incomes – to enact local laws (1) imposing inclusionary zoning, and awarding density bonuses, to create affordable housing units and (2) restricting the use, cost, and resale of the housing created.

## **Local Fiscal Effect:**

### *Local Implementation*

Based on information received from a small number of local jurisdictions, it appears the bill can be implemented, administratively, with existing resources in some jurisdictions, but some may require additional resources (*e.g.*, additional staff or contractual services) to implement the bill's requirements, including the assessment of the suitability of all vacant, unused, or underutilized commercial or industrial land for housing use under the housing element of a comprehensive plan.

### *Infrastructure*

Infrastructure spending by counties may increase or accelerate to the extent that middle housing laws enacted pursuant to the bill result in greater density of development, creating infrastructure demand that outpaces the capacity planned for by a local jurisdiction based on the jurisdiction's existing regulation of middle housing and single-family home development. The extent to which potential additional strain on infrastructure under the bill may result in increased/accelerated infrastructure spending, and the potential magnitude of that spending, cannot be reliably estimated and depends on the infrastructure capacity of an area in which a development is proposed, and the extent of increased development density resulting from the bill. In jurisdictions that collect development impact fees or excise taxes, the increased development density also generates development impact fee or excise tax revenues that can help fund additional infrastructure capacity.

**Small Business Effect:** Small businesses engaged in construction and small business developers may meaningfully benefit from an increased ability to develop middle housing under the bill.

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## **Additional Information**

**Recent Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** None.

**Information Source(s):** Baltimore City; Allegany, Frederick, Harford, Montgomery, Queen Anne's, and Wicomico counties; Maryland Association of Counties; Maryland-National Capital Park and Planning Commission; Maryland Municipal League; Maryland Department of the Environment; Department of Housing and Community Development; Maryland Department of Planning; Maryland Department of Transportation; Department of Legislative Services

**Fiscal Note History:** First Reader - February 26, 2026  
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