



# Montgomery County

## Office of Intergovernmental Relations

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**SB 891**

**DATE: February 25, 2025**

**SPONSOR: Senator Washington**

**ASSIGNED TO: Education, Energy, and the Environment**

**CONTACT PERSON: Leslie Frey**

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**POSITION: FAVORABLE WITH AMENDMENTS (Montgomery County Office of Intergovernmental Relations)**

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

Senate Bill 891 declares that it is the policy of the State to promote and encourage the creation of accessory dwelling units (ADUs) on land zoned for single-family residential use in order to meet the housing needs of the citizens of Maryland. To implement this policy, the bill requires local jurisdictions to adopt a local law authorizing the development of ADUs on land zoned for single-family residential use by October 1, 2026. The bill stipulates that a local law adopted under the bill shall contain requirements concerning size of the ADU, timing of construction, and conditions of approval of a zoning use permit, among others. The bill prohibits a local law from requiring: the ADU to exceed the minimum size required for a primary dwelling unit in the zone or district; establish setback requirements in certain circumstances; include the creation of off-street parking if the ADU is within .75 mile radius of a mass transit facility or if outside a .75 mile radius, the creation of more than one off-street parking space; or set conditions for approval of a zoning use permit for an ADU based on subjective criteria listed in the bill, including neighborhood compatibility. Senate Bill 891 permits a local law to consider factors regarding off-street parking requirements and stipulates that a local jurisdiction shall approve or deny an application for a zoning use permit for an ADU within 90 days. The bill allows for the charging of a development impact fee or building excise tax if the ADU has a square footage or more than 750 feet and prohibits the same if the square footage is less than 750 square feet. Finally, the bill addresses utility provisions and authorizes the governing body of a homeowners association to treat an ADU as a separate lot for the purposes of voting and levying assessments.

Recognizing the imperative need to create more housing within the State, the Montgomery County Office of Intergovernmental Relations respectfully requests amendments to Senate Bill 891 that address the following issues.

Currently, the bill does not define "mass transit facility" as used in Land Use-Article §4-504(D) related to requirements for off-street parking. The definition should be inclusive of Bus Rapid Transit but exclusive of MARC facilities, as MARC does not have sufficient service to support a car-free lifestyle. Second, the creation of off-street parking spaces should be contemporaneous with the development of the ADU so that requirements related to off-street parking and impervious surfaces are not negated. Third, under §4-504(E)(2), the parking study prescribed by the bill should not be directed by a legislative body but another local department with expertise in the issues and should be narrowed from covering the entire jurisdiction.

Finally, the bill does not contain a requirement that a primary dwelling unit be owner-occupied. We strongly urge the committee to amend the bill to require this in order to avoid allowing multiple rental units to be created on a single-family lot with no owner present. This is important for integrating properties with ADUs into our existing communities that are zoned for single-family use.

We respectfully request these amendments and urge the committee to issue a favorable report on Senate Bill 891.