



February 24, 2026

The Honorable, Kriselda Valderrama, Chair
House Economic Matters Committee
230 Taylor House Office Building
Annapolis, Maryland 21401

Favorable w Amendments: HB 778 – Middle Housing Options - Requirements

Dear Chair, Valderrama and Committee Members:

The NAIOP Maryland Chapters represent approximately 700 companies involved in all aspects of commercial, industrial, and mixed-use real estate. On behalf of our member companies, I am writing to recommend your favorable with amendments report on HB 778.

NAIOP considers HB 778 to be one of the most promising housing-related proposals introduced to date during this session. It requires local jurisdictions to assess the suitability of underutilized commercial and industrial land for housing use and requiring policies to support middle housing development. The assessment must be included in the housing element of Comprehensive Plans amended after January 1, 2027, along with policy recommendations to facilitate middle housing.

Comprehensive Plans are tools that State and local governments use to guide development at the local level. They cover a wide range of topics and promote a host of ideas that are identified for potential implementation locally. And given that Comprehensive Plans are intended to convey a wide range of ideas and goals over the 10-plus-year lifespan of a Plan, the Plans themselves typically utilize aspirational language, rather than directives.

While we recognize and understand this bill establishing an “affirmative duty” to explore the potential for housing opportunities on properties that may not typically be zoned or planned for residential, we feel that the existing language in the bill mandates that opportunities be created. Frankly, that may or may not be appropriate in given parts of a jurisdiction, and a Comprehensive Plan should not be required to “create” opportunities in every circumstance.

Rather, we feel that the charge under this bill should be slightly modified with language that is more in keeping with the typical nature of Comprehensive Plans. We recommend changing the nature of the local jurisdiction’s affirmative obligation from *creation* to *evaluation* of middle housing opportunities.

Evaluation allows local governments to study opportunities within their own context and establishes a factual foundation for informed and effective housing-creation policies without forcing jurisdictions into production targets before they're ready or structurally able.

We have attached an unofficial reprint of HB 778 with amendments that implement this requested change and would be happy to work with the committee, sponsors, and other stakeholders.

Thank you for considering NAIOP's point of view.

Sincerely,

A handwritten signature in blue ink, appearing to read "T.M. Ballentine".

Tom Ballentine, Vice President for Policy

NAIOP – Maryland Chapters, *The Association for Commercial Real Estate*

cc: Economic Matters Committee Members

Nick Manis – Manis, Canning Assoc.

HOUSE BILL 778

L6, C9

6lr2318

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

Introduced and read first time: February 4, 2026

Assigned to: Economic Matters

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 ASSESS** opportunities for housing by evaluating the suitability of certain
5 commercial
6 or industrial land for housing use; altering the requirements for the housing element
7 of a certain comprehensive plan; requiring local jurisdictions to establish certain
8 policies and adopt certain local laws to promote and encourage building middle
9 housing units on certain land; prohibiting local jurisdictions from imposing certain
10 unreasonable limitations affecting middle housing applications; and generally
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.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.

hb0778

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

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

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

6 (2) § 1–101(l), (m), and (o) (Definitions – “Plan”, “Priority funding area”,
7 and “Sensitive area”);

8 (3) § 1–201 (Visions);

9 (4) § 1–206 (Required education);

10 (5) § 1–207 (Annual report – In general);

11 (6) § 1–208 (Annual report – Measures and indicators);

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

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

14 (9) § 4–104(c) (Limitations – Bicycle parking);

15 (10) § 4–104(d) (Limitations – Manufactured homes and modular dwellings);

16 (11) § 4–208 (Exceptions – Maryland Accessibility Code);

17 (12) § 4–210 (Permits and variances – Solar panels);

18 (13) § 4–211 (Change in zoning classification – Energy generating systems);

19 (14) § 4–212 (Agritourism);

20 (15) § 4–213 (Alcohol production);

21 (16) § 4–214 (Agricultural alcohol production);

22 (17) § 4–215 (Pollinator–friendly vegetation management);

23 (18) § 4–216 (Limitations – Family child care homes and large family child
24 care homes);

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

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

- 1 **(21)** § 5–102(d) (Subdivision regulations – Burial sites);
- 2 **[(21)] (22)** § 5–104 (Major subdivision – Review);
- 3 **[(22)] (23)** Title 7, Subtitle 1 (Development Mechanisms);
- 4 **[(23)] (24)** Title 7, Subtitle 2 (Transfer of Development Rights);
- 5 **[(24)] (25)** except in Montgomery County or Prince George’s County, Title
6 7, Subtitle 3 (Development Rights and Responsibilities Agreements);
- 7 **[(25)] (26)** Title 7, Subtitle 4 (Inclusionary Zoning);
- 8 **[(26)] (27)** Title 7, Subtitle 5 (Housing Expansion and Affordability);
- 9 **[(27)] (28)** § 8–401 (Conversion of overhead facilities);
- 10 **[(28)] (29)** for Baltimore County only, Title 9, Subtitle 3 (Single–County
11 Provisions – Baltimore County);
- 12 **[(29)] (30)** for Frederick County only, Title 9, Subtitle 10 (Single–County
13 Provisions – Frederick County);
- 14 **[(30)] (31)** for Howard County only, Title 9, Subtitle 13 (Single–County
15 Provisions – Howard County);
- 16 **[(31)] (32)** for Talbot County only, Title 9, Subtitle 18 (Single–County
17 Provisions – Talbot County); and
- 18 **[(32)] (33)** Title 11, Subtitle 2 (Civil Penalty).

19 (c) This section supersedes any inconsistent provision of Division II of this article.
20 1–407.1.

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

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

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

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

1 (5) "Workforce housing" has the meaning stated in § 4-1801 of the Housing
2 and Community Development Article.

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

5 (c) A housing element shall address the need for affordable housing within the
6 county, including:

7 (1) workforce housing; and

8 (2) low-income housing.

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

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

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

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

19 **(E) (1) A COUNTY HAS AN AFFIRMATIVE DUTY TO CREATE**
20 **EVALUATE OPPORTUNITIES FOR HOUSING BY EVALUATING-ASSESSING THE**
21 **SUITABILITY OF VACANT,**
22 **UNUSED, OR UNDERUTILIZED COMMERCIAL OR INDUSTRIAL LAND FOR HOUSING**
23 **USE.**

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

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

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

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

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

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

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

8 (5) “Workforce housing” has the meaning stated in § 4–1801 of the Housing
9 and Community Development Article.

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

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

14 (1) workforce housing; and

15 (2) low-income housing.

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

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

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

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

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

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.

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

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

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

7 **(II) IS VACANT; AND**

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

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

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

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

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

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

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

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

28 **(2) A LOCAL LAW ADOPTED UNDER THIS SECTION MAY REQUIRE**
29 **MIDDLE HOUSING TO MEET RELEVANT ADEQUATE PUBLIC FACILITIES**
30 **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);

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

3 (10) § 4–104(c) (Limitations – Bicycle parking);

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

5 (12) § 4–205 (Administrative adjustments);

6 (13) § 4–208 (Exceptions – Maryland Accessibility Code);

7 (14) § 4–210 (Permits and variances – Solar panels);

8 (15) § 4–211 (Change in zoning classification – Energy generating systems);

9 (16) § 4–215 (Pollinator–friendly vegetation management);

10 (17) § 4–216 (Limitations – Family child care homes and large family child
11 care homes);

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

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

14 **(20)** § 5–102(d) (Subdivision regulations – Burial sites);

15 **[(20)] (21)** Title 7, Subtitle 1 (Development Mechanisms);

16 **[(21)] (22)** Title 7, Subtitle 2 (Transfer of Development Rights);

17 **[(22)] (23)** Title 7, Subtitle 3 (Development Rights and Responsibilities
18 Agreements);

19 **[(23)] (24)** Title 7, Subtitle 4 (Inclusionary Zoning);

20 **[(24)] (25)** Title 7, Subtitle 5 (Housing Expansion and Affordability); and

21 **[(25)] (26)** Title 11, Subtitle 2 (Civil Penalty).

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