

ACCESSORY DWELLING UNITS IN MARYLAND

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ACCESSORY DWELLING UNITS (ADUs) IN MARYLAND

- Have been informally part of Maryland's housing stock for years:
 - Sometimes recognized in local zoning codes
 - Sometime due to pre-zoning or unauthorized (illegal?) conversions
- Recently some jurisdictions have added the ADU option to its list of permitted uses in single family zoning districts:
 - Montgomery County
 - Frederick County
 - Frederick City

PROPOSED STATEWIDE ADU LEGISLATION

HB1259 / SB0871

ACCESSORY DWELLING UNIT AUTHORIZATION & PROMOTION ACT

- Comprehensive legislation addressing issues associated with ADUs:
 - Amends both the Land Use & Real Property Articles
 - Creates a new Subtitle in Land Use Article for ADUs
 - Applicable to charter and non-charter counties and municipalities

PROPOSED STATEWIDE ADU LEGISLATION

HB1259 / SB0871

ACCESSORY DWELLING UNIT AUTHORIZATION & PROMOTION ACT

- Subtitle 5: Accessory Dwelling Unit Authorization
 - Definitions
 - Accessory Dwelling Unit - secondary DU which can be attached to, or a conversion of a primary DU or attached to or conversion of an existing accessory structure on the lot, or an entirely detached structure.
 - Dwelling unit - is defined as a single unit with complete living facilities for at least one person. Does not include multifamily units.
 - Utilities - public water or sewer service
- Applies only to Single-Family Residential Zoning Districts
- Establishes State policy to promote the creation of ADUs in single-family residential zoning districts
- Local jurisdictions shall establish policies to further subtitle intent

PROPOSED STATEWIDE ADU LEGISLATION

HB1259 / SB0871 - ADU ACT

EFFECTIVE DATE AND LIMITATIONS

- On or before Oct. 1, 2023 each jurisdiction shall adopt legislation that allows ADUs in single-family residential zoning districts
- Can only prohibit ADUs due to:
 - Limitation of available drinking water
 - Limitation to sewage disposal
 - Risks due to fires, floods or landslides

PROPOSED STATEWIDE ADU LEGISLATION

HB1259 / SB0871 - ADU ACT ADU DEVELOPMENT STANDARDS

- Design requirements of the law:
 - The square footage of ADU must be less than primary dwelling unit
 - ADU must meet all building code requirements
 - ADU construction allowed at time of the primary DU
 - Exclude ADU from calculation of density in zoning district

PROPOSED STATEWIDE ADU LEGISLATION

HB1259 / SB0871 - ADU ACT ADU DEVELOPMENT STANDARDS

- Local law:
 - Cannot require the lot with an ADU to have a larger minimum lot size than required for a primary unit in the zoning district
 - Cannot establish side or rear setback for the ADU converted from an accessory structure, greater than the existing accessory structure
 - New ADUs side and rear setback can be no greater than 4 feet
 - No required additional off-street parking

PROPOSED STATEWIDE ADU LEGISLATION

HB1259 / SB0871 - ADU ACT ADU DEVELOPMENT STANDARDS

- Local law:
 - May establish a reasonable maximum sq ft of ADU
 - May require replacement of off-street parking lost due to ADU and allow for substitute new on-street parking
 - Cannot charge impact fees or building excise tax for ADUs less than 750 sq. ft., if ADU is larger - fee/tax must be proportionate to primary dwelling
 - Cannot require new utility connection if adding ADU to existing primary dwelling unit, and no new connection fee

PROPOSED STATEWIDE ADU LEGISLATION

HB1259 / SB0871 - ADU ACT ADU REVIEW TIME AND REPORTING

- Application Review
 - Mandates a 90-day review after receipt
- Local Reporting to MDP annually:
 - # of SFDs in jurisdiction w/ associated zoning designation
 - List of zoning categories that permit ADUs
 - # of know illegal ADUs
 - # of ADU applications processed, approved and type of ADU
 - # of ADU applications denied and reason why
- MDP annually reports Local ADU implementation to General Assembly

PROPOSED STATEWIDE ADU LEGISLATION

HB1259 / SB0871 - ADU ACT

ADU NIMBY PROHIBITION

- Real Property Article Amendment
 - Restriction on Use, via covenants, deed, declarations of condo or HOA bylaws, cannot impose unreasonable limitation on property owner to develop an ADU
 - Unreasonable limitations is defined in terms of cost of construction and maintenance and the rental of the ADU.

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