

**PROPOSED ZONING TEXT AMENDMENT (ZTA),
ACCESSORY RESIDENTIAL USES – ACCESSORY DWELLING
UNIT (ADU)**

Description

This proposed ZTA would amend the provisions for Accessory Dwelling Units (ADUs) to be compliant with recently adopted State legislation in House Bill 1466/Senate Bill 891.

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Montgomery County
Planning Board
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SUMMARY

- Montgomery County's current code currently allows Accessory Dwelling Units (ADUs) in certain residential detached zones and is mostly a by-right process facilitated by the Department of Housing and Community Affairs (DHCA).
- Maryland's General Assembly passed HB 1466 during its 2025 legislative session, which makes it the policy of Maryland to promote and encourage the creation of ADUs on land with a single-family detached dwelling unit as the primary dwelling unit to help solve the state's housing shortage and meet its housing needs.
- The Planning Staff proposed ZTA complies with State Bill 891 by recommending changes to the zones in which ADUs are allowed, the definition of an ADU, setbacks, and the parking requirement.

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SECTION 1: BACKGROUND

HISTORY OF ACCESSORY DWELLING UNITS IN MONTGOMERY COUNTY

Per Montgomery County code, Section 3.3.3.A., an Accessory Dwelling Unit (ADU) is defined as a second dwelling unit that is subordinate to the principal dwelling. An ADU can be “attached” as an addition or basement of an existing dwelling unit or “detached” as a separate structure on the same lot.

Today, building an ADU in Montgomery County is mostly a by-right process facilitated through Montgomery County’s Department of Housing and Community Affairs (DHCA) and Department of Permitting Services (DPS); however, this was not always the case.

Prior to 2013, ADUs required a Special Exception/Conditional Use from the County’s Board of Appeals, which involved a lengthy legal process. In May 2013, through ZTA 12-11, the County removed the Special Exception requirement, except for accessory apartments that did not meet the spacing and parking requirements and shifted to a licensing system administered by DHCA. While ADUs were technically legal throughout this period, very few were built given the restrictive rules around licenses, lot size, parking, and unit type.

In 2018, ZTA 18-07 removed the conditional use approval requirement for *all* accessory dwelling units. In July 2019, ZTA 19-01 made significant changes to the ADU policy, further loosening restrictions and making it much easier for homeowners to build these units. Broadly, it removed minimum lot sizes for the principal dwellings, revised limited use standards for attached and detached ADUs, and relaxed parking requirements. Specific changes made in ZTA 19-01 include:

- Removed the prohibition on detached ADUs in lots smaller than one acre.
- Established that the size of the detached ADUs must be the smaller of 10 percent of the lot size, 50 percent of the footprint of the principal dwelling, or 1200 sq. ft.
- Removed the requirement for an additional parking space within one mile of Metro, Purple Line or MARC stations. ADUs proposed outside such areas continued to require one off-street parking space in addition to the parking required for each detached house (typically two spaces).
- Allowed for the conversion of existing, legally built structures into ADUs.
- Clarified that other rental uses (such as Airbnb) on a property that includes an ADU are prohibited.
- Removed the prohibition on ADUs in new construction.
- Removed the distance requirement restricting ADUs from being built within 300 to 500 feet of an existing ADU.
- Retained existing rules limiting the construction of accessory structures, including height limits, maximum lot coverage requirements, and stormwater requirements. In addition, the greater side and rear setbacks required for detached ADUs remained in place.

SECTION 2: HOUSE BILL 1466/SENATE BILL 891

Maryland's General Assembly passed House Bill (HB) 1466 during its 2025 legislative session, and the act became effective on October 1, 2025. The act requires that by October 1, 2026, local governments adopt a local law authorizing the development of ADUs on land with an existing single-family detached dwelling unit.

The purpose of HB 1466 is to promote and encourage the creation of ADUs to help solve the state's housing shortage and meet its housing needs. It recognizes that to accommodate all who want to live in the state, Maryland will need a mix of quality housing types and affordability options, and ADUs are an important part of that mix.

HB 1466 defines ADUs as a secondary unit (1) on the same lot, parcel, or tract as a primary single-family detached dwelling unit and (2) that is not greater than 75% of the size of the primary single-family detached dwelling unit. The bill further states that ADUs can be a separate structure from the primary unit or attached as an addition to the primary unit.

The act states that a local law governing ADUs **must**:

- Provide for the development of ADUs as defined in the bill
- Provide for construction of ADUs that meet public health, safety, and welfare standards (such as building codes and adequate public facilities ordinances)
- Exclude ADUs from density calculations
- Exclude the development of an ADU from any measures that limit residential growth on the property on which the unit is proposed

The act states that a local law governing ADUs **may not**:

- Impose additional parking requirements on ADUs without first completing a parking study to determine the jurisdiction's parking needs
- Establish side and rear setback requirements that exceed existing accessory structure setback requirements

The act states that a local law governing ADUs **may**:

- Establish standards for ADU safety
- Prohibit conversion of an accessory structure as an ADU if the only access to the structure by car is from an alley

SECTION 3: ZTA ANALYSIS AND RECOMMENDATIONS

This proposed ZTA would modify the current county code to be in compliance with HB 1466/SB 891. Generally, Planning Staff have taken the approach of only changing the code to the extent required to

comply with State Code. Proposed changes include the zones ADUs are allowed in, the definition of an ADU, setbacks, and the parking requirement.

USE TABLE CHANGES

State law requires the development of accessory dwelling units on land with a single-family detached dwelling unit as the primary dwelling unit. Montgomery County’s current code permits ADUs based on zone rather than land use, and it only allows ADUs as a limited use in the Agricultural, Rural Residential, and Residential Detached zones (AR, R, RC, RNC, RE-2, RE-2C, RE-1, R-200, R-90, and R-60). Given the State’s definition of ADUs based on land use, attached and detached ADUs must now be permitted as a limited use in all zones where a single-family detached unit is allowed. This is all zones except the Industrial zones (IL, IM, IH).

Accordingly, in the Use Table – Section 3.1.6. in line 26 of the ZTA – Planning Staff recommends adding ADUs as a Limited Use in the R-40, TLD, TMD, THD, R-30, R-20, R-10, CRN, CRT, CR, GR, NR, LSC, and EOF zones.

DEFINITION CHANGES

State Bill 891 defines an ADU as “not greater than 75% of the size of and subordinate in use to the primary single-family detached dwelling unit.” Montgomery County’s current code caps the maximum gross floor area for an Attached Accessory Dwelling Unit at 1,200 square feet or the square footage of a basement or cellar if the basement or cellar is used for the ADU. For detached ADUs, the maximum gross floor area must be the least of 50% of the footprint of the principal dwelling, 10% or the lot area, or 1,200 square feet. To comply with the State Bill’s definition, Planning Staff recommends amending the definition of an Accessory Dwelling Unit in Section 3.3.3.A.1. (lines 45-46) to include the exact language stated in the State Bill’s definition regarding size.

In Section 3.3.3.A.1. of the County Code published on American Legal, there was an omission from the definition of an ADU, but the complete definition exists in Ordinance 19-06. Planning Staff recommends correcting this error by adding back in the language, “includes an Attached Accessory Dwelling Unit and a Detached Accessory Dwelling Unit” on lines 47 and 48. The definition of an ADU remains unchanged, but clarifies that both attached and detached structures are included as allowed structures.

The changes to the definition of ADUs in the County Code appear in lines 43-48 as follows:

1. Defined, In General

Accessory Dwelling Unit or Accessory Apartment means a second dwelling unit that is not greater than 75% of the size of and subordinate in use to the primary single-family detached dwelling unit subordinate to the principal dwelling. An Accessory Dwelling Unit includes an Attached Accessory Dwelling Unit and a Detached Accessory Dwelling Unit.

USE STANDARD CHANGES

Section 3.3.3.B.2, lines 118 through 125, and Section 3.3.3.C.2, lines 147 through 156, are use standards detailing the size specifications of attached ADUs and detached ADUs, respectively. Given the definition changes in ADUs discussed above, these requirements are no longer relevant. The use standards are the same for both attached and detached ADUs and are based only on a percentage of the primary single-family dwelling unit. Accordingly, Planning Staff recommends removing these lines.

PARKING REQUIREMENT CHANGES

PARKING STUDY

HB 1466 requires that local jurisdictions complete a parking study if their local laws impose off-street parking requirements on ADUs. The act does not define the elements of a parking study, but it does require that any additional off-street parking requirements established for ADUs consider the following factors:

- The cost to construct off-street parking spaces
- Whether sufficient curb area exists along the front line of properties to accommodate on-street parking
- The increase in impervious surfaces due to the creation of new off-street parking and its relation to stormwater management
- Variability in parking due to the size of the ADU's lot.
- If parking is required, a waiver provision must also be established.

Montgomery County's existing code includes off-street parking requirements for certain ADUs, and therefore, the county is mandated to conduct a parking study in line with the above conditions if it is to retain the currently required off-street parking. Planning Staff completed a parking study pursuant to the requirements listed above, and it can be found in Attachment B. The study found that many existing single-family properties already provide more than two parking spaces per lot (the minimum required for a detached dwelling) between garage and driveway spaces. For those that require expansion, the typical new parking area and necessary tie-ins would add approximately 175 square feet of driveway space and would cost approximately \$3,000. Currently, the county does not require a permit or track stormwater management for small additions to driveways as long as the addition does not impact paving in the right-of-way.

The current parking requirements, established in 2019, contain the following:

- Require one off-street parking space for an ADU
- No off-street parking is required if within one mile of any Metrorail, Purple Line, or MARC Rail Station

- A waiver of parking may be requested of and granted by the Hearing Examiner in the event of adequate on-street parking.

The existing waiver of parking was established, acknowledging that many streets do have adequate street parking for ADU parking, but that availability varies based on how narrow the existing lot frontages are, how wide the street is, and other design considerations that cannot be accounted for in a one-size-fits-all provision.

In examining the existing code against the parking study requirements, Planning Staff did identify two areas worth amending: reducing the requirement for ADUs to develop extra parking if no on-site parking currently exists and allowing for a parking waiver based on site constraints.

CODE CHANGES

As mentioned above, the 2019 code update requires one parking space per ADU, except if the property is within one mile of transit. Additionally, a waiver can be requested from the Hearing Examiner if the applicant can prove that there is adequate on-street parking. While Planning Staff are not contemplating removing these parking requirements, and have conducted the requisite parking study, Staff have identified an existing provision on lines 66-69 to be modified to align with the State Bill's mission of discouraging unnecessary parking.

If a new driveway must be constructed for the ADU, Montgomery County code currently requires at least two on-site parking spaces. This additional parking requirement acts to the benefit of the existing single-family detached dwelling and could restrict the development of an ADU, which is contrary to the State Bill's intended purpose of promoting and encouraging ADU development. Planning Staff believe that the provision of one parking space for the ADU is sufficient, and the requirement of two spaces is excessive. Accordingly, Planning Staff recommends amending the existing language in the code to reflect this reduction in the parking requirement.

While Montgomery County code allows for a parking waiver if the Hearing Examiner finds adequate on-street parking, allowing for a parking waiver for small or irregular lots is also in line with the State Bill's intended purpose. This additional waiver may be necessary to allow for an ADU on smaller lots sometimes seen in the newly added Townhouse, Multi-Family, and mixed-use zones. Adding language that considers the property's capacity for additional on-site parking removes a potential barrier to building an ADU.

These two changes appear in the amended County Code in lines 64-77 as follows:

- a) one on-site parking space is provided in addition to any required on-site parking space for the principal dwelling; however, ~~if a new driveway must be constructed for the Accessory Dwelling Unit, then a total of at least two on-site parking spaces must be provided~~ if the principal dwelling has no existing on-site parking, the Accessory Dwelling Unit only needs to provide the one parking space required for the unit; or

(b) the Hearing Examiner finds under the waiver in Section [29-26\(b\)](#) that there is adequate on-street parking or finds that the size or shape of the existing lot for the principal dwelling effectively precludes the ability to provide additional on-site parking

DENSITY CALCULATION CHANGES

As cited on Page 6, lines 24-25 of State Bill 891, one of the requirements for local laws governing ADUs is to exclude them from any density calculations. Currently, Montgomery County’s code only excludes ADUs from density calculations in the Agricultural and Rural Residential zones. Therefore, Planning Staff recommends removing the specific zones listed so that ADUs are excluded from density calculations in *all* zones, and the code complies with the State law.

The current code also stipulates that if the property associated with an ADU is subsequently subdivided, the ADU is included in the density calculations. Based on the current language used, a property could undergo a subdivision that still retains the principal single-family dwelling and ADU on the same lot. Planning Staff recommends adding in descriptive text that clarifies that, in the event of subdivision of the property associated with the ADU, which places the ADU on a different lot, the detached ADU *is then* included in the density calculation.

In the amended County Code, lines 92-97 read:

e. ~~In the Agricultural and Rural Residential zones, a~~ An Accessory Dwelling Unit is excluded from any density calculations. If the property associated with an Accessory Dwelling Unit is subsequently subdivided so that the detached Accessory Dwelling Unit is now located on its own lot, the Accessory Dwelling Unit is included in the density calculations.

REAR AND SIDE SETBACK CHANGES

On Page 7 of State Bill 891, lines 17-19 specify that ADUs may not “establish setback requirements that exceed the existing accessory structure setback requirements from the side and rear lot lines.” Currently, in Montgomery County’s Code, a detached ADU must meet side setbacks equal to that of the principal structure and meet a rear setback of 12 feet. Additionally, if the structure is wider than 24 feet, there must be an additional one-foot setback for each one foot of additional width. Planning Staff recommends modifications to lines 144-151 of Montgomery County’s code to strike the existing setback provisions and instead require the detached ADU to have the same minimum side and rear setbacks as the accessory structure, complying with State law.

In the amended County Code, lines 144-151 read:

c. A Detached Accessory Dwelling Unit built after May 30, 2012 must have the same minimum side setback ~~as the principal dwelling~~ and a minimum rear setback ~~of 12 feet~~ as the accessory structure.

d. For any Detached Accessory Dwelling Unit with a length along a rear or side lot line that is longer than 24 feet, the minimum side or rear setback must be increased at a ratio of 1 foot for every 1 foot that the dimension exceeds 24 linear feet. The additional rear setback is from a 12-foot setback as its starting point.

SECTION 4: CONCLUSION

Planning Staff recommends that the Planning Board transmit a request to the District Council to introduce the proposed ZTA. In line with House Bill 1466/Senate Bill 891, this proposed ZTA promotes and encourages the creation of accessory dwelling units on land with single-family detached dwelling units to meet the State's housing needs.

SECTION 5: ATTACHMENTS

Attachment A: Draft Accessory Dwelling Unit Zoning Text Amendment

Attachment B: Montgomery County Accessory Dwelling Unit Parking Study

Attachment C: Senate Bill 891