

**ZONING TEXT AMENDMENT (ZTA) 26-06,  
ACCESSORY RESIDENTIAL USES – ACCESSORY DWELLING  
UNIT (ADU)**

**Description**

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

ZTA 26-06  
Completed: 05-21-2026

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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.
- ZTA 26-06 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.
- Planning Staff recommends supporting ZTA 26-06.

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## SECTION 1: BACKGROUND

### RATIONALE FOR INTRODUCTION

On March 27, 2026, Planning Staff brought the proposed ZTA to the Planning Board for initial comments. Subsequently, on April 1, 2026, Planning Staff transmitted a letter to the District Council requesting the introduction of the proposed ZTA. ZTA 26-06 was formally introduced on April 21, 2026, by Council President Fani-Gonzalez, incorporating the amendments recommended by Planning Staff (Attachment A). At this time, Planning Staff recommend additional minor modifications to the introduced ZTA that address redundant language. The ZTA is scheduled for a District Council Public Hearing on June 9, 2026.

### 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.

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## OVERVIEW OF ACCESSORY DWELLING UNITS

ADUs are a helpful tool in increasing housing supply and affordability, particularly in neighborhoods where space is constrained. They offer flexibility that is beneficial to many homeowners, and they serve as a convenient financial option, particularly for those aging in place. They are a small-scale way to increase the number and variety of homes in existing single-family areas.

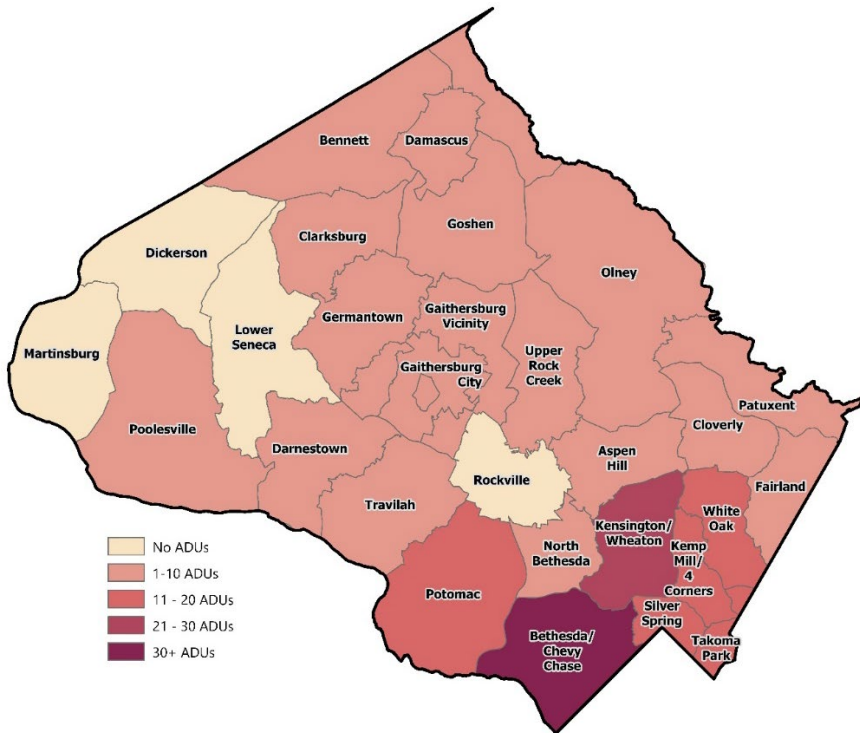
As seen in Table 1, the County has permitted 222 ADUs since 2019, when there was a significant change in the county’s ADU policy. Figure 1 shows where in the county these ADUs have been permitted, with most being in the Bethesda/Chevy Chase, Kensington/Wheaton, and Silver Spring.

*Table 1: Annual ADU Permitting Since 2019*

<b>Years (Issued Date)</b>	<b>ADU Permits</b>
<b>2019</b>	1
<b>2020</b>	25
<b>2021</b>	46
<b>2022</b>	47
<b>2023</b>	28
<b>2024</b>	44
<b>2025</b>	31
<b>Total</b>	<b>222</b>

Source: Department of Permitting Services.

*Figure 1: ADU Permits in Montgomery County Since 2019*



Source: Montgomery Planning analysis of the Department of Permitting Services Permit Data.

## 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

Senate Bill 891 is included in Attachment C.

**SECTION 3: ZTA ANALYSIS AND RECOMMENDATIONS**

**ZTA 26-03 As Introduced**

ZTA 26-06 would modify the current county code to be in compliance with HB 1466/SB 891. Changes to the introduced ZTA include the zones in which ADUs are allowed, the definition of an ADU, setback provisions, 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 7 of the ZTA – ZTA 26-06 adds 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.

**Recommendation:** Support the addition of ADUs as a limited use in all zones where a single-family detached unit is allowed.

**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, ZTA 26-06 amends the definition of an Accessory Dwelling Unit in Section 3.3.3.A.1. (lines 16-17) 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. ZTA 26-06 corrects this error by adding back in the language, “includes an Attached Accessory Dwelling Unit and a Detached Accessory Dwelling Unit” on lines 18 and 19. 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 15-19 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.

**Recommendation:** Support amending the definition of an ADU to match the language used in the State Bill.

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## **USE STANDARD CHANGES**

Section 3.3.3.B.2, lines 91 through 98, and Section 3.3.3.C.2, lines 119 through 128, 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, ZTA 26-06 removes these lines.

**Recommendation:** Support removing requirements from the use standards sections that are no longer relevant.

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## **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.

Considering existing code and the parking study requirements, ZTA 26-06 amends two areas of the current code: 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 the introduced ZTA does not remove these parking requirements, it modifies the existing provision on lines 40-43 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, ZTA 26-06 amends 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 35-48 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

**Recommendation:** Support changes to the parking requirements for ADUs and the additional waiver provisions.

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## 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, ZTA 26-06 removes 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. ZTA 26-06 adds 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 64-69 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.

**Recommendation:** Support revising density provisions to match those required by State law.

### 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 those 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. ZTA 26-06 modifies lines 115-128 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 115-128 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.~~

Upon further review of the introduced ZTA, Planning Staff recommend an additional revision to reduce redundancy in the setback provisions. Section 3.3.3.a.2.v establishes the setback requirements applicable to all accessory dwelling units, regardless of type. However, this section (line 57) begins with the phrase “unless modified by the use standards for an Accessory Dwelling Unit...”. To comply with State law, ADU use standards cannot modify setbacks, and therefore, this clause should be removed.

The recommended change to lines 57-60 in the County Code reads:

v. ~~unless modified by the use standards for an Accessory Dwelling Unit~~, an Accessory Dwelling Unit must comply with the setback, height, and building lot coverage standards of an accessory structure in the underlying zone.

Because this provision applies to all ADUs, lines 115-118, which separately specify setback requirements for detached ADUs, are redundant and should be removed:

~~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.~~

**Recommendation:** Support modifying setback requirements to comply with State regulations and revise language to reduce redundancy in the County Code.

## SECTION 4: CLIMATE ASSESSMENT

Bill 3-22, passed by the County Council on July 12, 2022, requires the Planning Board to prepare a climate assessment for each Zoning Text Amendment, Master Plan, and Master Plan Amendment, effective March 1, 2023. Each Climate Assessment must include the potential positive or negative effects a ZTA may have on climate change (including greenhouse gas emissions) and on community resilience and adaptive capacity. The climate impact assessment for ZTA 26-06 is attached in Attachment D.

The Montgomery County Planning Board anticipates that ZTA 26-06 will have a combination of potential minor positive and minor negative impacts on the county's goals of addressing greenhouse gas emissions, carbon sequestration, and ensuring resilience and adaptive capacity of communities. ZTA 26-06 will amend the use standards for attached and detached Accessory Dwelling Units (ADUs) consistent with State Law. These changes could potentially increase ADU development and impervious surface in some locations while also supporting infill development and increasing housing flexibility in established communities.

## SECTION 5: PLANNING BOARD REQUESTS

During the introduction hearing, the Planning Board requested Planning Staff to explore ADU policies in other counties and states. Accordingly, Planning Staff conducted a peer jurisdiction analysis of ADU policies in Arlington County, Portland, Los Angeles, and Seattle. The findings of this comparative analysis are provided in Attachment E.

The Planning Board also requested information on the number of parking waiver requests submitted to the Hearing Examiner and the overall complexity of the process. According to records from the Office of Zoning and Administrative Hearings (OZAH), 16 parking waiver cases have been processed since 2020, with one additional case pending final reports and decisions. The application for a parking waiver consists of a one-page form that is available online and OZAH does not collect a fee for waiver

requests. In FY25, OZAH issued reports for accessory dwelling waiver cases within an average of 13.4 days following the close of the record. Generally, OZAH schedules hearings within 30 days of the filing of a request. After the hearing, the record remains open for 10 business days to receive the transcript. Although OZAH does not specifically track parking waiver outcomes by approvals or denials, Planning Staff reviewed a sample of decisions available online and did not identify any denials. Additionally, since the Hearing Examiner’s appointment in July 2024, she does not recall issuing a denial for a parking waiver.

## SECTION 6: CONCLUSION

Planning Staff recommends that the Planning Board support ZTA 26-06 as introduced with minor changes to reduce redundancy, as highlighted by Planning Staff. In line with House Bill 1466/Senate Bill 891, this 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 7: ATTACHMENTS

*Attachment A: Zoning Text Amendment 26-06 Intro Packet*

*Attachment B: Montgomery County Accessory Dwelling Unit Parking Study*

*Attachment C: Senate Bill 891*

*Attachment D: Climate Assessment ZTA 26-06*

*Attachment E: Accessory Dwelling Unit (ADU) Regulatory Comparison Matrix*