



Better Codes Make Better Places

1502 Vine Street, 3rd Floor
Cincinnati, Ohio 45202

March 6, 2026

Via Email: Lisa May <Lisa.May@mdrealtor.org>

Ms. Lisa May
Maryland Association of Realtors

RE: Somerset County Accessory Dwelling Unit Ordinance

Dear Ms. May,

At the request of the Maryland Association of Realtors, ZoneCo has reviewed the Zoning Ordinance in Somerset County, Maryland for compliance with Maryland House Bill 1466 adopted in 2025 pertaining to accessory dwelling units (ADU's). Somerset County permits "Accessory Dwelling Units" in most residentially-zoned districts by right. The Somerset County Ordinance is generally compliant with the state law and best practices, but we recommend a few modifications to permit by-right approval in any zoning district allowing detached dwellings per the state law, an to clarify requirements for owner-occupancy and short-term rental use. This review will compare the Somerset County Ordinance to the required provisions of the state law for accessory dwelling units, and best practices to encourage ADU development.

(A) Comparison to required provisions Maryland HB 1466 adopted in 2025.

1. ADU should be Allowed By Right:

- a. **State Law:** The state standards require that accessory dwellings be permitted by right within any zone that permits single-unit detached residential development.
- a. **Somerset County Ordinance: COMPLIES** – Somerset County permits an accessory dwelling unit in most residential zones by-right but requires a Special Exception in the CO and R-1 Districts. *Recommend allowing accessory dwelling units by right in the CO and R-1 zoning districts.*

2. No Density or Growth Restrictions:

- a. **State Law:** A local jurisdiction may not regulate or restrict ADU's using residential density restrictions or residential growth limitation measures.

- b. **Somerset County Ordinance: COMPLIES** - Somerset County does not apply any specific density or growth restrictions to accessory dwelling units.

3. **Must Comply with Safety & Building Codes:**

- a. **State Law:** Must provide for construction of ADUs that meet public health, safety, and welfare standards, including relevant building codes and adequate public facilities provisions.
- b. **Somerset County Ordinance: COMPLIES** – The Zoning Ordinance does not exempt accessory dwellings from compliance with building code and Health Department regulations.

4. **Setbacks Same As Accessory Use Setbacks**

- a. **State Law:** May not require side or rear yard setbacks that are greater than the side and rear yard setbacks for accessory structures in the applicable zoning district. Also note: in determining setbacks for detached ADUs, many jurisdictions have used five feet as the minimum separation between the ADU structure and the property line so that the accessory dwelling structure does not have to meet building code standard fire-resistance rating requirements. Also, a five-foot setback option allows for more windows and flexibility in window placement.
- b. **Somerset County Ordinance: COMPLIES** - Setback requirements for accessory dwelling units are the same as setbacks for Accessory Structures, in §6.8. Accessory structures are not permitted in the front yard. Setbacks from side and rear property lines – 8 feet; maximum height of 25 feet. *No change recommended.*

5. **ADU Definition**

- a. **State Law:** Definition of ADU is provided in State law:
 - D. Definition: “An ADU as a secondary dwelling unit that is:
 - (1) on the same lot, parcel, or tract as a primary single-family detached dwelling unit and
 - (2) not greater than 75% of the size of and subordinate in use to the primary single-family detached dwelling unit.”
- b. **Somerset County Ordinance: COMPLIES:**
 - (1) Somerset County defines “Accessory Dwelling Unit” as “A separate complete housekeeping unit that is substantially contained within the structure of a single-family unit or a

commercial structure, but can be isolated from it.” The definition permits both attached and detached accessory dwellings, which essentially complies with sections (1) of the state law definition.

- (2) Per §5.10(c)(5), the size of an accessory dwelling unit may be no more than fifty (50%) percent of the living area of the principal dwelling, which meets the definition of part (2) above.

However, §6.8 also limits the size of an accessory structure to 1,200 sq. ft., but it is unclear if this provision would limit the size of the accessory dwelling unit. *Recommend clarifying if the 1,200 sq. ft. limitation for accessory structures also applies to an accessory dwelling unit.*

(B) Comparison to optional ADU regulations supported by MD Realtors.

1. Owner Occupancy

- a. **MD Realtors Recommendation:** Owner-occupancy should not be required for either the primary dwelling or the accessory dwelling.
- b. **Somerset County Ordinance: VARIES** – §5.10(a) requires the owner to occupy the primary dwelling unit on the property. *Recommend no owner-occupancy requirement. If owner-occupancy is required, the owner should be permitted to occupy the primary dwelling unit or the accessory dwelling unit.*

2. Parking

- a. **MD Realtors Recommendation:** Because of space constraints on many existing lots, and the additional cost to grade and pave a driveway and parking area, additional parking should not be required if the principal dwelling unit has sufficient off-street parking, or adequate additional on-street parking is available within walking distance (500 feet) of the lot containing the accessory dwelling. Also recommend staff-level authority to approve parking sufficiency.
- b. **Somerset County Ordinance: COMPLIES** – Per §5.10(c)(4), no additional parking space is required for the accessory dwelling unit if it is created on a site with an existing house and on-street parking is adequate. One additional space is required if the ADU is created at the same time as the principal dwelling, or if no on-street parking can be accommodated on adjacent roadways. *No change recommended.*

3. Minimum Floor Area

- a. **MD Realtors Recommendation:** No minimum floor area should be required, or the minimum required floor area should be no more than 400 sq. ft. A larger min. floor area, for example 800 sq. ft., would prevent a studio apartment above a 2-car garage, which could be as small as 400 sq. ft.
- b. **Somerset County Ordinance: COMPLIES** – There is no minimum floor area requirement. *No change recommended.*

4. **Maximum Floor Area**

- a. **MD Realtors Recommendation:** The size of an ADU should not be greater than 75% of the gross floor area of the primary dwelling unit (per State law). This would allow for up to 75% of the floor area of each floor of the primary dwelling unit, but the state language does not prohibit a smaller area.
- b. **Somerset County Ordinance: COMPLIES** – Per §5.10(c)(5), the size of an accessory dwelling unit may be no more than fifty (50%) percent of the living area of the principal dwelling. However, §6.8 also limits the size of an accessory structure to 1,200 sq. ft., but it is unclear if this provision would limit the size of the accessory dwelling unit. *Recommend clarifying if the 1,200 sq. ft. limitation for accessory structures also applies to an accessory dwelling unit.*

5. **Bedrooms**

- a. **MD Realtors Recommendation:** No more than 2 bedrooms are permitted in an ADU. Limiting to no more than 2 bedrooms is appropriate given the recommendation to waive other requirements, such as off-street parking, impact fees, or APFO compliance.
- b. **Somerset County Ordinance: COMPLIES** - The zoning ordinance does not regulate the number of bedrooms in an ADU. *No change recommended.*

6. **Definitions for ADU Types** (for example: Attached ADU, Detached ADU, Internal ADU)

- a. **MD Realtors Recommendation:** ADU type definitions are optional - Definitions may or may not be needed depending on other criteria imposed. For example, if setback requirements vary depending on whether an accessory dwelling is attached or detached, then definitions are needed.
- b. **Somerset County Ordinance: COMPLIES** – Somerset County allows attached accessory dwelling units and detached accessory dwelling units but does not separately define these terms. *No change recommended.*

7. **Approval Process**

- a. **MD Realtors Recommendation:** Strongly recommend that an ADU that meets all zoning criteria can be approved by staff without a public hearing.
- b. **Somerset County Ordinance: COMPLIES** - Somerset County requires a public hearing for an accessory dwelling unit in the CO and R-1 Districts. *Recommend allowing accessory dwelling units as Permitted uses in the CO and R-1 districts to comply with the state standard.*

8. **Vehicular Access** (for example, access off public street vs. alley)

- a. **MD Realtors Recommendation:** Recommend not specifying the vehicular access for the accessory dwelling, and allow staff-level review and approval of adequate vehicular access. The State law allows, but does not require, a local jurisdiction to prohibit conversion of an accessory structure to an accessory dwelling if the only vehicular access is an alley.
- b. **Somerset County Ordinance: COMPLIES** - The Ordinance does not specify vehicular access requirements. *No change recommended.*

9. **Front Door Access**

- a. **MD Realtors Recommendation:** An ADU should have direct exterior access that is separate from the existing primary dwelling. Recommend that the zoning administrator has discretion to waive this requirement so long as the entrance does not go into or through the primary dwelling unit.
- b. **Somerset County Ordinance: COMPLIES – The Zoning ordinance does not specifically Require a separate exterior entrance, but does require,** per §5.10(c)(3), “Only one (1) entrance may be located on the front facade of the principal dwelling facing the street, unless the principal dwelling contained additional front facade entrances before the accessory dwelling unit was created” *The zoning ordinance is generally consistent with best practices and no change is recommended.*

10. **Non-conforming Lots**

- a. **MD Realtors Recommendation:** To allow flexibility for an accessory dwelling on an existing lot of record with a non-conforming lot size and/or a non-conforming setback, allow an accessory dwelling unit so long as the ADU does not increase the non-conforming condition.
- b. **Somerset County Ordinance:** The zoning ordinance generally allows for use of non-conforming lots, and the same provisions apply to accessory apartments.

11. **Fire Sprinkler Systems**

- a. **MD Realtors Recommendation:** Do not recommend addressing sprinklers in ADU Ordinance – or ADU Ordinance should refer to local building codes. The concern is that the high cost of sprinkler systems are a cost-deterrent to ADU construction. By State law, ADU’s are generally not required to have sprinkler systems if they are created within existing dwellings that do not have sprinkler systems. However, Maryland requires sprinkler systems to be installed in all ***newly constructed*** single-family and two-family dwellings, including ADU’s. *Maryland Building Performance Standards Regulations, Md. Code Ann. §9.12.51.05(B)(1)(d)*.
- b. **Somerset County Ordinance:** Required for new construction by State law.

12. **APFO & Impact Fees**

- a. **MD Realtors Recommendation:** An ADU should not have to comply with the APFO Ordinance or pay impact fees, to encourage their development.
- b. **Somerset County:** In Somerset County, ADU’s are not subject to impact fees.

13. **Well & Septic**

- a. **MD Realtors Recommendation:** An ADU may share the well and septic of the primary dwelling unit, if adequate capacity exists
- b. **Somerset County Ordinance:** The zoning code does not exempt ADU’s from applicable Somerset County Codes, including the building code, and Health Department regulations.

14. **Public Water & Sewer**

- a. **MD Realtors Recommendation:** An Attached or Internal ADU must be serviced by the same public water and sewer lines as the principal dwelling unit, where feasible.
- b. **Somerset County Ordinance:** The zoning code does not exempt ADU’s from applicable Somerset County Codes, including the building code, and Health Department regulations

15. **Short-Term Rentals**

- a. **MD Realtors Recommendation:** No short-term rental restriction

- b. Somerset County Ordinance: UNCLEAR IF COMPLIES** – Somerset County may permit short-term rentals. Because owner-occupancy of the primary dwelling is required in the ordinance, if a short-term rental is permitted it would have to be located in the ADU. *Recommend clarifying in the ordinance that short-term rental use is permitted in the ADU.*

(C) Summary recommendations on the Somerset County ADU Ordinances.

The Somerset County accessory dwelling ordinances complies with the State law in many aspects, except for not permitting accessory dwellings by-right, without a special exception. The following changes are recommended:

1. **Allowed by Right:** Recommend allowing accessory dwelling units by right in the CO and R-1 zoning districts.
2. **Definition/Maximum Size:** Per §5.10(c)(5), the size of an accessory dwelling unit may be no more than fifty (50%) percent of the living area of the principal dwelling. However, §6.8 also limits the size of an accessory structure to 1,200 sq. ft., but it is unclear if this provision would limit the size of the accessory dwelling unit. *Recommend clarifying if the 1,200 sq. ft. limitation for accessory structures also applies to an accessory dwelling unit.*
3. **Owner Occupancy:** Recommend no owner-occupancy requirement generally. If owner-occupancy is required, the owner should be permitted to occupy the primary dwelling unit or the accessory dwelling unit.
4. **Short Term Rental:** Recommend clarifying whether short-term rentals are permitted in an accessory dwelling unit.
5. **Guide for Applicants:** Recommend developing an Accessory Dwelling Unit Fact Sheet that includes all zoning and other permit requirements in one place, as zoning requirements and other information on building and environmental permits and fees can be scattered throughout the county code.

Thank you for the opportunity to review the Somerset County Ordinance for accessory dwelling units. Please feel free to reach out if you have any questions.

Sincerely,



Teresa Bamberger

Encl: Somerset County Ordinances – Accessory Apartments
ADU Guide to Local Jurisdictions

SOMERSET COUNTY ZONING ORDINANCE – ACCESSORY DWELLING UNITS

Per the Zoning District Use Table, Use 10 – Accessory Dwelling Units, ADU’s are permitted in the AR, R-2, R-3, MRC, C-1, C-2&O-C Districts, and are permitted by Special Exception in the CO and R-1 Districts.

17.2 Definitions

Accessory Dwelling Unit. A separate complete housekeeping unit that is substantially contained within the structure of a single-family unit or a commercial structure, but can be isolated from it.

5.10 Accessory Dwelling Units.

An accessory dwelling unit where permitted, provided that there shall be no more than one (1) accessory dwelling unit per lot and provided such accessory dwelling unit complies with the following standards.

a. Location. An accessory dwelling unit may be located on the same lot as an owner occupied detached single family dwelling unit. An accessory dwelling unit may not be located on the same lot as a ‘single-wide’ mobile or manufactured home.

b. Purpose. Standards for creating accessory dwelling units address the following purposes:

(1) Ensure that accessory dwelling units are compatible with the desired character and livability of residential districts;

(2) Respect the general building scale and placement of structures to allow sharing of common space on the lot, such as driveways and yards; and

(3) Ensure that accessory dwelling units are smaller in size than the principal residential unit.

c. Design Standards.

(1) Generally, the design standards for accessory dwelling units are stated in this section. If not addressed in this section, the base zoning district development standards apply.

(2) Creation. An accessory dwelling unit may only be created through the following methods:

i. Converting existing living area, attic, or basement;

SOMERSET COUNTY ZONING ORDINANCE – ACCESSORY DWELLING UNITS

- ii. Adding floor area to an existing dwelling;
- iii. Construction of a stand-alone unit; or
- iv. Adding onto an existing accessory building (e.g., apartment in an existing garage). Page 61 of 162

(3) Location of Entrances. Only one (1) entrance may be located on the front facade of the principal dwelling facing the street, unless the principal dwelling contained additional front facade entrances before the accessory dwelling unit was created.

(4) Parking.

- i. No additional parking space is required for the accessory dwelling unit if it is created on a site with an existing house and on-street parking is adequate.
 - a. One (1) additional parking space located on or within one-hundred (100) feet of the lot is required for the accessory dwelling unit:
 - 1. When none of the roadways in abutting streets can accommodate on-street parking (or);
 - 2. When the accessory dwelling unit is created at the same time as the principal dwelling.

(5) Maximum Size. The size of an accessory dwelling unit may be no more than fifty (50%) percent of the living area of the principal dwelling.

(a) Accessory dwelling units created through the addition of floor area must meet the following standards:

- (1) The exterior finish material must be the same or visually match in type, size, and placement of the exterior finish materials of the principal dwelling.
- (2) The roof pitch must be the same as the predominant roof pitch of the principal dwelling. The Board of Zoning Appeals may permit a different roof pitch if needed due to the shape of the roof on the existing principal dwelling if it determines that the proposed roof pitch will maintain a compatible appearance.
- (3) Trim on the edges of elements on the addition must visually match the type, size, and location as the trim used on the rest of the principal dwelling.

SOMERSET COUNTY ZONING ORDINANCE – ACCESSORY DWELLING UNITS

- (4) Windows must match those in the principal dwelling in proportion and orientation.
- (5) Eaves must project from the building walls the same distance as the eaves on the rest of the principal dwelling.

d. Refer to the Critical Area Ordinance for properties located within the Critical Area.

6.8 Accessory Structures.

Accessory structures shall meet the requirements of the ‘Table of Height, Area, and Dimensional Standards, other than Attached Housing,’ except as follows:

a. Customary structures that are accessory to dwellings may have a reduced minimum setback from side and rear property lines of eight (8) feet, provided they have:

- (1) A maximum height of twenty (25) feet,
- (2) A maximum floor area of 1,200 square feet, and
- (3) Are not adjacent to a public street.

The reduced minimum eight (8) foot setback may be reduced to no less than three (3) feet in the Maritime Residential Commercial (MRC) or High Density Residential (R-3) districts.

- b. Accessory structures are not permitted in the required minimum front yard.
- c. Along a side yard where principal buildings are attached to each other, no minimum side yard shall apply for accessory structures.
- d. On a residential lot of less than two (2) acres, no accessory building shall have a height exceeding twenty (25) feet, nor exceed a maximum floor area of 2,000 square feet.
- e. An accessory use or building shall not be the sole use of a lot, except temporarily while the principal use of the lot is being constructed.

ACCESSORY DWELLING UNITS

A Guide for Local Implementation of Maryland 2025 HB 1466, SB 891

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Sponsored by:



Summary of Maryland Accessory Dwelling Legislation

PURPOSE: The 2025 legislation seeks to address Maryland’s estimated 96,000 housing unit shortage and housing affordability crisis by requiring local jurisdictions to adopt local laws allowing accessory dwellings. (Ref: Maryland House Bill 1466/Senate Bill 891, Effective October 1, 2025.)

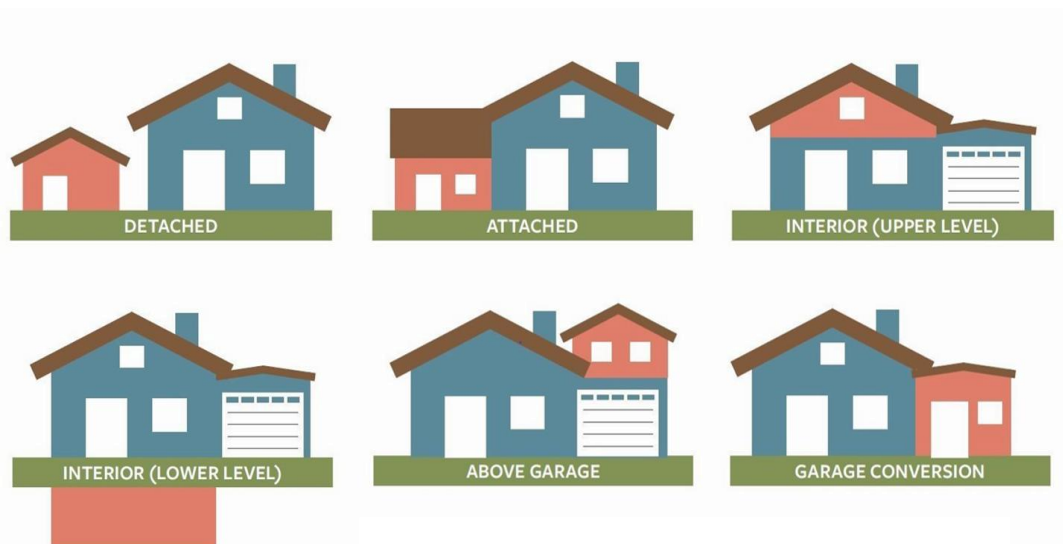
ADOPTION DATE: Each legislative body of a local jurisdiction (county or municipality) must adopt – by October 1, 2026 – a local law authorizing the development of accessory dwellings (“ADU’s”) in accordance with the bill.

The bill defines an ADU as:

“A secondary dwelling unit that is:

- on the same lot, parcel, or tract as a primary single-family detached dwelling unit and*
- not greater than 75% of the size of and subordinate in use to the primary single-family detached dwelling unit.”*

An ADU includes a structure that is within, separate from, or attached as an addition to, the primary detached dwelling structure.



ACCESSORY DWELLING UNIT PROVISIONS TO BE ADDRESSED BY LOCAL ZONING CODES:

A local law adopted under the bill **MUST**:

- provide for construction of ADUs that meet public health, safety, and welfare standards, including relevant building codes and adequate public facilities provisions;
- exclude the development of an ADU from the calculation of density and application of any residential growth limitation measures; and
- not establish setback requirements that exceed the existing accessory structure setback requirements from the side and rear lot lines.

A local law adopted under the bill **MAY**:

- establish standards for ADU safety;
- prohibit the full or partial conversion of an accessory structure as an ADU if the only vehicular access to the accessory structure is from an alley; and
- establish additional off-street parking requirements (provided a parking study is completed and a waiver process is established) that consider, among other things, the cost to construct off-street parking, and whether sufficient curb area exists along the front line of the property to accommodate on-street parking.

Restrictions on Use: A restriction on use (*for example* HOA bylaws or rules, a condition in a deed, a contract, or a security instrument) may not impose or act to impose an unreasonable limitation on the ability of the property owner to develop or offer for rent an ADU.

An unreasonable limitation:

- (1) includes a limitation that prohibits, either explicitly or by effect of the restrictions, the development of an ADU and
- (2) does not include a limitation on the short-term rental of an ADU.

Homeowners Association Voting and Assessments: The bill authorizes the governing body of an HOA to treat an ADU as a separate lot for purposes of voting on HOA matters and levying assessments.

Recommended Model ADU Ordinance

ORDINANCE NO. ____

**AN ORDINANCE OF _____ (name of jurisdiction) _____ TO ALLOW
AN ACCESSORY DWELLING ON LOT OF RECORD IN ANY ZONE THAT
ALLOWS A DETACHED SINGLE-UNIT DWELLING**

WHEREAS, our community is experiencing a lack of housing, resulting in families and households of middle and moderate incomes finding housing prices and rents to be unaffordable; *and*

WHEREAS, our community has also determined that the housing crisis is creating difficulties for employers hoping to attract new employees to our community; *and*

WHEREAS, our community has also determined that the housing crisis is impacting the well-being of our residents, particularly lower-income and middle-income earners; *and*

WHEREAS, accessory dwellings offer a way to provide compact, relatively affordable housing in established neighborhoods with minimal impact to infrastructure and to supply new housing opportunities without added dispersed low-density housing; *and*

WHEREAS, accessory dwelling units provide families with options for intergenerational living arrangements that enable child or elder care and aging in place, and accessory dwelling units enable seniors to downsize, move into accessible units, or live with family or a caregiver while remaining in their communities; *and*

WHEREAS, accessory dwelling units can provide rental income to help a variety of residents, such as older homeowners on fixed incomes, first-time homebuyers, and low- and moderate-income homeowners; *and*

WHEREAS, our community can benefit from the creation of accessory dwellings on residential properties, which can provide employee housing, more affordable housing, housing for the aging, housing for young adults, and housing for multi-generational households on the same lot.

NOW, THEREFORE, based upon the foregoing, be it hereby ordered by the _____
(town council/county commissioners) _____ that the Zoning Code for
_____ (name of jurisdiction) _____ be amended to allow Accessory
Dwellings as follows:

(Insert Zoning Code Section / Chapter Reference Number)

Definitions:

Accessory Dwelling. A second dwelling that is: (1) located on the same lot, parcel, or tract as a primary dwelling, and (2) has a gross floor area not greater than 75% of the size of the primary dwelling, and (3) is subordinate in use to the primary dwelling.

Primary Dwelling. A single-unit detached dwelling that is the principal structure on a single lot of record, and is the larger of the dwellings if there is an accessory dwelling located on the same lot.

(Insert Zoning Code Section / Chapter Reference Number)

“Accessory dwelling.” An accessory dwelling is a permitted use in any zone that permits a primary dwelling as a principal use, subject to the following conditions:

- A. The Zoning Administrator shall review all applications for an accessory dwelling and may approve such applications upon finding that the proposed accessory dwelling substantially complies with these conditions.
- B. A maximum of one accessory dwelling may be established on any lot with a primary dwelling as a principal use.
- C. The floor area of any accessory dwelling may be no more than 75% of the gross floor area of the principal dwelling. The calculation of the accessory dwelling floor area shall not include loft or attic space used solely for storage.
- D. An accessory dwelling shall contain no more than 2 bedrooms.
- E. An accessory dwelling shall not count as a dwelling unit for purposes of calculating housing density.
- F. An accessory dwelling shall meet public health, safety, and welfare standards, including relevant building codes and adequate public facilities provisions.
- G. An accessory dwelling is not required to comply with Adequate Public Facilities Ordinance requirements related to schools.

- H. An accessory dwelling may be established within a principal dwelling or within an accessory structure, and shall maintain the following setbacks:
1. An accessory dwelling located within a principal dwelling, or attached to a principal dwelling along a common wall, must comply with building setbacks applicable to the principal dwelling.
 2. An accessory dwelling that is not attached to the principal dwelling must comply with applicable accessory structure setbacks of the zoning district, however, in no case shall an accessory dwelling be setback from any property line less than 5 feet.
 3. Mechanical equipment for an accessory dwelling may project into the required building setback.
- I. Each accessory dwelling shall have its own separate exterior door providing ingress and egress.
- J. An accessory dwelling must have the same street address (house number) as the primary dwelling.
- K. Both the accessory dwelling and the principal dwelling shall be located on one lot in common ownership.
- L. An accessory dwelling must be permanently attached to a foundation, or within a structure that is permanently attached to a foundation.
- M. Parking.
1. No additional parking space is required for the accessory dwelling if it is created on a site with an existing house and on-street parking is permitted and adequate.
 2. One additional parking space located on or within 100 feet of the lot is required for the accessory dwelling: 1) when none of the roadways in abutting streets can accommodate on-street parking; or 2) when the accessory dwelling unit is created at the same time as the principal dwelling.
- N. An accessory dwelling is allowed on an existing lot of record with a non-conforming lot size and/or a non-conforming setback if the accessory dwelling does not increase the non-conforming setback.

ADU Ordinance - Required Provisions

Required Provisions	Allowed By Right	<ul style="list-style-type: none"> • Allow Accessory Dwellings by right within any zone that permits single-unit detached residential development <p><i>Comment:</i> ADU's must be allowed on lots with <i>detached</i> single-family dwelling units. Some jurisdictions may want to consider allowing ADU's with attached (townhome), and duplex units, where adequate vehicular access and parking can be provided.</p>
	No Density or Growth Restrictions	<ul style="list-style-type: none"> • A local jurisdiction may <u>not</u> regulate or restrict ADU's using: <ul style="list-style-type: none"> ○ Residential density restrictions. (For example, an accessory dwelling on a lot with a primary dwelling unit, shall <u>not</u> count as a dwelling unit for purposes of calculating housing density.) ○ Residential growth limitation measures <p><i>Comment:</i> An accessory dwelling is treated as an allowable accessory use or structure, associated with the primary residential structure.</p>
	Must Comply with Safety & Building Codes	<ul style="list-style-type: none"> • Must provide for construction of ADUs that meet public health, safety, and welfare standards, including relevant building codes and adequate public facilities provisions.
	Setbacks Same As Accessory Use Setbacks	<ul style="list-style-type: none"> • May not require side or rear yard setbacks that are greater than the side and rear yard setbacks for accessory structures in the applicable zoning district. <p><i>Comment:</i> In determining setbacks for detached ADUs, many jurisdictions have used five feet as the minimum separation between the ADU structure and the property line so that the accessory dwelling structure does not have to meet building code standard fire-resistance rating requirements. Also, a five-foot setback option allows for more windows and flexibility in window placement.</p>
	ADU Definition	<p>An "Accessory Dwelling Unit" (ADU) is a secondary dwelling unit that is:</p> <ol style="list-style-type: none"> (1) on the same lot, parcel, or tract as a primary single-family detached dwelling unit, and (2) has a gross floor area not greater than 75% of the size of the primary single-family detached dwelling unit. (3) is subordinate in use to the primary single-family detached dwelling unit. <p><i>Comment:</i> Definition is from MD 2024 HB 1466/SB 891</p>

ADU Ordinance - Optional Provisions

Optional Provisions	Owner Occupancy	<p>Options:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Owner-occupancy is not required for either the primary dwelling or the accessory dwelling <i>(Recommended)</i> <input type="checkbox"/> Primary dwelling must be owner-occupied <input type="checkbox"/> Either the primary dwelling or the accessory dwelling must be owner-occupied <p><i>Comment:</i></p> <p>PRO's: Owner-occupancy requirements are thought to ensure that property is better maintained and that the occupants are not disruptive to the neighborhood. An owner-occupancy requirement may be necessary to get local support.</p> <p>CON's: An owner-occupancy requirement will reduce the number of accessory dwellings constructed, can be difficult to track and enforce, and may hinder resale and financing. Owner-occupancy requirements will deter some homeowners from constructing accessory dwellings because it will reduce the pool of potential future buyers. If the homeowners were to move, they would not have the option of leasing the ADU and their primary residence to separate tenants. New lending rules from the Federal Housing Administration allow mortgage borrowers to qualify in part based on income generated by renting out an ADU only if it can be rented without restriction.¹</p> <p>Owner-occupancy compromise: Colorado had required owner occupancy only at the time of permitting. This provision aimed to deter investor speculation while protecting owners from being unable to rent their properties if circumstances change after permitting or construction. Note that Colorado recently eliminated any owner-occupancy requirement.</p>
	Parking	<p>Options:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Additional parking is not required if the principal dwelling unit has sufficient off-street parking, or adequate additional on-street parking is available within walking distance (500 feet) of the lot containing the accessory dwelling. <i>(Recommended)</i> <input type="checkbox"/> One off-street parking space is required for an ADU <input type="checkbox"/> One off-street parking space is required for each bedroom <p><i>Comment:</i> The cost and/or difficulty of complying with additional parking requirements for an ADU on an existing lot can often make the ADU cost prohibitive or physically impossible. Parking requirements should be as minimal as necessary to encourage ADU development. Recommend parking adequacy be staff-level review and approval.</p>

Optional Provisions	Minimum Floor Area	<p>Options:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> No minimum floor area (<i>Recommended</i>) <input type="checkbox"/> Specify minimum floor area <p><i>Comment:</i> A minimum floor area can impose undue restrictions. A min. floor area of 800 sq. ft. would prevent a studio apartment above a 2-car garage, which could be as small as 400 sq. ft. Recommend no minimum floor area requirement, or alternatively a 400 sq. ft. min. floor area requirement.</p>
	Maximum Floor Area	<p>Options:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Not greater than 75% of the gross floor area of the primary dwelling unit (per State law) (<i>Recommended</i>) <input type="checkbox"/> A jurisdiction may set a maximum floor area that is less than 75%. For example, Carroll County requires that an ADU “shall have no more than 800 square feet of livable floor area or <u>one-third</u> of the total livable floor area of the principal dwelling unit, whichever is greater.” <p><i>Comment:</i> A maximum floor area ensures the ADU is truly a subordinate or accessory use to the primary home.</p>
	Bedrooms	<p>Options:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> No more than 2 bedrooms are permitted in an ADU (<i>Recommended</i>) <input type="checkbox"/> Only 1 bedroom is permitted in an ADU <p><i>Comment:</i> The number of bedrooms permitted may vary depending on minimum or maximum floor area permitted. Most jurisdictions permit no more than 2 bedrooms, to ensure the ADU is truly a subordinate or accessory use to the primary home. Also, limiting to no more than 2 bedrooms is appropriate given the recommendation to waive other requirements, such as off-street parking, impact fees, APFO compliance, separate water and sewer taps.</p>
	Definitions for ADU Types	<ul style="list-style-type: none"> <input type="checkbox"/> Attached ADU <input type="checkbox"/> Internal ADU <input type="checkbox"/> Detached ADU <p><i>Comment:</i> These definitions may or may not be needed depending on other criteria imposed. For example, if setback requirements vary depending on whether an accessory dwelling is attached or detached, then definitions will be needed.</p>

Optional Provisions	Approval Process	<p>✓ An ADU that meets all zoning criteria, may be approved by staff without a public hearing. <i>(Recommended)</i></p> <p><i>Comment:</i> Allowing ADU’s to be approved by staff-level review is highly recommended. The zoning code should be drafted to provide clear guidelines for staff, but allow some discretion given the wide variety of site conditions. Staff review is preferable to a Special Exception of Conditional Use Permit hearing, during which emotions (rather than facts) can unduly influence the review and approval process.</p>
	Vehicular Access	<p>Options:</p> <p>✓ Not specify <i>(Recommended)</i></p> <p><input type="checkbox"/> Require vehicular access from a public street</p> <p><i>Comment:</i> Recommend not specifying the vehicular access for the accessory dwelling, and allow staff-level review and approval of adequate vehicular access. The State law allows, but does not require, a local jurisdiction to prohibit conversion of an accessory structure to an accessory dwelling if the only vehicular access is an alley.</p>
	Access (Front Door)	<p>Options:</p> <p>✓ An ADU must have a direct exterior access that is separate from the existing primary dwelling. <i>Administrator has discretion to waive if the entrance does not go into or through the primary dwelling unit (Recommended)</i></p> <p><input type="checkbox"/> No requirement for direct outside access</p> <p><i>Comment:</i> As the ADU is intended to be a complete independent living unit, recommend that ADU’s have a separate, direct exterior access.</p>
	Non-Conforming Lots	<p>✓ An accessory dwelling is allowed on an existing lot of record with a non-conforming lot size and/or a non-conforming setback if the accessory dwelling does not increase the non-conforming setback. <i>(Recommended)</i></p> <p><i>Comment:</i> This provision recognizes that many older, existing lots of record may not meet current zoning dimensional standards, and provides some flexibility to allow an ADU on a non-conforming lot.</p>
	Fire Sprinkler Systems	<p><i>Comment:</i> Do not recommend addressing sprinklers in ADU Ordinance. By State law, ADU’s are generally not required to have sprinkler systems if they are created within existing dwellings that do not have sprinkler systems. Maryland requires sprinkler systems to be installed in all newly constructed single-family and two-family dwellings, including ADU’s. <i>Maryland Building Performance Standards Regulations, Md. Code Ann. §9.12.51.05(B)(1)(d).</i> Recommend checking with local building code officials.</p>

Optional Provisions	APFO & Impact Fees	<p>Options:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> An ADU does not have to comply with the APFO Ordinance <input type="checkbox"/> An ADU must comply with APFO requirements that are proportionate to the size of the ADU relative to the size of the primary dwelling unit. (For example, if an ADU has 500 sq. ft. and the primary unit has 2,000 sq. ft., the APFO requirements will be 25% of what is required for the primary dwelling unit) <input type="checkbox"/> An ADU must meet APFO requirements if constructed at the same time as the primary unit. <p><i>Comment:</i> It is important to keep in mind that ADU's will only be constructed on a small percentage of lots. In Portland, Oregon where ADU's have been permitted since 1981, only 2% of residential lots have an ADU.ⁱⁱ Where ADU's are permitted, it is reported that additional impacts of ADU's on public facilities have been minimal to non-existent. For example in Montgomery County, where ADU's have been permitted since 2014, they have experienced no noticeable impact from ADU's on school capacity.ⁱⁱⁱ Alternatively, the AARP Model State Act and Local Ordinance recommends impact fees be waived for units less than 750 sq. ft., and charged proportionate to the size of the primary unit for ADUs over 750 sq. ft.^{iv} Recognizing that ADU's have a very small overall impact on public facilities, Anne Arundel County eliminated APFO requirements for ADU's in 2023 per House Bill 6-23.</p>
	Well and Septic	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> An ADU may share the well and septic of the primary dwelling unit, if adequate capacity exists
	Public Water and Sewer	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> An Attached or Internal ADU must be serviced by the same public water and sewer lines as the principal dwelling unit. <p>A Detached ADU may be serviced by the same public water and sewer lines as the principal dwelling unit where feasible, subject to approval by the local water or sewer authority.</p>
	Short-Term Rentals (rented for periods < 30 days)	<p>Options:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> No short-term rental restrictions <input type="checkbox"/> An ADU may not be used as a Short-Term Rental <input type="checkbox"/> An ADU may only be used as a Short Term Rental if either the primary dwelling unit or the ADU is owner-occupied <p><i>Comment:</i> Recommend allowing ADU's to be used for short-term rentals, particularly in tourist areas, and to help homeowners by providing supplementary income. However, if a jurisdiction is concerned about property maintenance, noise, or inadequate parking, it may want to prohibit use of ADU's for short term rentals.</p>

Examples of Existing ADU Ordinances in Maryland

NOTE: These ADU Ordinance examples are provided to give local jurisdictions that have not previously allowed ADU's a look at how other Maryland jurisdictions have regulated ADU's in their zoning codes in the past, and the type of issues other jurisdictions have found to be relevant. The 2025 State law took effect on October 1, 2025 and jurisdictions have until October 1, 2026 to comply with the new law. These examples are NOT ordinances that have been drafted or revised to comply with the 2025 state law, and are for general reference only.

Example	ANNAPOLIS, ANNE ARUNDEL COUNTY
	<p>21.64.010 - Accessory dwellings.</p> <ul style="list-style-type: none">A. A maximum of one accessory dwelling unit may be established on any one lot.B. An accessory dwelling unit may be established within a principal structure or within an accessory structure.C. Each accessory dwelling unit shall have its own separate ingress and egress.D. The addition of an impervious surface shall not be allowed on any lot containing an accessory dwelling unit, unless:<ul style="list-style-type: none">1. The Department has determined that the proposed surface will be treated or managed; or2. The equivalent coverage of impervious surface will be removed elsewhere on the property.E. The maximum size of any accessory dwelling unit that is not established within the existing footprint of the principal structure is eight hundred fifty square feet of livable space.F. A rental license for any accessory dwelling unit is required in accordance with Chapter 17.44.G. An accessory dwelling unit and principal structure on any one lot shall be in common ownership and the owner shall reside in either the accessory dwelling unit or the principal structure. <p><i>(Ord. No. O-9-21, § I, 10-11-2021)</i></p>

Example

CARROLL COUNTY:

- (6) Attached accessory dwelling units which are subject to the following:
 - a. An attached accessory dwelling must have direct access from the outside;
 - b. Only one attached accessory dwelling is permitted on any principal dwelling unit;
 - c. The property owner must occupy either the principal dwelling unit or the attached accessory dwelling unit on the property;
 - d. The maximum size of an attached accessory dwelling shall be 800 square feet of the livable floor area or one-third of the total livable floor area of the principal dwelling unit, whichever is greater;
 - e. The attached accessory dwelling unit shall have no more than 2 bedrooms;
 - f. The attached accessory dwelling unit must meet all applicable building construction and Maryland Department of Health and Mental Hygiene and MDE;
 - g. Two additional off street parking spaces must be provided for the attached accessory dwelling unit; and
 - h. Only one accessory dwelling unit (attached or detached) shall be permitted on a lot.
- (7) Detached accessory dwelling units, provided that the lot or parcel is eligible to be subdivided to separate the detached accessory dwelling and which are subject to the following:
 - a. Only one detached accessory dwelling unit is permitted on any lot or parcel. Buildings converted in accordance with § 158.070(D) shall be considered detached accessory dwelling units;
 - b. The property owner must occupy either the principal dwelling unit or the detached accessory dwelling unit on the lot or parcel;
 - c. The detached accessory dwelling unit must meet all applicable building construction and Maryland Department of Health and Mental Hygiene and MDE;
 - d. Two off street parking spaces must be provided for the detached accessory dwelling unit; and
 - e. Detached accessory dwelling units shall not be subject to any size limits.

Example

FREDERICK COUNTY:

§ 1-19-8.212 LIMITED ACCESSORY DWELLING UNITS IN THE RC, A, R1, R3, R5, R8, R12, R16, VC, MXD, PUD, AND MX DISTRICTS.

The following provisions shall apply to limited accessory dwelling units in the RC, A, R1, R3, R5, R8, R12, R16, VC, MXD, PUD, and MX districts.

- (A) Only 1 limited accessory dwelling unit ("ADU") may be created on a lot.
- (B) A limited accessory dwelling unit shall be allowed within single-family dwellings, in an accessory structure, or built as a separate accessory structure on a single-family lot.
- (C) The owner of the property must reside in the principal dwelling or in the accessory dwelling unit.
- (D) There must be at least 1 additional parking space provided for the limited accessory dwelling unit. On-street parking may be utilized to meet this requirement.
- (E) The limited accessory dwelling unit shall not exceed 1,000 square feet in size, excluding decks, porches, patios or other items that are not part of the primary footprint of the accessory dwelling unit. An accessory dwelling unit greater than 1,000 square feet shall be reviewed as a special exception under § 1-19-8.321.
- (F) A limited accessory dwelling unit located in an accessory structure or built as a separate accessory structure must comply with the accessory structure requirements of § 1-19-8.240(B).
- (G) ADUs are intended to serve ongoing housing needs of county residents. Short term rental of ADUs in the nature of extended stay hotels, Airbnbs, or seasonal temporary housing is not permitted.
- (H) The owner of the principal residence shall file an annual statement with the Zoning Administrator verifying that conditions under which the limited accessory dwelling unit was granted remain the same.
- (I) If the ownership of the lot changes, the subsequent owner must provide a statement as to the continued use and eligibility of the accessory dwelling unit.
- (J) If the Zoning Administrator, after consultation with appropriate County staff, determines that the limited accessory dwelling unit is not in compliance with the above provisions as well as all safety, health, and environmental standards, approval of the accessory dwelling unit may be revoked pursuant to § 1-19-2.210.

(Ord. 11-25-591, 10-27-2011; Ord. 11-28-594, 11-22-2011; Ord. 14-23-678, 11-13-2014; Bill No. 18-16, 8-21-2018; Bill No. 20-10, 7-21-2020)

ADU Ordinance – Other Resources

Other Resources	<ul style="list-style-type: none">• <u>The ABCs of ADUs, A guide to Accessory Dwelling Units and how they expand housing options for people of all ages</u>, AARP, 2021 (<i>containing many photo examples of ADU's</i>)• <u>Accessory Dwelling Unit Policy Task Force Final Report</u>, May 31, 2024, Maryland Department of Planning.• <u>Accessory Dwelling Units, Model State Act and Local Ordinance</u>, ©2020-2021 by AARP, available at <u>AARP.org/ADUs</u>• <u>Expanding ADU Development and Occupancy: Solutions for Removing Local Barriers to ADU Construction</u>, ©2023 by AARP.• <u>Inventory-of-ADU-Ordinances-For Website.pdf</u>, Maryland Department of Planning.• <u>A Taxonomy of State Accessory Dwelling Unit Laws 2025 Mercatus Center</u>, George Washington University, Emily Hamilton and Kol Peterson, Aug. 2025.
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ⁱ [A Taxonomy of State Accessory Dwelling Unit Laws 2025 | Mercatus Center](#), George Washington University, Emily Hamilton and Kol Peterson, Aug. 2025.

ⁱⁱ [The ABCs of ADUs, A guide to Accessory Dwelling Units and how they expand housing options for people of all ages](#), AARP, 2021

ⁱⁱⁱ [Accessory Dwelling Unit Policy Task Force, Final Report](#), May 31, 2024, Maryland Department of Planning, page 19.

^{iv} [AARP – Accessory Dwelling Units: Model State Act and Local Ordinance](#), page 19.