



## Maryland DEPARTMENT OF PLANNING

### ADU Policy Task Force: Draft Recommendations

[SB 382](#) assigns the following tasks and deliverables to the Task Force. All recommendations should reflect these requirements.

1. Study available best practices for streamlining or standardizing the application process for permits necessary to build or operate an accessory dwelling unit.
2. Make **legislative or other policy recommendations**, including a **list of best practices** for local governments in the State, that holistically address:
  - a. the **practical issues** associated with the development of accessory dwelling units on owner-occupied land zoned for single-family residential use; and
  - b. the **impacts on local housing markets, neighborhood livability**, and other policies and projects related to accessory dwelling units.

Meeting Date	Topic Area	Draft Recommendations/Best Practices	Notes
11/28/23	Zoning Use and Approval Processes	<p><b>Note: Clear preference for by-right use allowances across the Task Force</b></p> <p><b>Recommendations For Local Governments</b></p> <ul style="list-style-type: none"><li>• Zoning ordinances should define and permit at least one ADU by-right (ministerial objective standards and process) in most single-family residential zones. In addition, they should...<ul style="list-style-type: none"><li>○ contain clear definitions of ADUs and include them as a residential rather than accessory use.</li><li>○ treat ADUs as a reasonable and accessible accessory use to a residential dwelling.</li></ul></li></ul>	

		<ul style="list-style-type: none"> <li>○ have clear and objective standards or conditions for approval, which should also be as permissible as possible and not onerous.</li> <li>○ include clear timeframes (counted in days) for ADU approval.</li> <li>● Local ADU guidance, policy, and ordinances should be clear and straightforward for homeowners. Simpler is better.</li> <li>● By-right versus SPEX standards, as well as approval processes, should be tailored to the unique demands presented by infrastructure capacity, environmental constraints, and lot size and context. Local plans and zoning ordinances should consistently communicate the decisions, purposes, and processes that distinguish the rationale for by-right versus SPEX approval of ADUs.</li> </ul> <p><b>Recommendations For State Government</b></p> <ul style="list-style-type: none"> <li>● State ADU guidance and policy related to zoning use and approval processes should be clear and straightforward for local governments and homeowners. Simpler is better.</li> <li>● State agency educational resources and guidance should reinforce and provide the tools to implement ADU by-right approval processes at the county and municipal levels.</li> <li>● The Task Force and/or state agencies should compile and create guidance, including a flow chart, on by-right standards and approval processes for ADUs on properties zoned for single family residential uses that is sensitive to the community and neighborhood context.</li> </ul> <p><b>Best Practices</b></p> <ul style="list-style-type: none"> <li>● Where other zoning regulations already apply, such as in Critical Areas and historic preservation districts, SPEX criteria are not necessary because ADU by-right uses must still conform with those requirements. Policy and ordinances should not overregulate and create unnecessary redundancies.</li> <li>● SPEX approval of ADUs is best limited to neighborhoods or zoning districts in which a jurisdiction has a clear objective, as detailed in and consistent with a master or subarea plan, for neighborhood</li> </ul>	
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		<p>preservation and/or environmental preservation. Examples include historic districts or those with documented and measurable constraints such as steep slopes or natural resources.</p> <ul style="list-style-type: none"><li>• To encourage ADU development, jurisdictions should, at a minimum...<ul style="list-style-type: none"><li>○ Permit one internal or attached ADU by-right on any lot in which a single-family residential unit is similarly permitted by-right.</li><li>○ Permit detached ADUs by-right on any lot in which a single-family residential unit is similarly permitted by-right, but with additional conditions to ensure that the massing of ADU is subordinate to that of the primary dwelling unit.</li></ul></li><li>• Objective conditions for local approval of ADUs should address measurable requirements such as massing, entrance locations, connections to public utilities, and square footage. They should not include subjective criteria such as neighborhood compatibility, adverse impacts, or consistency with a comprehensive plan.</li><li>• When developing ADU use and approval processes for zoning districts and/or neighborhoods, jurisdictions should consider existing residential unit types, proximity to transit, off-street parking availability, water and sewer infrastructure availability and capacity, environmental constraints, and impervious land cover.<ul style="list-style-type: none"><li>○ In zoning districts and/or neighborhoods that permit or include single family attached units, jurisdictions should consider by-right permitting of only internal ADUs or those that involve the conversion of an existing accessory structure.</li><li>○ In zoning districts and/or neighborhoods that permit or include single family duplex and/or triplex units, jurisdictions should consider by-right permitting of only internal ADUs or those that involve the conversion of an existing accessory structure or existing attachment.</li><li>○ In zoning districts and/or neighborhoods that permit only single family detached units, jurisdictions should consider by-right permitting of all ADU types.</li></ul></li></ul>	
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12/19/23	Lot requirements	<p><b><i>Note: Clear preference for using lot requirements of underlying zoning and principal dwelling to govern those for ADUs</i></b></p> <p><b>Recommendations For Local Governments</b></p> <ul style="list-style-type: none"> <li>● To encourage property owners to develop ADUs, zoning ordinance lot requirements (lot size, density, unit size, lot coverage, setbacks, height) should be simple, standardized, and...</li> </ul>	

		<ul style="list-style-type: none"><li>○ apply the same lot requirements for ADUs as those that apply to the principal dwelling unit in the same zoning district.</li><li>○ treat ADUs as an accessory use to a dwelling, just as they would a garage, and not impose more restrictive lot requirement standards specific to ADU uses.</li><li>○ as appropriate allow more permissive lot requirements for ADUs, sensitive to neighborhood context and environmental constraints, such as those reducing setback or impervious surface requirements.</li><li>● Zoning ordinances should remove ADUs from density calculations for residential zoning districts.</li><li>● Zoning ordinances should delegate minimum ADU size to building code requirements and establish maximum ADU size to ensure subordination to the principal dwelling and that the ADU remains affordable.</li></ul> <p><b>Recommendations For State Government</b></p> <ul style="list-style-type: none"><li>● State ADU guidance and policy related to lot requirements should be clear and straightforward for local governments and homeowners. Simpler is better.</li><li>● State agency educational resources should establish appropriate maximum ADU unit size calculation guidelines and examples tailored to the lot and unit size of the principal dwelling and/or zoning district, such as those based on a maximum percentage of the size of the principal dwelling.</li><li>● The Task Force and/or state agencies should compile a checklist of lot requirement criteria and options which Maryland jurisdictions could use for local deliberations and decision making regarding ADU ordinances. The checklist should address ADU ordinance options for topics such as...<ul style="list-style-type: none"><li>○ type of neighborhood (revitalization area, stable established neighborhood, growth area, etc.)</li></ul></li></ul>	
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- existing accessory structure regulations.
- access and connection to, as well as capacity of, public utilities.
- existing lot requirements (lot size, density, unit size, lot coverage, setbacks, height).
- average size of existing residential units

**Best Practices**

- Lot requirements for ADUs should be the same as those for a principal dwelling in the zoning district in which they are to be constructed. Homeowners, as well as local planning and zoning staff, should be able to readily understand lot requirements for ADUs.
- The creation of internal ADUs or conversion of existing accessory structures into ADUs should not require consideration of lot requirements, as they do not impact building massing on a property.
- Zoning ordinances should explicitly state that ADUs are not included in residential unit density calculations. Inclusion of ADUs in density calculations may prohibit or preclude their development in existing neighborhoods or limit overall unit production in new residential developments. Exceptions to this practice should be considered when...
  - increased density may stress water and sewer capacity in areas or zoning districts served by public water and sewer.
  - increased density on a property served by well and septic conflicts with local health department regulations.
- When developing ADU lot requirements for zoning districts and/or neighborhoods, jurisdictions should consider existing minimum lot sizes, local objectives regarding lot coverage, and to encourage ADU affordability for renters.
  - In zoning districts and/or neighborhoods with small minimum lot sizes and for which a jurisdiction does not want to increase impervious surface cover, jurisdictions should consider only permitting internal ADUs or those involving the conversion of an existing accessory structure or attachment to a principal structure.

		<ul style="list-style-type: none"> <li>○ In zoning districts and/or neighborhoods with medium to larger minimum lot sizes, jurisdictions should consider setting maximum detached ADU sizes to preserve pervious surface cover, maintain ADU subordination to the principal structure, and support ADU affordability.</li> <li>○ In zoning districts and/or neighborhoods with the largest minimum lot sizes, jurisdictions should consider permitting larger ADU sizes while maintaining subordination to the principal structure and ensuring ADUs are small enough to support ADU affordability.</li> </ul>	
1/16/24	ADU Design, Building Codes	<p><b><i>Note: Clear recognition that design, accessibility, and safety objectives should be considered in ADU requirements. However, they should not be so overly restrictive or prescriptive as to hinder construction or unit affordability.</i></b></p> <p><b>Recommendations For Local Governments</b></p> <ul style="list-style-type: none"> <li>● Any design requirements applied to ADUs should be approved ministerially.</li> <li>● To ease property owner ADU construction and preserve unit affordability, zoning ordinance design requirements for ADUs should be simple and... <ul style="list-style-type: none"> <li>○ no more restrictive than those for the primary structure.</li> <li>○ not prescribe building materials or architectural finishing.</li> <li>○ not so burdensome as to require a property owner to hire an architect.</li> <li>○ consider relying solely on building code requirements to govern ADU design.</li> </ul> </li> <li>● Local governments should develop incentives, public education, partnerships, and technical assistance to encourage development of ADUs as an affordable residential product. Examples include... <ul style="list-style-type: none"> <li>○ educational materials describing what ADUs are and how property owners can construct them.</li> </ul> </li> </ul>	

		<ul style="list-style-type: none"> <li>○ dedicated office or staff to answer ADU questions.</li> <li>○ guidance for navigating restrictive covenant requirements.</li> <li>○ pre-approved ADU building plans.</li> <li>○ partnering with non-profits or other housing organizations to help ease the cost and development process for homeowners.</li> </ul> <ul style="list-style-type: none"> <li>● As part of any new or modified ADU ordinance, jurisdictions should establish amnesty programs, through which participating owners agree to fix some or all building code violations in exchange for explicit permission to continue renting an existing ADU.</li> <li>● ADU ordinances should not <ul style="list-style-type: none"> <li>○ limit ADUs to one bedroom.</li> <li>○ withhold ADU permits based solely on design requirements.</li> <li>○ require and/or deny an ADU permit based on the failure to correct non-conforming structure(s) on the property.</li> </ul> </li> </ul> <p><b>Recommendations For State Government</b></p> <ul style="list-style-type: none"> <li>● Develop resources which local governments, developers, and homeowners' associations can use for restrictive covenant decision making.</li> <li>● To craft an approach that balances ADU design and affordability in Maryland's established communities, the state should consult with the Maryland Historical Trust when establishing design guidelines, resources, and best practices.</li> <li>● Encourage flexibility in state mandates, such as sprinkler and accessibility requirements, for ADUs. ADU construction should not trigger such requirements if they are not currently applied to the primary structure. Rather, the state should develop resources and incentives to encourage these enhancements rather than mandate them.</li> </ul>	
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2/20/24	Parking, Community Facilities,		

	Code Enforcement		
3/19/24	Utilities and Fees, Affordability		
4/16/24	Housing Market Analysis		

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