

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 829 (Senator Waldstreicher)
Education, Energy, and the Environment

Land Use - Multifamily Developments and Mixed-Use Developments -
Authorization (Bring Back Main Street Act)

This bill, under the Land Use Article, requires a county with a population of more than 150,000 to allow multifamily developments or mixed-use developments on a parcel or lot that is (1) currently serviced by a water and sewer system, whether public or private and (2) located on a parcel zoned for recreational or commercial use. The bill prohibits a county from imposing on those developments specified density limits, setback requirements, restrictions on lot size or coverage, or other specified requirements. Under the Real Property Article (under provisions applicable statewide), the bill establishes that, except for historic property listed in or eligible for the Maryland Register of Historic Properties, if a property owner has the exclusive right to use the property, a restriction on use (*e.g.*, a covenant or restriction in a deed) regarding land use may not impose or act to impose an unreasonable limitation on the ability of the property owner to build a residential development or mixed-use development.

Fiscal Summary

State Effect: The bill is not expected to directly affect State finances.

Local Effect: Local government finances may be affected, as discussed below. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Land Use Article – Permitted Developments

The following provisions (related to a “permitted development”) apply only to a county with a population of more than 150,000.

The bill requires a county to allow multifamily developments or mixed-use developments as a permitted use on a parcel or lot that is (1) currently serviced by a water and sewer system, whether public or private and (2) located on a parcel zoned for recreational or commercial use. The bill refers to these developments as “permitted developments.”

“Permitted use” means the ability to be approved without requiring a public hearing, variance, conditional use permit, special permit, special exception, or any other discretionary zoning action required under the Land Use Article other than a determination that a site plan conforms with applicable zoning regulations.

A county may not impose on a permitted development:

- density limits that are lower than the highest allowable density in the county’s residential zones;
- setback requirements that are greater than the lesser of (1) standard utility easements; (2) existing commercial setback requirements from side and rear lot lines; or (3) existing setback requirements for a property being converted to residential or mixed-use through adaptive reuse;
- restrictions on lot size or coverage;
- mandatory walls, fences, or screening;
- mandatory use of impervious pavement outdoors unless if necessary for disability accommodation or public health and safety;
- mandatory nonpublic open space or common areas; or
- a minimum off-street parking requirement, except as necessary to comply with federal law.

A county may not require a permitted development to include a percentage of affordable dwelling units (dwelling units affordable to households earning 60% or less of the area median income) greater than the percentage otherwise required in residential zones in that county.

However a county may:

- require (1) up to 20% of the available floor space of a permitted development to be dedicated to retail uses and (2) a permitted development to include on-site parking; and
- regulate the siting and design of a permitted development.

“Mixed-use development” means a development consisting of residential and nonresidential uses in which the nonresidential uses (1) are less than 50% of the total square footage of the development and (2) are limited to the first floor of buildings that are two or more stories.

“Multifamily development” means a building designed for five or more dwelling units in which (1) the dwelling units share a common separation, such as a ceiling or wall and (2) common access between the dwelling units cannot be gained through an internal doorway, except for a common hallway.

Real Property Article – Prohibition on Unreasonable Limitation

Except for historic property listed in or eligible for the Maryland Register of Historic Properties, the bill establishes that if a property owner has the exclusive right to use the property and abides by all applicable laws and regulations, a restriction on use (*e.g.*, a covenant, restriction, or condition in a deed, a contract, a security instrument, or homeowners association’s bylaws or rules) regarding land use may not impose or act to impose an unreasonable limitation on the ability of the property owner to build a residential development or mixed-use development. An unreasonable limitation includes a limitation that (1) significantly increases the cost of developing a multifamily development or mixed-use development or (2) prohibits, either explicitly or by effect of the restrictions, a multifamily development or mixed-use development. This provision of the bill applies statewide.

Current Law:

Land Use – Generally

The regulation of land use in the State, through planning and zoning, is implemented by local governments, subject to applicable State law. Planning and zoning authority is delegated by the State to local governments primarily under the Land Use Article and, for certain counties, the Express Powers Act (Title 10 of the Local Government Article).

Both the Land Use Article and Express Powers Act contain the State’s policy statement that (1) the orderly development and use of land and structures requires comprehensive

regulation through implementation of planning and zoning controls and (2) planning and zoning controls must be implemented by local government. State law includes various provisions authorizing local governments to regulate the location, size, and use of structures through zoning regulations.

Housing Expansion and Affordability Act of 2024

Chapter 122 of 2024 (the Housing Expansion and Affordability Act of 2024), among other things, requires local jurisdictions to allow specified densities and uses in certain zoning areas for “qualified projects” (residential construction or renovation projects that include specified amounts of affordable housing) on specified property. When a qualified project is in an area zoned for nonresidential use, it may consist of mixed-use development, with density limits that do not exceed the highest allowable density in the local jurisdiction’s multifamily residential zones. However, before a qualified project is authorized to exceed the density in an area zoned for nonresidential use, the entity responsible for the qualified project must (1) conduct a public health impact assessment (evaluating potential impacts associated with the proximity of the project to any health hazards in the area) and (2) receive approval of the public health impact assessment from the Department of Housing and Community Development.

Chapter 122 also prohibits a local jurisdiction from imposing any unreasonable limitations or requirements on a qualified project, including limitations on or requirements concerning (1) height; (2) setback; (3) bulk; (4) parking; (5) loading, dimensional, or area; or (6) similar requirements. “Unreasonable limitation or requirement” includes any limitation or requirement that amounts to a *de facto* denial by having a substantial adverse impact on (1) the viability of an affordable housing development in a qualified project; (2) the degree of affordability of affordable dwelling units in a qualified project; or (3) the allowable density or number of units of the qualified project.

Development Mechanisms

Section 7-101 of the Land Use Article authorizes and encourages a local jurisdiction – in order to encourage the preservation of natural resources or the provision of affordable housing and to facilitate orderly development and growth – to enact local laws providing for or requiring (1) the planning, staging, or provision of adequate public facilities and affordable housing; (2) off-site improvements or the dedication of land for public facilities essential for a development; (3) moderately priced dwelling unit programs; (4) mixed use developments; (5) cluster developments; (6) planned unit developments; (7) alternative subdivision requirements that meet minimum performance standards set by the local jurisdiction and reduce infrastructure costs; (8) floating zones; (9) incentive zoning; and (10) performance zoning.

Prohibition on Unreasonable Limitation – Accessory Dwelling Units

Chapters 197 and 198 of 2025 establish, under the Real Property Article, that – except for historic property listed in or eligible for the Maryland Register of Historic Properties – if a property owner has the exclusive right to use the property and abides by all applicable laws and regulations, a restriction on use (*e.g.*, a covenant, restriction, or condition in a deed, a contract, a security instrument, or homeowners association’s bylaws or rules) regarding land use may not impose or act to impose an unreasonable limitation on the ability of the property owner to develop or offer for rent an accessory dwelling unit (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.

Local Fiscal Effect: Infrastructure spending by affected counties may increase or accelerate to the extent the bill’s provisions result in greater multifamily and mixed-use development (or development density), creating infrastructure demand that outpaces the capacity planned for by a county based on the county’s existing regulation of mixed-use and multifamily development. The extent to which potential additional strain on infrastructure under the bill may result in increased/accelerated infrastructure spending, and the potential magnitude of that spending, cannot be reliably estimated and depends on the infrastructure capacity of an area in which a development is proposed, and the extent of increased development (or development density) resulting from the bill.

Small Business Effect: Small businesses involved in multifamily development or mixed-use development projects, or that may benefit from increased available commercial space and/or an increased customer base resulting from such development projects, may meaningfully benefit from the bill to the extent it allows for increased multifamily and mixed-use development (or development density) in commercial areas.

Additional Comments: Based on information obtained from the Maryland Department of Planning’s website, the following counties (including Baltimore City) have at least 150,000 residents: Baltimore City, Anne Arundel, Baltimore, Carroll, Charles, Frederick, Harford, Howard, Montgomery, Prince George’s and Washington counties.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 1137 (Delegate Allen) - Economic Matters.

Information Source(s): Calvert, Howard, Prince George's, and Queen Anne's counties; Maryland Association of Counties; City of Annapolis; Maryland Municipal League; Judiciary (Administrative Office of the Courts); Department of Housing and Community Development; Maryland Department of Planning; Department of Legislative Services

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