



**BERLIN MAYOR AND COUNCIL
PLANNING COMMISSION
Meeting Agenda**

**Worcester County Library – Berlin Branch
13 Harrison Ave., Berlin, MD 21811**

Monday, September 14, 2026

5:00 PM WORK SESSION – Berlin Library

- 1. 5:05 PM CALL TO ORDER:** Mayor Zack Tyndall
- 2. 5:10 PM INTRODUCTION(S):** Mayor Zack Tyndall
- 3. 5:15 PM DISCUSSION:** Ordinance 2027-07: Amending Chapter 108, by adding a new Section 88 in Section of Article II, Entitled “Accessory Dwelling Units” – Town Legal Consultant Emily Morris & Mayor Zack Tyndall
- 4. 5:45 PM COMMENTS FROM THE PLANNING COMMISSION**
- 5. 5:50 PM COMMENTS FROM THE COUNCIL**
- 6. 5:55 PM COMMENTS FROM THE MAYOR**
- 7. 6:00 PM ADJOURNMENT**

To access the Meeting via Facebook, please click the blue Facebook icon at the top of any page on www.berlinmd.gov, or type @townofberlinmd in the Facebook search bar. QR code links to online packet and Strategic Plan. Anyone having questions about the meetings mentioned above or needing special accommodations should contact Town Administrator Mary Bohlen at (410) 641-2770. Written materials in alternate formats for persons with disabilities are made available upon request. TTY users dial 7-1-1 in the State of Maryland/outside Maryland dial 1-800-735-2258.



ORDINANCE 2026-07

AN ORDINANCE to amend Chapter 108 (“Zoning”) of the Code of the Town of Berlin, Maryland, by adding a new Section 719 in Section of Article VIII, entitled “Supplemental District Regulations,” to authorize and regulate the development of accessory dwelling units on land zoned for single-family detached residential use, as required by Title 4, Subtitle 5 of the Land Use Article, Annotated Code of Maryland, enacted by Chapter 197 of the Laws of Maryland 2025 (House Bill 1466); establishing definitions, applicability, development and design standards, permit review procedures, limitations on development impact fees, and requirements governing utility connections for accessory dwelling units; and generally relating to the development and use of accessory dwelling units within the Town of Berlin.

WHEREAS, Title 4, Subtitle 5 of the Land Use Article, Annotated Code of Maryland (“State ADU Law”), requires the legislative body of each Maryland county and municipal corporation to adopt, on or before October 1, 2026, a local law authorizing the development of accessory dwelling units on land zoned for a single-family detached dwelling unit as the primary use; and

WHEREAS, the State ADU Law establishes certain requirements that a local law must include and certain limitations that a local law may not impose, while preserving local discretion over other aspects of accessory dwelling unit regulation; and

WHEREAS, the Mayor and Council of the Town of Berlin find that adoption of this Article is necessary to bring the Town Code into compliance with the State ADU Law and to provide clear, administrable standards for the development of accessory dwelling units within the Town with consideration of the Town’s public health, safety, welfare standards, and adequacy of the public facilities, including the Town’s electric, water, sewer, and other Town resource capacity.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Town of Berlin, Maryland, that Chapter 108 of the Code of the Town of Berlin is hereby amended by adding a new §108-719 of Article VIII to read as follows:

SECTION 108-719, ARTICLE VIII. ACCESSORY DWELLING UNITS IN R-1 AND R-2 ZONES

§ 108-719.01 Purpose and authority.

A. This Article is adopted pursuant to, and is intended to satisfy, the requirement of Md. Code Ann., Land Use § 4-504(a) that the Town adopt a local law authorizing the development of accessory dwelling units on or before October 1, 2026. Except as expressly provided in this Article, nothing in this Article alters or abrogates the Town's zoning authority under Chapter 108 or the Land Use Article.

B. The purpose of this Article is not to establish two-unit rental units or multi-family residential uses in single-family residential zones, which are expressly prohibited by Town zoning requirements.

§ 108-719.02 Definitions.

As used in this Article, the following terms have the meanings indicated. Terms not defined in this Article have the meanings given in § 100-95 (Definitions) and Article V (Housing Standards) of the Town Code.

ACCESSORY DWELLING UNIT (ADU) — A secondary subordinate dwelling unit that is: (1) located on the same lot, parcel, or tract as a primary single-family detached dwelling unit; (2) of a height of no more than one and half stories for stand-alone Accessory Dwelling Unit structures or 25 feet in height if the ADU is constructed above an Accessory Structure garage used for storage of vehicles, workshop, or other permissible use containing that contains no Livable Space; and (3) not greater than 800 net square feet of net Livable Space or the Accessory Structure is 35% of the net Livable Floor Space of the Primary Dwelling Unit (whichever is lesser), and (4) subordinate in use to the primary single-family detached dwelling unit. An Accessory Dwelling Unit is constructed:

- (i) attached to, or through the conversion of, a portion of the primary dwelling unit;
- (ii) attached to, or through the full or partial conversion of, an existing Accessory Structure located on the same lot, parcel, or tract as the primary dwelling unit; or
- (iii) as a new building, detached from the primary dwelling unit and any existing accessory structure;

An Accessory Dwelling Unit includes an Accessory Structure that is separate from the primary single-family detached dwelling unit or attached as an addition to the primary single-family detached dwelling unit.

ACCESSORY STRUCTURE — shall mean a building or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure that is permanently affixed to a foundation and constructed concurrently with or after the Primary Dwelling Unit and subject to the location requirements set forth in § 108-702 ¹of the Town Code.

DOMESTIC PARTNER – means a domestic partner pursuant to a Declaration of Domestic Partnership filed with the Worcester County Register of Wills.

DWELLING UNIT — for the purpose of this Chapter, a single unit providing complete, independent living facilities for no more than three adult persons or two adult persons with two minor Immediate Family members, including, at a minimum, permanent provisions for sanitation, cooking, eating, and sleeping, toilet, bathing, and other activities routinely

¹ ***Sec. 108-702. Accessory buildings in residence districts. [foot note Included for context purposes, to be removed for final ordinance]***

- (a) *No accessory building shall be located in any required court or in any yard other than a rear yard except as provided hereinafter. Accessory buildings shall be distant at least six feet from alley lines and from any other building on the same lot and at least six feet from lot lines of adjoining lots, which are in any R District.*
- (b) *Accessory buildings, except stables, may be erected as a part of the principal building or, if at least six feet therefrom, may be connected thereto by a breezeway or similar structure, provided that all yard requirements for a principal building are complied with.*
- (c) *In any R District, where a corner lot adjoins in the rear a lot fronting on the side street and located in an R District, no part of any accessory building on such corner lot shall be nearer the side street lot line than the least depth of the front yard required along such side street for a dwelling on such adjoining lot; and in no case shall any part of such accessory building be nearer the common lot line than the least width of a side yard required for the principal building.*

(Code 1977, § 107-17; Ord. No. 2000-10, 9-25-2000)

associated with daily life. “Dwelling unit” in the context of Accessory Structure does not include a unit in a multifamily residential building, manufactured homes not attached to permanent foundation systems or containing chassis, mobile homes, RVs, trailers, or any structure on wheels or otherwise designed to be relocated.

ELDERLY OR DISABLED OWNERS — means an Owner or Domestic Partner of record (or their spouse, partner, parent, or child) of the subject property who, as of the date of application, either:

- (a) has attained the age of 65 years; or
- (b) has been determined to have a permanent and total disability, as evidenced by:
 - (i) an award of disability benefits from the Social Security Administration; or
 - (ii) an award of disability benefits from the U.S. Department of Veterans Affairs, the Railroad Retirement Board, or a federal, state, or local government retirement or disability system.

IMMEDIATE FAMILY MEMBERS — means the spouse, a domestic partner, children or grandchildren (including step-children of the Owner’s current legal spouse or domestic partner), parents of the Owner or their current legal spouse or domestic partner, siblings, nieces, nephews, and grandparents of the Owner or their current legal spouse or domestic partner. Immediate Family Members does not include friends or people that the Owner otherwise considers Immediate Family.

LIVABLE SPACE — shall mean any indoor area of any structure on a residential property in R-1 or R-2 zone that is designed, constructed, or configured to be occupied by persons for living, sleeping, eating, cooking, or sanitation purposes, and shall include without limitation living rooms, dining rooms, kitchens, bedrooms, bathrooms, dens, family rooms, and finished basements or attics meeting the minimum ceiling height, egress, light, ventilation, and heating requirements of the applicable building code.

Livable Space shall not include garages, carports, unfinished basements, unfinished attics, crawl spaces, storage rooms, utility or mechanical rooms, breezeways, porches, or other accessory or ancillary spaces not intended for human occupancy, provided that any such space shall be deemed Livable Space, notwithstanding its designation on approved plans or its stated use, if it:

- (a) contains, or is constructed or plumbed in a manner that would readily allow the installation of, permanent heating, plumbing, or cooking facilities beyond what is customary for its stated accessory use;
- (b) has a finished floor, wall, and ceiling surface comparable to that of adjoining Livable Space and that is of sufficient size and dimensions to be classified as Livable Space under applicable building codes, including pool houses or workshops;
- (c) is directly accessible from Livable Space by a standard interior doorway without passing through a garage door, overhead door, or other opening not used or customarily used for pedestrian ingress and egress to habitable rooms; or

(d) otherwise exhibits physical characteristics indicating that the space is designed, adapted, or intended for use — whether immediately or upon minor, non-structural alteration — as a living, sleeping, or other habitable area, regardless of the space's classification on any building permit, plat, or certificate of occupancy.

Any determination that a garage, storage area, or other accessory space constitutes Livable Space under subsection (d) shall be made by the Code Enforcement Officer, Building Official, or Planning Director based on the totality of the physical evidence when applying the relevant Town and Worcester County building code standards, and such space shall thereafter be subject to all applicable requirements for Livable Space, including but not limited to minimum square footage, egress, and parking or setback calculations tied to habitable floor area.

OWNER – means a natural person or persons (including a revocable living trust established for a natural person and/or his or her spouse), but not a corporate entity, including, without limitation, a single-member limited liability company.

ONE AND HALF STORIES — an area above the first story whose Livable Space does not exceed one-half of the usable floor space of the story directly below it.

PERMANENT RESIDENCE — the owner resides on the subject property for an aggregate of at least 180 days annually and the subject property's official designation as the owner's principal residence in accordance with the criteria governing the State of Maryland Department of Assessment and Taxation Homestead Tax Credit Program.

PRIMARY DWELLING UNIT — the primary single-family detached dwelling unit on a lot, parcel, or tract to which an accessory dwelling unit is, or is proposed to be, accessory and subordinate.

ZONING CERTIFICATE and CERTIFICATE OF OCCUPANCY — The zoning certificate and/or certificate of occupancy required under Division 3 of Subpart B (Land Development Regulations) as a condition of establishing a use and authorized occupancy, including the development and use of an Accessory Dwelling Unit.

§ 108-719.03 Applicability.

A. This Article applies to the development of Accessory Dwelling Units on all land within the Town zoned as R-1 or R-2.

B. This Article applies to a lot, parcel, or tract only if:

- (1) the Owner is personally developing or contracting for construction or conversion of the Accessory Dwelling Unit for his or her personal use or occupancy, and has the exclusive right to use the lot, parcel, or tract on which the Accessory Dwelling Unit is to be developed; and
- (2) the use of an existing Accessory Structure or the development of new Dwelling Units on the lot, parcel, or tract is not otherwise prohibited due to limitations on available safe drinking water, public health risks arising from limitations on sewage disposal, or risks associated with fire, floodplain limitations set forth in Chapter 102 of the Town Code, or landslide.

C. This Article does not apply to a restriction on use affecting property listed in the Historic District, or determined by the Director of the Maryland Historical Trust to be eligible for inclusion on the Maryland Register of Historic Properties under MD Land Use Code § 8-301 *et seq.*, as further authorized and addressed under Town Code § 104 (Historic District).

§ 108-719.04 General requirements.

A. A single Accessory Dwelling Unit (whether attached or detached) is permitted by right on any lot, parcel, or tract meeting the applicability requirements of § 108-719.03 and subject to the standards of this Article.

B. An Accessory Dwelling Unit, and the lot on which it is located, shall at all times satisfy all applicable public health, safety, and welfare standards, including the Town's applicable Town and Worcester County building codes; Berlin and Worcester County fire codes and best practices; life-safety codes; Historic District requirements, regulations, reviews under Town Code § 104, and any applicable requirements of this Chapter.

C. The Owner shall occupy either the Accessory Dwelling Unit and/or the Primary Dwelling Unit as his or her Primary Residence. If the Owner does not occupy the property as his or her Primary Residence, the Owner may not rent or permit any persons who are not Immediate Family Members to occupy the ADU for any period of time, including any tenants occupying the primary residence. An Owner may seek a time-limited special exception from the Board of Appeals to this § 108-719.04(c) for good cause shown and so long as the special exception does not create a de facto two-unit or multi-family property (i.e., the primary dwelling and the Accessory Dwelling Unit are rented and occupied by a single-family unit of Immediate Family).

D. The final design and construction of an Accessory Dwelling Unit shall satisfy all relevant building code requirements before a zoning certificate, building permit, or certificate of occupancy may be issued.

E. Construction, occupancy, or use of an Accessory Dwelling Unit shall not be authorized before or during construction of the primary dwelling unit.

F. Subject to the applicable minimum open space requirements, no more than two Accessory Structures may be constructed or used on a single residential R-1 or R-2 lot, which includes a single allowed Accessory Dwelling Unit. Provided, however, one additional storage shed is allowed so long as the shed is less than 12x12 feet in width and no taller than 14 feet, and meets all other Town Code requirements.

G. The full or partial conversion of an Accessory Structure into an accessory dwelling unit is prohibited if the only pedestrian or vehicular access to the Accessory Structure is from an alley or through another lot.

§ 108-719.05 Development and Design Standards.

A. Size. The total square footage of Livable Space of an Accessory Dwelling Unit (whether newly constructed or converted from existing Accessory Structure) shall be: (1) the total square footage of the of Livable Space shall not exceed 800 net square feet and the Accessory Structure shall be less than 35% of the net square footage of Livable Space of the

Primary Dwelling Unit, whichever is less; (2) not contain more than one kitchen facility, toilet and shower; and (3) does not contain more than two bedrooms.

B. Number. In no event shall more than one Accessory Dwelling Unit, whether attached or detached, be located on a single lot.

C. Conversion of Existing Accessory Structures. If a lot contained more than one Accessory Structure on or before October 1, 2025 as evidenced by historic photography or evidence, the Owner may convert one of the existing Accessory Structures into an Accessory Dwelling Unit as a matter-of-right so long as the existing structure is not enlarged or expanded beyond its existing footprint and height and subject to the other requirements set forth in this chapter, including the limitations as square footage of the Livable Space and number of bedrooms and bathrooms.

D. Lot size. No lot, parcel, or tract shall be required to exceed the minimum lot size required for a primary dwelling unit in the applicable R-1 or R-2 zoning district as a condition of developing an accessory dwelling unit.

E. Setbacks. Accessory Dwelling Units shall be subject to the same setback requirements set for other Accessory Structures required by the applicable residential section of the Town Code.

F. Massing and subordination. An Accessory Dwelling Unit and other Accessory Structures shall be designed and massed so as to be visibly subordinate to the primary dwelling unit, located in the rear yard, and in conformance with the open space requirements for applicable residential zone.

G. Design. Newly constructed Accessory Dwelling Structures or modifications to the exterior of existing Accessory Structures should be to the greatest extent possible: (i) designed and built with materials that are in character with Town and neighboring properties; (ii) exterior finish material (e.g. siding, trim, eaves) be same or visually match or blend in type, size, and placement to the exterior finish materials of the Principal Dwelling; (iii) the roof pitch should be same as the predominant roof pitch of the Principal Dwelling; (iv) the windows should match Principal Dwelling in proportion and location; and (v) positioned to maximize the privacy of the adjacent property owner's property (such as appropriate screening, fencing, and window placement), and to not impact the air and light of the neighboring properties. Except as provided under § 108 –719.07(B) for properties located in the Historic District, a building permit, zoning certificate, or certificate of occupancy cannot be withheld for a matter-of-right Accessory Dwelling Structure if the Applicant's design does not strictly meet the criteria above.

H. Mail. An Accessory Dwelling Unit shall not be given a separate street or mailing address.

§ 108-719.06 Off-street Parking Requirements.

Per State ADU Law, no parking requirements or restrictions may be imposed as a condition of issuance of a building permit, zoning certificate, or, if applicable, certificate of occupancy for an Accessory Dwelling Unit unless and until the Town conducts requisite parking study. Unless and until the Town conducts a parking study, Applicants are strongly encouraged to provide at least one dedicated off-street parking space per Accessory Dwelling Unit.

§ 108-719.07 Review procedure for New Construction or Conversions.

A. An application for a building permit, zoning certificate or certificate of occupancy for an Accessory Dwelling Unit shall be submitted to the Planning Department in the form prescribed by the Planning Department along with all information required by the Planning Department.

B. If the subject property is located within the Historic District and involves changes to the exterior of the existing Accessory Structure, the Applicant shall also submit an application for the Historic District Commission review as required under Town Code §104-26 of the Town Code and shall be considered pursuant to the terms and requirements of Town Code § 104. The Historic District Commission shall also review and, as a condition of approval of the Accessory Dwelling Structure, make the following affirmative determinations:

- (i) the design and proposed materials are in character with the historic nature of the Town and, specifically, the subject property and neighboring properties;
- (ii) exterior finish material (e.g. siding, trim, eaves) is the same or visually matches or blends in type, size, and placement to the exterior finish materials of the Principal Dwelling;
- (iii) the roof pitch shall be the same as the predominant roof pitch of the Principal Dwelling;
- (iv) the windows must match the Principal Dwelling Unit in proportion and location;
- (v) positioned to maximize the privacy and air/light of the adjacent property owner's property (such as appropriate screening, fencing, and window placement so long such screening, fencing, and window placement do not impede the historic nature of the Historic District); and
- (vi) do not otherwise impact the historic nature of the Historic District or the historic nature of structures and properties listed on the Maryland Register of Historic Properties, including historically significant yards and old growth trees.

C. The Historic Commission shall deny an Applicant's request for an Accessory Dwelling Unit if it determines that an Applicant has not met all requirements set forth in (B) above. The Historic Commission shall give great weight to the historic nature of the subject property and the neighboring properties when evaluating an Applicant's request to construct a new Accessory Dwelling Structure and shall deny an Applicant's request if the proposed Accessory Dwelling Structure would materially impact the historic nature of the subject property and neighboring properties.

§ 108-719.08 Development impact fees; Fee Waivers.

A. For Accessory Structures granted amnesty pursuant to § 108-719.10, no development impact fee or building excise tax will be charged on an Accessory Dwelling Unit with a total Livable Space square footage of less than 800 net square feet or 35% of the primary structure.

B. For new construction or conversions, the development impact fee shall be: (1) assessed proportionately in relation to the square footage of the primary dwelling unit (i.e. if the Applicant is seeking Accessory Dwelling Structure that is 35% of the size of the Primary

Structure, the impact fee will be 35% of the published impact fee for primary structures); or (2) as otherwise published in an updated General Fee Schedule published by Town Council.

C. Town Council may waive or reduce an impact fee, utility connection or EDU fees, or any application fee charged under this section for Accessory Dwelling Units designed to accommodate Elderly or Disabled Owners for good cause shown, as determined by the Town Council in its sole and absolute discretion.

§ 108-719.09 Utility connections and EDUs.

A. No separate connection between an Accessory Dwelling Unit and the water or sewer main of the existing primary structure is required if the existing connection between the primary dwelling unit and the water or sewer main is determined by the Building Official to be sufficient to support the addition of the Accessory Dwelling Unit that contains one shower facility and one toilet facility.

B. As a condition of the issuance of a building permit, zoning certificate, or, if applicable, certificate of occupancy, an Applicant must purchase additional water EDUs and sewer EDUs for a Accessory Dwelling Unit at the amount set by the General EDU Fee Schedule and as may be later adjusted by Town based upon actual water and sewage usage if any of the following applies:

(i) site topography requires separate water and/or sewer connections as determined by the Building Official;

(ii) the existing capacity of the water and sewer lines located in the space servicing the applicable property at the time of the passage of this chapter necessitates upgrades by the Town in size or locations to accommodate the Accessory Dwelling Unit; or

(iii) the Accessory Dwelling Unit structure includes more than one toilet or shower as may be authorized by a hardship variance granted by the Board of Zoning Appeals.

C. If an Accessory Dwelling Unit is integrated into the existing connection between the Primary Dwelling Unit and the water or sewer main as of October 1, 2025 or structurally attached to the Primary Structure, no additional connection fee associated with the integration of the accessory dwelling unit may be charged by the Town so long as water annual average usage for the subject property remains at 250 gallons or less per day.

D. For all new construction or conversion of Accessory Dwelling Units, an Accessory Dwelling Unit shall use a separate meter or submeter from the Primary Dwelling Unit to track the delivery of water from a utility to the Accessory Dwelling Structure.

§ 108-719.10 Amnesty for Accessory Dwelling Units Constructed and Used Prior to October 1, 2026.

A. Purpose. The Mayor and Council recognize that Accessory Dwelling Units may exist within the Town that were constructed, converted, or established prior to October 1, 2025, without the benefit of a building permit, zoning certificate, or other authorization, and that requiring such units to meet all current code requirements applicable to new construction may impose an undue hardship where the unit has been safely occupied for a substantial period. This § 108-719.10 establishes a limited amnesty program allowing such ADUs to obtain legal, non-conforming status upon a showing of (1) the date of original construction and

continuous use, and (2) verified compliance with applicable electrical and plumbing safety standards.

B. Eligibility. An Accessory Dwelling Unit is eligible for amnesty under this § 108-719.10 if:

- (i) The Accessory Structure was physically constructed and in use as a Dwelling Unit prior to October 1, 2025;
- (ii) The application for amnesty is submitted to the Planning Director no later than April 1, 2027 with accompanying photographs of the existing conditions of the exterior and interior of the Accessory Dwelling Unit;
- (iii) The Accessory Dwelling otherwise complies, or is brought into compliance with the structural, electrical and plumbing safety requirements of this § 108-719.10 within the period set by the Building Official, which shall not be later than January 1, 2028; and

C. Evidence of Pre-October 1, 2025, Construction and Use. An applicant shall establish the construction date and continuous use of the ADU by submitting at least two of the following, at least one of which must be independently verifiable through a third-party source not created or controlled by the applicant:

- (i) Photographs bearing a machine-generated date stamp, metadata timestamp, or other embedded date data showing the ADU's exterior and/or interior condition prior to October 1, 2025 (such as photos from previous MRIS listings), together with an affidavit from the applicant attesting to the authenticity and circumstances of the photographs;
- (ii) Insurance policies, riders, or declarations pages referencing the ADU and predating October 1, 2025;
- (iii) Aerial or satellite imagery (including Google Earth historical imagery, County GIS historical imagery, or comparable services) showing the structure's footprint as of a date prior to October 1, 2025;
- (iv) A permit, inspection record, or other official document issued by the Town, Worcester County, or the State of Maryland referencing the structure prior to October 1, 2025, even if such permit did not authorize the ADU use itself (e.g., a building permit for an unrelated addition that depicts the ADU on an accompanying plan); or
- (v) Sworn affidavits from two or more disinterested third parties (e.g., neighbors, contractors, former tenants) with personal knowledge attesting to the ADU's existence and use prior to October 1, 2025, provided that affidavit evidence alone, absent any documentary corroboration under § 108-719.10 subsections (i)–(iv), shall not be sufficient to establish eligibility.

The Housing Inspector and Planning Director shall have discretion to request additional evidence where the evidence submitted is inconsistent, incomplete, or insufficient to establish a reliable construction and use date.

D. Electrical and Plumbing Compliance.

- (i) *Documentary compliance.* An applicant may establish electrical and plumbing compliance by submitting:

- (a) A copy of an electrical and/or plumbing permit issued by the Town or Worcester County for the ADU's electrical or plumbing systems, together with evidence of final inspection or approval (if available); or
 - (b) A written agreement, contract, or invoice from a Maryland-licensed electrician and master plumber reflecting installation, alteration, or repair of the ADU's electrical or plumbing systems, together with such additional evidence as the Planning Director may require to confirm the scope of work performed.
 - (ii) *Inspection in lieu of documentation.* Where an applicant cannot produce documentation under § 108-719.10(D)(i), or where the Planning Director determines that the documentation produced is insufficient to confirm current safety compliance, the applicant shall have the ADU's electrical and plumbing systems inspected by a Maryland-licensed electrician and/or master plumber, at the applicant's sole expense. The inspection shall assess the electrical and plumbing systems against the safety provisions of the electrical and plumbing codes currently in effect in Worcester County, provided that:
 - (a) The inspection shall be limited to health and life-safety elements of the electrical and plumbing systems (including but not limited to service capacity and grounding, GFCI/AFCI protection where required for the systems' use, absence of unsafe wiring methods, water supply and drain-waste-vent integrity, and absence of cross-connection or backflow hazards), and shall not require full compliance with dimensional, cosmetic, or non-safety-related provisions of the current code applicable to new construction;
 - (b) Any deficiencies identified shall be corrected by the applicant within 90 days of the inspection, or such longer period as the Building Official may allow for good cause, and shall be subject to re-inspection and applicable re-inspection fees; and
 - (c) Nothing in this § 108-719.10(D) shall be construed to require strict compliance with ceiling height, room area, or other habitability provisions of the building code as a condition of amnesty under this § 108-719.10 (D), except as separately required under § 108-719.10(E) below.
- E. Effect of Amnesty; Continued Applicability of Other Standards. An ADU granted amnesty under this § 108-719.10 shall be deemed a legal, nonconforming accessory dwelling unit for zoning purposes as of its documented construction date, and shall not be required to meet dimensional or use standards applicable to new ADU construction under Chapter 108, ADU ordinance above, provided that:
- (i) The ADU shall at all times comply with minimum life-safety standards, including but not limited to structural integrity, smoke and carbon monoxide alarm requirements and emergency egress, regardless of the ADU's status under this § 108-719.10;
 - (ii) Amnesty granted under this § 108-719.10 addresses electrical, plumbing, and zoning nonconformity only, and does not constitute a determination that any room within the ADU satisfies other habitability requirements; and
 - (iii) Amnesty under this § 108-719.10 is personal to the ADU as documented and does not authorize expansion; structural alteration; or rental or use of an ADU that exceeds the two bedrooms and one bathroom (inclusive of one toilet and one shower); use of more than 800 net Livable Square Feet or 35% of the Livable Space of the Primary Dwelling;

- (iv) Before the issuance of a rental license for a detached ADU that exceeds the maximum square footage, bedroom, and bathroom count, the Owner must obtain a BZA variance if the existing ADU exceeds the maximum square footage, bathroom, and bedroom restrictions.
 - (v) Failure to file an amnesty application on or before April 1, 2027 shall require Owner to meet all requirements, filings, and approvals required for newly constructed or converted ADUs under this § 108-719, including payment of fees and any applicable fee multipliers and any applicable fines or other applicable enforcement penalties.
- F. Fees. The application fee for amnesty under this § 108-719.10 shall be set forth on the “Town of Berlin General Fee Schedule.” No penalty or retroactive permit-fee multiplier otherwise applicable to unpermitted work shall be assessed against an ADU granted amnesty under this Section, provided the application is submitted to the Planning Department on or before April 1, 2027, as may be extended by Town Council.
- G. Denial; Appeal. A denial of amnesty under this § 108-719.10 may be appealed to the Housing Board of Review in accordance with § 108-719.10.

§ 108-719.11 Record Covenant

- A. Amnesty Certificate. An Applicant may request the Town to issue a zoning certificate or amnesty certificate in the form prescribed by the Planning Director that may be recorded in the land records of Worcester County. Such certificate shall detail the estimated square footage of Livable Space; number and type of cooking facilities; number of bedrooms, bathrooms (including number of toilets and showers); maximum occupancy under applicable Town and Worcester County code; any other conditions deemed relevant to be listed on the certificate, such as limitations on expansion of the Accessory Structure’s Livable Space without further Town authorization.
- B. Non-Conforming Certificate. As a condition of the issuance of a zoning certificate and, if applicable, certificate of occupancy for Accessory Unit Dwelling is located in the Historic District or receive a variance from the Board of Zoning Appeals under § 108-719.13, the issuance of such zoning certificate or certificate of occupancy shall be conditioned upon recording of a covenant in the land records that states the specific conditions upon which Board of Appeals or Historic Commission authorized their approvals, including the maximum authorized square footage of Livable Space, number of bathrooms, maximum occupancy, and statement that any further modifications to the interior or exterior of the Accessory Structure used as Accessory Dwelling Unit are not authorized without additional required approvals.

§ 108-719.12 Enforcement; Penalties; Appeals

- A. Inspections. If the Housing Inspector has reason to believe that Accessory Structure is being utilized as a Dwelling Unit without the issuance of a zoning certificate or certificate of occupancy authorizing such use after April 1, 2027 or otherwise in violation of this § 108-719 and other applicable Town Codes, the Housing Inspector shall provide the Owner notice of inspection, which shall be delivered via first class mail return receipt requested or posted on

the front door of the Primary Dwelling. If the Housing Inspector determines that the Accessory Structure is being utilized or capable of being utilized as a Dwelling Unit, the Owner shall have 30-days to file the required application and pay the necessary fees for such Accessory Structure to be permitted as an Accessory Dwelling Structure under this §108-719 or provide a written statement that such Accessory Structure is not and will not be utilized as an Accessory Dwelling Unit. If it is later determined that the Accessory Dwelling Structure is being utilized as a dwelling unit without a zoning certificate or certificate of occupancy (as applicable), the Owner shall be subject to fines (and fine multipliers) as may be published by the Town Council and the other remedies set forth in § 108-719.12(B) below.

- B. Enforcement. In addition to the remedies under § 108-118 or § 108-119, failure to meet the applicable public health, safety or welfare standards or any applicable Town noise ordinance shall entitle the Building Official or Housing Inspector to issue a cease and desist order; impose fines set by the Town Council in the General and seek a judicial lien to be recorded in the land records Worcester County for any fines imposed; and seek civil and injunctive relief against the Owner and any occupants of the Accessory Dwelling Unit, including court order requiring the removal of habitable structures within Accessory Structure (such as bathrooms, kitchens, etc) or as otherwise provided in the Town Code.

C. Appeals.

- (i) Any person denied a building permit, zoning certificate, or certificate or otherwise aggrieved by the action of the Building Official or Housing Inspector under this § 108-719 or other applicable provisions of the Town Code, within ten days of receipt of written notice of such action, appeal such action to the town Housing Board of Review by filing a notice of appeal to the Building Official or Housing Inspector. The Housing Board of Review shall meet within 30 days of such notice and conduct a hearing according to its regulations as established under Article 5 of the Town Code (Housing Standards). Except in incidents involving the life, safety or an immediate neighbor's peaceful enjoyment of their property, all fines, penalties, suspensions or revocations shall be stayed pending the board of review hearing and the decision of the Housing Board of Review.
- (ii) Any person aggrieved by an action of the Housing Board of Review may appeal such action to the circuit court for the county pursuant to the Maryland Rules of Procedure.

§ 108-719.13 Hardship Variances.

- A. General prohibition. Except for previously permitted attached ADUs granted amnesty hereunder, an Accessory Dwelling Unit shall exceed 800 net square feet of net Livable Space, or 35% of the Livable Space of the Principal Dwelling, whichever is less, except upon grant of a variance sought and granted by the Board of Zoning Appeals under this § 108-719.13.
- B. Burden of proof. The Applicant bears the burden of proving each element below by clear and convincing evidence. Failure to satisfy any single element shall result in denial. The Board of Appeals shall not grant a variance based on the cumulative weight of partial showings.
- C. Mandatory findings. The Board of Appeals may grant a size variance only upon written findings that:

- (i) *Unique physical circumstance.* The lot possesses an exceptional physical condition — topography, large lot size, lot configuration, easement, or environmental constraint — not shared generally by other lots in the same zoning district, and that condition is determined to lessen the impact of the additional square footage and need for additional bedrooms and bathrooms;
 - (ii) *Not self-created.* The condition necessitating the variance was not created by the Applicant, a prior owner, or any voluntary act (including subdivision, prior construction, or lot-line adjustment) undertaken after October 1, 2025;
 - (iii) *Minimum necessary relief.* The requested square footage is the minimum necessary to afford relief, supported by a floor-plan analysis demonstrating that the stated functional need cannot reasonably be met within the base size cap or, in the case of existing Accessory Dwelling Units seeking amnesty, would cause the Owner significant financial hardship should the Owner be required to convert the Accessory Structure to a non-habitable space or significantly small habitable space;
 - (iv) *No substantial detriment.* The increased size, number of bedrooms, bathrooms will not (i) alter the essential character of the neighborhood, (ii) substantially diminish or impair the use, privacy, or value of adjacent properties, or (iii) result in an ADU exceeding the footprint or height of the principal dwelling;
 - (v) *Consistency with purpose.* The variance is consistent with the stated purpose of this Article — to provide supplemental, subordinate housing — and does not result in an ADU that functions as a co-equal or competing dwelling unit; and
 - (vi) *No economic hardship alone.* Desire for increased rental income, resale value, or general convenience shall not, standing alone or in combination with other non-physical factors, constitute grounds for granting the variance;
 - (vii) *Massing and Design Considerations.* The Board of Appeals shall consider, and may decline a variance, if the massing or design requirements under § 108-719.05(E) and (F) are not appropriately addressed or, if applicable, the Applicant has not received all required approvals of the Historic Commission; and
 - (viii) *Impact on Neighbors.* Any variance granted under this § 108-719.10 shall be conditioned on the Board of Zoning Appeals giving great weight to the impact of granting the relief on the immediately adjacent neighbors (within 100 feet of the subject properties' lines), including the potential need for additional on- or off-street parking to support the ADU.
- D. Additional conditions on any variance granted. The granting of variance shall not relieve an Applicant from the requirements to pay additional Town fees, including any applicable impact fees or EDUs fees.
- E. No self-perpetuation. A variance granted under this § 108-719.10 runs with the specific approved plans only. Any subsequent modification, expansion, or reconstruction of the ADU requires a new variance application under this § 108-719.10 in its entirety.
- F. Limitations on Relief. In no event shall the Board of Appeals grant a variance for an Accessory Dwelling Structure that is greater than 1,200 square feet of Livable Space or 75% of net square footage of Livable Space of the Primary Dwelling Unit (whichever is less); authorize more than three toilets and two showers; or for more than one Accessory Dwelling Unit to be located on a single lot or property.

§ 108-719.14 Relationship to restrictive covenants and to other Town Code provisions; severability.

A. Except as expressly modified by this Article, all other applicable requirements of the Town Code and this Chapter, including nonconforming use and structure provisions under Chapters 104 and 108 shall continue to apply. In the event of a conflict between this §108-719 and other provisions of this chapter regarding Accessory Structures or Accessory Dwelling Structures, this Chapter 108-719 shall govern.

C. If any provision of this Article or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Article that can be given effect without the invalid provision or application, and to this end the provisions of this Article are declared severable.

THIS ORDINANCE was introduced and read at a meeting of the Town Council held on the _____ day of _____, 2026, and thereafter a statement of the substance of the Ordinance was published as required by law.

A PUBLIC HEARING was held, and this Ordinance was adopted this _____ day of _____ 2026, by the Mayor and Council of the Town of Berlin, Maryland, by the vote as indicated below:

Name	Counted toward Quorum			Recused	Absent
	Aye	No	Abstain		
Dean Burrell, VP					
Steve Green					
Jay Knerr					
Shaneka Nichols					
Jack Orris					
<i>Voting Tally</i>					

Dean Burrell Sr., Vice President of the Council

This Ordinance was approved this _____ day of _____, 2026 by the Mayor of the Town of Berlin and is effective at the start of the 2027 Fiscal Year on July 1, 2026.

Zackery Tyndall, Mayor, President of the Council

ATTEST:

Mary Bohlen, Town Administrator

MEMORANDUM

TO: Mayor, Councilmembers, and Planning Commission Members
DATE: September 14, 2026
RE: Summary of Town of Berlin Accessory Dwelling Unit Ordinance (New Chapter 108, § 108-719)

I. Executive Summary

This draft adds a new Article to Chapter 108 of the Berlin Town Code (new § 108-719, "Accessory Dwelling Units in R-1 and R-2 Zones") to implement the State ADU Law, which requires every Maryland county and municipal corporation to adopt, by October 1, 2026, a local law authorizing accessory dwelling units ("ADUs") on land zoned for single-family detached residential use. The State ADU Law sets certain floors and ceilings on local regulation (e.g., limits on parking conditions) while leaving other design, procedural, and administrative choices to the municipalities' "reasonable" discretion, including not placing "unreasonable" restrictions on the rental of ADUs. The draft is deliberately framed as a compliance measure rather than a broader land-use liberalization: § 108-719.01(B) expressly states the Article is not intended to authorize two-unit rental housing or multi-family use in single-family zones and provides a framework to enable matter-of-right ADUs in a manner that preserves the Town's historic character and in consideration of the Town's public facilities, including its limited electric, water, sewer capacity, and other Town resources.

The Article is organized into twelve substantive sections covering purpose, definitions, applicability, general and design standards, parking, permit review, impact fees, utility connections, a one-time amnesty program for pre-existing unpermitted ADUs, a recordable covenant mechanism, enforcement, and severability/relationship to other law.

II. Section-by-Section Summary

§ 108-719.01 — Purpose and Authority

The Maryland State ADU Law (Md. Code Ann., Land Use § 4-504 et seq.) requires local legislative bodies to adopt, by October 1, 2026, an ordinance authorizing ADU development on land zoned for single-family detached dwellings as the primary use. The state law sets certain floors that local ordinances must meet (e.g., ADUs permitted by right (except for properties on the Maryland historic registry or eligible for inclusion in the historic registry), no separate parking mandate absent a parking study) and ceilings on what a locality may restrict, while otherwise preserving local discretion over design, permitting, and fee structures. The draft's recitals tie the ordinance directly to this mandate and to the Town's interest in public-facility capacity (electric, water, sewer, general Town infrastructure).

§ 108-719.02 — Definitions

- Accessory Dwelling Unit (ADU): A subordinate dwelling unit on the same lot as a primary single-family detached dwelling, capped at 1.5 stories (or 25 ft. if built above a garage/accessory structure with no livable space), and capped at 800 net sq. ft. of livable space or 35% of the primary dwelling's net livable floor space, whichever is less. May be created by attachment/conversion of the primary dwelling, attachment/conversion of an existing accessory structure, or new detached construction. *Note: In order for an ADU to be 800 net sq. ft., the Primary Dwelling would need to be greater than 2286 net sq. ft. If the primary house was 1800 square feet, the size of ADU would be limited to 630 net sq. ft.*
- Dwelling Unit — capped at three adult persons or two adult persons with two minor Immediate Family Members, absent a BZA variance or special exception. Dwelling units cannot be manufactured homes¹ not permanently attached to a foundation, such as mobile homes, RVs, or any structures designed to be relocated. Note:
- Immediate Family Members — means the spouse, a domestic partner, children or grandchildren (including step-children of the Owner's current legal spouse or domestic partner), parents of the Owner or their current legal spouse or domestic

¹ Note: Town Code related to "flood plains" indicates that "manufactured homes" are allowed – but the zoning code does not specify allowance in any zoning district. Town Code 108-844 - Recreational vehicles and recreational vehicle parks. The parking of a recreational vehicle in any district shall be prohibited, except as provided in section 108-713 [temporary for construction use] and except that one recreational vehicle may be parked or stored in an accessory building or in the rear yard of a principal use, provided that no living quarters shall be maintained or any business conducted in such recreational vehicle while it is parked or stored.

partner, siblings, nieces, nephews, and grandparents of the Owner or their current legal spouse or domestic partner. Immediate Family Members does not include friends or people that the Owner otherwise considers Immediate Family. Relevant to the owner-occupancy/rental restriction in § 108-719.04(C).

- Livable Space — defined affirmatively (living rooms, kitchens, bedrooms, finished basements/attics meeting code, etc. Also includes: a space nominally excluded (garage, storage room, unfinished basement) can still be deemed Livable Space if it has rough-in plumbing/heating capacity beyond its stated use, finish quality comparable to adjoining living space, direct interior access without passing through a garage/overhead door, or otherwise "exhibits physical characteristics" suggesting habitability. The ultimate call on subsection (d) is committed to the discretion of the Code Enforcement Officer, Building Official, or Planning Director based on the totality of the physical evidence when applying the Worcester County and Town building code requirements. *Note: This definition is detailed to capture the common practice of constructing plumbing and unfinished space that allow for expansion outside of post-construction permit process.*
- Owner: A natural person (or a revocable living trust for a natural person/spouse) — expressly excludes corporate entities and single-member LLCs.
- Permanent Residence: Owner-occupancy for an aggregate of 180+ days annually, tied to Homestead Tax Credit eligibility criteria. Relevant to the owner-occupancy/rental restriction in § 108-719.04(C).
- Elderly or Disabled Owners: Owners 65+ or with a qualifying permanent/total disability determination (SSA, VA, or other government retirement/disability system) — relevant to the impact-fee waiver in § 108-719.08(C).

§ 108-719.03 — Applicability

Limited to R-1 and R-2 zoned land. Conditioned on: (1) the Owner personally developing or contracting for the ADU for the owner's own use, with exclusive right to the lot; and (2) no disqualifying constraint on the lot (inadequate safe drinking water, sewage-related public health risk, fire risk, floodplain limitation under Chapter 102, or landslide risk). As authorized by the State ADU law, properties in the Historic District are carved out and routed to Town Code § 104 review instead.

§ 108-719.04 — General Requirements

- One ADU permitted by right per qualifying lot.
- ADU must satisfy all applicable Town/Worcester County building, fire, and life-safety codes, and Historic District review where applicable.
- Owner-occupancy requirement: the owner must occupy either the ADU or the primary dwelling as a Primary Residence. If the owner does not occupy the property, the ADU cannot be rented to or occupied by anyone other than Immediate Family Members — including tenants of the primary residence. A time-limited special exception is available from the Board of Appeals for good cause, so long as it does not create a de facto two-unit/multi-family use.
- ADU construction/occupancy cannot precede or occur during construction of the primary dwelling.
- No more than two accessory structures (including the ADU) per lot, plus one small storage shed (under 12x12 ft., 14 ft. height cap).
- Conversion of an accessory structure into an ADU is barred if the structure's only access is via an alley or another lot.

§ 108-719.05 — Development and Design Standards

- Size: 800 net sq. ft. of net livable space or 35% of the primary dwelling's net livable space, whichever is less; no more than one kitchen, one toilet, and one shower; no more than two bedrooms.
- Number: One ADU (whether attached or detached) maximum per lot.
- Grandfathered multi-structure lots: If a lot had two or more than accessory structures as of October 1, 2025, the owner may convert one as-of-right into an ADU without expanding the footprint or height, but cannot seek to build another Accessory Structure to be an ADU.
- No minimum-lot-size increase may be imposed as a condition of ADU development beyond what applies to the primary dwelling. *Note: This is required by State ADU Law.*
- Setbacks: Same as other accessory structures under the applicable residential provisions. *Note: This is required by State ADU Law.*

- Massing/subordination: ADU must be visibly subordinate to and sited behind the primary dwelling, consistent with open-space requirements.
- Design compatibility (materials, exterior finish, roof pitch, window proportion/placement, privacy screening) is stated as aspirational ("to the greatest extent possible") — critically, a permit or certificate cannot be withheld from a matter-of-right ADU solely for failing to strictly meet these design criteria, except for Historic District properties under § 108-719.07(B) or for variance relief under § 108-719.13.
- No separate street address or mailing address may be assigned to an ADU. *Note: This is to prevent de facto two units.*

§ 108-719.07 — Off-Street Parking

Consistent with the State ADU Law, no off-street parking requirement or restriction may be imposed as a permit condition unless and until the Town conducts a parking study. Until then, dedicated off-street parking (one space per ADU) is only "strongly encouraged," not required.

§ 108-719.07 — Review Procedure

- Standard applications go to the Planning Department in the prescribed form.
- Historic District properties involving exterior changes require a separate Historic District Commission (HDC) application under Town Code § 104-26. Unlike the general design standards, the HDC review is mandatory and enforceable — the HDC must make affirmative findings on materials, exterior finish, roof pitch, window match, privacy/screening, and preservation of historically significant features (including old-growth trees), and must deny the application if the standards are not met, giving "great weight" to historic character.

§ 108-719.08 — Development Impact Fees; Fee Waivers

- No impact fee or building excise tax on ADUs granted amnesty under § 108-719.10.
- New construction/conversions above size limitations: fee assessed proportionately to the ADU's size relative to the primary dwelling, or as otherwise set by the Town's General Fee Schedule.
- Council may waive or reduce fees (including EDU fees) for ADUs serving Elderly or Disabled Owners (65+ or receiving Social Security or veteran disability benefits), in the Council's sole discretion, for good cause shown.

§ 108-719.09 — Utility Connections and EDUs

- No separate water/sewer connection is required if the Building Official finds the existing connection existed as of October 1, 2026 or if the connection is sufficient to support one additional shower and toilet.
- Additional water/sewer EDUs must be purchased at the General EDU Fee Schedule rate if: separate connections are required by topography; existing line capacity is insufficient; or the ADU includes more than one toilet/shower (as may be authorized by hardship variance).
- No additional connection fee applies where the ADU is integrated into the existing connection as of October 1, 2025 (or the ADU structurally attached) and average daily usage stays at or under 250 gallons/day.
- A separate meter or submeter is required for all new construction/conversions to track ADU water delivery independently of the primary dwelling.

§ 108-719.10 — Amnesty for ADUs Constructed and Used Prior to October 1, 2025

This section creates a limited window for ADUs built or converted before October 1, 2025² without permits to obtain legal nonconforming status:

- Application deadline: April 1, 2027, with photographic evidence of existing conditions.
- Proof of pre-October 1, 2025 construction/use requires at least two forms of evidence, at least one independently verifiable through a third-party source (e.g., dated/metadata photographs with owner affidavit, predating insurance

² The October 1, 2025 date was inserted because the State ADU law was enacted as of October 1, 2025 and, thus, to exclude any ADU constructed or converted in anticipation of the passage of the ADU ordinance.

records, historical aerial/satellite/GIS imagery, prior official permits/inspection records referencing the structure, or sworn third-party affidavits — though affidavits alone are insufficient without documentary corroboration).

- Electrical/plumbing safety compliance may be shown documentarily (existing permits, licensed-contractor records) or, failing that, through an inspection by a Maryland-licensed electrician/master plumber at the applicant's expense, limited to life-safety elements (service capacity, grounding, GFCI/AFCI, wiring safety, water supply/DWV integrity, backflow prevention) — not full code compliance with dimensional or cosmetic standards. Deficiencies must be corrected within 90 days (extendable for good cause).
- Effect: An amnestied ADU becomes a legal nonconforming use as of its documented construction date, but must still meet ongoing life-safety standards (structural integrity, smoke/CO alarms, egress) and is capped going forward at two bedrooms, one bathroom (one toilet, one shower), and 800 net sq. ft. unless it was a permitted attached ADU on or before October 1, 2025— any expansion requires a new standard permit. BZA variance required for rental of amnesty detached ADU exceeding bedroom, bathroom, or size requirements, but not for oversized attached ADUs granted amnesty.
- No amnesty-related penalty or retroactive fee multiplier applies if timely filed by April 1, 2027 (extendable by Council); missing the deadline requires full standard-permit compliance, including any needed BZA variance relief (i.e., variance required for oversized detached ADUs; larger attached ADUs grandfathered).
- Denials are appealable to the Housing Board of Review.

§ 108-719.11— Record Covenant

Establishes a recordable amnesty certificate (for existing ADUs) and a certificate for the future ADU mechanism. An applicant may request a certificate documenting estimated Livable Space square footage, bedroom/bathroom count, maximum occupancy, and other conditions (e.g., limits on future expansion) for recording in the Worcester County land records so as to document legal status of the ADU and current conditions for owner's resale, if desired. Recording is mandatory — as a condition of permit/certificate issuance — for any ADU that required a BZA variance or is located in the Historic District; the covenant must memorialize the specific conditions on which the variance or Historic Commission approval was granted, including maximum square footage, bathroom count, occupancy, and a statement that further interior or exterior modification requires additional approval. The requirement for recording of BZA variance or Historic District conditions is to memorialize the conditions by which Owner and future owners must maintain in order to have a legal ADU.

§ 108-719.12 — Enforcement; Penalties; Appeals

- Inspections/Notice: Where the Housing Inspector suspects an unpermitted ADU (after the April 1, 2027 amnesty deadline), notice must be given by certified mail or posting; the owner then has 30 days to apply for a permit, pay fees, or certify the space is not being used as an ADU.
- Remedies: Cease-and-desist orders, Council-set fines and fine multipliers, judicial liens recorded against the property, and civil/injunctive relief (including court-ordered removal of habitable improvements such as kitchens or bathrooms).
- Appeals: Aggrieved parties have 10 days to appeal Building Official/Housing Inspector decisions to the Housing Board of Review (hearing within 30 days); further appeal lies to the Circuit Court under the Maryland Rules. Penalties are generally stayed pending appeal, except in life-safety or immediate-neighbor-impact cases.

§ 108-719.13 — Hardship Variances

- The Board of Zoning Appeals may grant relief above the 800 net sq. ft./35% cap — up to a hard ceiling of 1,200 sq. ft. or 75% of the primary dwelling's livable space (whichever is less), with a maximum of three toilets and two showers, and never more than one ADU per lot.
- The applicant bears a clear-and-convincing burden on each of several mandatory findings: a unique, non-self-created physical circumstance; that the requested relief is the minimum necessary; no substantial detriment to neighborhood character or adjacent property use/value/privacy; consistency with the ADU's subordinate purpose; and that economic motives alone (rental income, resale value, convenience) cannot support a variance.
- The Board must also weigh design/massing compliance, Historic Commission approval status, and impact on neighbors within 100 feet, including parking impacts.
- Variances run with the specific approved plans only — any later modification requires a new variance application in full.

§ 108-719.13 — Relationship to Restrictive Covenants and Other Code Provisions; Severability

- Other Chapter 108 requirements (nonconforming use/structure provisions under Chapters 104 and 108, Article V site plan review) continue to apply except as expressly modified; § 108-719 controls in the event of a direct conflict specific to accessory structures/ADUs.
- Standard severability clause.

TO BE ESTABLISHED BY RESOLUTION

ADU Fee Schedule

		FY 2027	FY 2028	FY 2029	FY 2030
		effective 7/1/2026	effective 7/1/2027	effective 7/1/2028	effective 7/1/2029
ADU Fees (in addition to any other applicable fees, including fee multipliers, review fees, license fees)					
Amnesty Fee Application		\$300 (filing deadline 4/1/27)	N/A	N/A	N/A
Amnesty Fee Application - Long Term Owners (applicant owner's deed filed before October 1, 2006)	--	Waived (filing deadline 4/1/27)	N/A	N/A	N/A
New Construction ADUs		\$500	\$525	\$550	\$575
Existing Accessory Structure Conversions (limited to 110% of structure existing on October 1, 2025 otherwise deemed new construction)		\$350	\$375	\$400	\$425
Issuance of ADU Certificate of Zoning/Occupancy/Covenant		\$150	\$155	\$160	\$165
New Construction or Conversion Accessory Structure greater than 35% of primary structure		If greater than 35% of Primary Structure, then calculated as percentage of the then set residential dwelling unit fee			

ADU Fine Schedule

	Notice to Correct	Failure to Correct within Correction Stated Period
Non-Registered ADU	30-day Warning	\$100 per month
ADU Housing Code Violations	30-day Warning	\$100 per week