




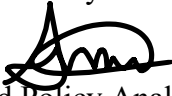
October 4, 2024

**FISCAL AND POLICY NOTE**

TO: Jennifer A. Jenkins  
Council Administrator

Colette R. Gresham, Esq.  
Deputy Council Administrator

THRU: Josh Hamlin   
Director of Budget and Policy Analysis

FROM: Shalene Miller-Whye   
Legislative Budget and Policy Analyst

RE: Policy Analysis and Fiscal Impact Statement  
CR-083-2024 Universal Design for Housing Waiver Request

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**CR-083-2024** (*sponsored by: Councilmembers Ivey and Watson*)

Assigned to the Committee of the Whole

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A RESOLUTION concerning Universal Design for Housing Waiver Request Fee For the purpose of adopting an administrative Universal Design for Housing Waiver Request Fee for the processing and review of an applicant's universal design for housing waiver request; and generally regarding waivers and administrative fees.

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**Fiscal Summary**

**Direct Impact:**

*Expenditures:* Small increase in expenditures.

*Revenues:* Some revenue increases are likely due to the administrative fees associated with waiver applications.

### **Indirect Impact:**

Potentially favorable.

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### **Legislative Summary:**

CR-083-2024<sup>1</sup>, introduced by Councilmembers Ivey, Watson, Oriadha, Dernoga, and Hawkins, was presented to the Council on September 24, 2024, and referred to the Committee of the Whole. CR-083-2024 provides for a Housing Waiver Request Fee for processing and reviewing an applicant's universal design for a housing waiver request.

If enacted, CR-083-2024 would:

- Adopt a Universal Design for Housing Waiver Request fee to be collected. This would be imposed on all waiver applications for \$245 per waiver per dwelling unit in a residential development project.<sup>2</sup>
  - Department of Permitting Inspections and Enforcement (DPIE) would establish and maintain a Table of Fees to be published on the DPIE website.
  - The Director or County Council shall have the authority to change the fees as necessary. Changes are subject to legislative review and a public hearing.
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### **Resource Personnel:**

- Kathleen H, Canning, Legislative Officer
  - John Sheridan, Policy Director, District 5
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### **Current Law/Background:**

#### *Federal law related to accessible housing*

Federally, the Architectural Barriers Act (1968), Section 504 of The Rehabilitation Act of 1973, and the Fair Housing Act Amendments (1988), as well as the Americans with Disability Act (1990), have all mandated the protection of people with disabilities based on the built environment.

The Architectural Barriers Act of 1968 requires that buildings or facilities built, designed, or altered with federal dollars after 1968 be accessible.<sup>3</sup> Section 504 of the Rehabilitation Act of 1973 protects individuals with disabilities from discrimination from any program or activity which

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<sup>1</sup> [CR-083-2024](#)

<sup>2</sup> [CR-083-2024 Attachment A](#)

<sup>3</sup> [Architectural Barriers Act \(access-board.gov\)](#)

receives Federal financial assistance.<sup>4</sup> The Fair Housing Act Amendments of 1988 prohibits discrimination on the basis of race, color, religion, sex, or national origin in housing sales, rentals, or financing.<sup>5</sup> Lastly, the American Disabilities Act of 1990 prohibits discrimination on the basis of disability in employment, transportation, public accommodations, communications, and access to state and local government programs and services.<sup>6</sup>

*CB-065-2023*

CB-065-2023<sup>7</sup> enacted on October 15, 2023, led to the establishment of the Universal Design Implementation Workgroup. This bill sought to diminish housing inaccessibility for groups likely to suffer without implementing a Universal Design to meet the growing demands of our aging population, further longevity in homeownership, cut future remodeling costs, and improve Prince George's County residents' overall wellness and mental health.

CB-065-2023 established the following provisions:

- Provided definitions of accessible/accessibility, disability, site plan, Universal Design, and usability.
- Required that all new single-family attached, single-family detached, two-family, two-over-twos, and multi-family residential dwelling units constructed after January 1, 2026, follow the standards of Universal Design.
- Allow exemption of developments that have site plans that have been certified prior to January 1, 2026.
- Allow exemption of existing dwelling units, undergraduate and graduate student housing for public and private colleges and universities, single-family detached dwellings to be built or subcontracted by an individual owner, townhouses, and two-over-twos.
- Incorporate Universal Design requirements that apply to exterior entrances, interior routes of travel, having a bathroom on the first level, kitchens, and placement of controls, switches, electrical sockets, and plugs.
- Allow waivers to builders if they cannot meet Universal Design requirements or face practical difficulties or unusual characteristics and cannot comply.
- Not allow waivers for more than 50% of individual residential development projects.
- Require a bi-annual report from DPIE regarding waivers.
- Establish a Universal Design Implementation Workgroup to assist in implementation.

The Universal Design Implementation Workgroup included stakeholders from the development and housing communities, advocacy groups such as American Association of Retired Persons (AARP), and representatives from DPIE and Maryland-National Capital Park and Planning

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<sup>4</sup> [The Rehabilitation Act of 1973 as amended by WIOA \(PDF\) \(section508.gov\)](#)

<sup>5</sup> [H.R.1158 - 100th Congress \(1987-1988\): Fair Housing Amendments Act of 1988 | Congress.gov | Library of Congress](#)

<sup>6</sup> [S.933 - 101st Congress \(1989-1990\): Americans with Disabilities Act of 1990 | Congress.gov | Library of Congress](#)

<sup>7</sup> [CB-065-2023](#)

(MNCPPC). The group convened over eight meetings to develop additional provisions, which resulted in CB-085-2024 and CR-083-2024.

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### **Discussion/Policy Analysis:**

#### *Provisions of CB-085-2024*

CB-085-2024<sup>8</sup> establishes the requirement for an administrative fee to be imposed for all waiver provision applications with the following:

§ 4-365 Waiver Provision would require applications to be accompanied by a Waiver Checklist Form, which DPIE will develop and revise over time. DPIE will impose an administrative fee per waiver per dwelling unit within a residential development project to process and review a waiver request, as noted in the Table of Fees.

#### *CR-083-2024*

Therefore, this resolution will establish a fee to be featured in the table of fees for those requiring a waiver provision. This would include a fee of \$245 per waiver per dwelling unit in a residential development, to be included with a waiver checklist form and reviewed by the Director of DPIE.

#### *Other Jurisdictions*

Based on research, other jurisdictions do not have fees associated with waivers, or have limited amounts of waivers to be requested.

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### **Fiscal Impact:**

- *Direct Impact*

Enactment of CR-083-2024 may have a favorable direct fiscal impact, as the collection of application fees for waiver applications could increase revenue and offset any anticipated costs associated with staffing DPIE to meet the demands of enforcing the Universal Design requirements.

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<sup>8</sup> [CB-085-2024](#)

- *Indirect Impact*

Enactment of CR-083-2024 may have a favorable indirect fiscal impact by deterring waiver requests, encouraging the creation of housing for those with disabilities, and allowing residents to age in place.

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**Questions for Committee Consideration:**

1. Are the processing fees to be imposed for waiver requests adequate to meet the administrative demands for waivers that may be requested? (\$245 per waiver, per unit).
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**Effective Date:**

CR-083-2024 shall be effective forty-five (45) calendar days after it becomes law.

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If you require additional information or have questions about this fiscal impact statement, please call me.