

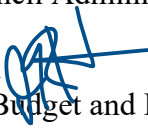



October 4, 2024

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
CB-085-2024 Universal Design for Housing - Revisions

CB-085-2024 (*sponsored by: Councilmembers Ivey and Watson*)

Assigned to the Committee of the Whole

AN ACT CONCERNING UNIVERSAL DESIGN FOR HOUSING - REVISIONS For the purpose of adding and revising certain definitions; providing for certain exemptions; requiring certain alarms; regarding the potential waiver of certain requirements by the Director of the Department of Permitting, Inspections and Enforcement in certain instances; requiring a certain form for the application for certain waiver exemptions; assessing a certain administrative fee in an amount per each waiver per each dwelling unit in a residential development project at the time of building permit for the cost of the Department of Permitting, Inspections and Enforcement's processing and review of the Universal Design for Housing waiver provision as prescribed in the Table of Fees; imposing penalties for non-compliance of certain violations of the Universal Design for Housing law; providing for a certain appeal from a certain waiver denial; and generally regarding Universal Design elements for certain newly constructed residential housing dwelling units.

Fiscal Summary

Direct Impact:

Expenditures: Small increase of expenditures.

Revenues: Some revenue increase is likely due to the administrative fees associated with waiver applications and fines for non-compliance.

Indirect Impact:

Potentially favorable.

Legislative Summary:

CB-085-2024¹, sponsored by Councilmembers Ivey and Watson, was presented to the Council on September 24, 2024, and referred to the Committee of the Whole. It would repeal and amend Sections 4-356, 4-357, 4-363, 4,364, and 4.64.01 of the Building Code and 2.-117 of the Administration Code.

If enacted, CB-085-2024 would:

- Add definitions for Accepted application by the Maryland-National Capital Park and Planning Commission (M-NCPPC, Accessible Range, Accessible Route, Approved by the Maryland-National Capital Park and Planning Commission, Dwellings covered by the design requirements, Knobs, Levels, Site Impracticality and Slip Resistant Floors.
- Revise definitions of Accessibility and Usability.
- Establish that detailed site plans approved before January 1, 2026, do not have to be updated to comply with Universal Design requirements.
- Require that applications be accompanied by a Waiver Checklist Form, which will be attached with an administrative fee per dwelling unit in residential development projects.
- Impose a civil fine of \$5,000 or a criminal fine, penalty of \$5,000, and imprisonment not exceeding 6 months for non-compliance.

Resource Personnel:

- Kathleen H, Canning, Legislative Officer
- John Sheridan, Policy Director, District 5

¹ [CB-085-2024](#)

Current Law/Background:

Federal law related to accessible housing

Federal law for accessible housing includes, 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). These all have demonstrated 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.² Section 504 of the Rehabilitation Act of 1973 protects individuals with disabilities from discrimination from any program or activity which receives Federal financial assistance.³ 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.⁴ 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.⁵

CB-065-2023

CB-065-2023⁶ was enacted on October 15, 2023, which led to establishing 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.

In Prince George's County, 50 – 54-year-old residents make up 20.4% of the population, while 65 and older residents make up 14.5%. Residents 65 years of age and older have increased as a percentage of the County's population from 9.6% to 14.5% between 2010 and 2021.⁷ In the U.S., 13.7% of adults have a mobility disability, which includes difficulty walking and climbing stairs, while 2 out of 5 adults have disabilities.⁸ This demonstrates that there is a growing demand to meet the housing and accessibility needs of residents.

CB-065-2023 established the following provisions:

- Provided definitions of accessible/accessibility, disability, site plan, Universal Design, and usability.

² [Architectural Barriers Act \(access-board.gov\)](https://www.access-board.gov/aba)

³ [The Rehabilitation Act of 1973 as amended by WIOA \(PDF\) \(section508.gov\)](https://www.fairhousing.gov/section504)

⁴ [H.R.1158 - 100th Congress \(1987-1988\): Fair Housing Amendments Act of 1988 | Congress.gov | Library of Congress](https://www.congress.gov/100/hr/1158)

⁵ [S.933 - 101st Congress \(1989-1990\): Americans with Disabilities Act of 1990 | Congress.gov | Library of Congress](https://www.congress.gov/101/s/933)

⁶ [CB-065-2023](#)

⁷ [Census Bureau](https://www.census.gov)

⁸ [National Center on Birth Defects and Developmental Disabilities, Centers for Disease Control and Prevention](https://www.cdc.gov/ncbddd)

- 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.
- Allowed exemption of developments that have site plans that have been certified prior to January 1, 2026.
- Allowed 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.
- Incorporated 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.
- Allowed 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.
- Required a bi-annual report from Department of Permitting Inspections and Enforcement (DPIE) regarding waivers.
- Established 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 M-NCPPC. The group convened over eight meetings to develop additional provisions, which are being established by CB-085-2024 and CR-083-2024.

Discussion/Policy Analysis:

Universal Design principles

According to the Center for Universal Design, Universal Design is a process for accessibility developed to meet and accommodate everyone, regardless of ability or disabilities. Principles of Universal Design about housing include:

- Equitable Use
- Flexibility in Use
- Low Physical Effort
- Size and Space for Approach and Use

Equitable Use, the focus of this process, demonstrates that the design must be developed in a way accessible to all residents. For flexibility in use, the design will accommodate different types of residents, ranging over several different disabilities. In terms of low physical effort, the design assures that residents suffering from mobility issues can live everyday lives within their homes. With size and space for approach and use, these standards outlay the importance of having a

strategically sized home to meet the needs of all residents, regardless of reach, mobility, and size.⁹ Specific Universal Designs standards include but are not limited to the following^{10&11}:

- No step entry
- Doorways with 32 – 36-inch-wide clearances
- Hallways with 36 – 42-inch-wide clearances
- Light switches and electrical outlets 24 – 58 inches from the floor
- Door handles that are 34 – 48 inches from the floor
- Additional floor space, including ample kitchen space of at least 30 by 48 inches in kitchens
- Slip-resistant floors and surfaces
- Comfortable reach zones

Provisions of CB-085-2024

As stated previously, this Bill would repeal and amend several sections of the Building Code and one Section of the Administration Code. Revisions to be established by CB-085-2024 include definitions and standards related to accessibility to comply with the ADA Standards for Accessible Design. Additionally, additional guidance will be created on the processes of waiver applications, including imposing application fees. Additionally, both civil and criminal penalties will be imposed for those who are non-compliant.

§ 4-356 would add and revise definitions for the following:

- (a) Accepted by the Maryland-National Capital Park and Planning Commission means an application that is submitted and accepted by the Department of Permitting, Inspections and Enforcement and distributed to all agencies for review
- (b) Accessibility means a site, building, facility, or portion thereof that complies with the ADA Standards for Accessible Design | ADA.gov, IRC requires compliance with IBC chapter when 4 or more dwellings. International Residential Code (IRC) - CHAPTER 3 (iccsafe.org), and IBC – meet all of chapter 11, INTERNATIONAL BUILDING CODE (IBC) | ICC DIGITAL CODES (iccsafe.org).
- (c) Accessible Range - For reach ranges, ADAAG 308.1, there is forward reach, side reach. ADA Standards for Accessible Design | ADA.gov
- (d) Accessible Route - Accessible routes shall comply with Chapter 4. 2010 ADA Standards for Accessible Design | ADA.gov, and IBC – a continuous, unobstructed path that complies with chapter 11.
- (e) Approved by the Maryland-National Capital Park and Planning Commission refers to accepted by the building official, per the IRC.
- (f) Remains unchanged.

⁹ [What is Universal Design? | DO-IT](#)

¹⁰ [What is Universal Design? - NAHB](#)

¹¹ [Beyond Accessibility to Universal Design | WBDG - Whole Building Design Guide](#)

- (g) Dwellings covered by the design requirements means that the public or common use areas of the building can be approached, entered, and used by individuals with physical disabilities.
- (h) Knobs - handles require more grip strength to grab and turn the handle.
- (i) Levers - handles can be more easily used regardless of the user's grip strength as levers can be pushed.
- (j) Site Impracticality means of evaluating individual buildings and sites with difficult terrain.
- (k) Remains unchanged.
- (l) Slip Resistant Floors mean accessible surfaces must be slip resistant to minimize hazards to people with disabilities, especially those who are ambulatory or semi-ambulatory or who use canes, crutches, and other walking aids. Flooring designed with material properties to help reduce slipperiness and increase traction.
- (m) Remains unchanged.
- (n) Remains unchanged.
- (o) Usability means the public or common use areas of the building can be approached, entered, and used by individuals with physical disabilities.

§ 4-357 Universal Design Application and Exemptions would add a provision that detailed site plans submitted by the developer and approved by the Department (DPIE) before January 1, 2026, will not be required to comply with the details outlined in Sec. 4-357, the Universal Design Application.

§ 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.

§ 4-365.01 Penalties provides that the County shall impose a civil fine of \$5,000 or a criminal fine and penalty of \$5,000 and imprisonment not to exceed 6 months for a non-compliant applicant, for each violation in each dwelling unit with the Universal Design for Housing law apart of the County's Code for their residential development project.

Fiscal Impact:

- *Direct Impact*

Enactment of CB-085-2024 may have a minor adverse direct fiscal impact, as it could increase expenditures due to an increased workload for DPIE staff considering waiver applications. However, this could be offset by application fees to be imposed for waivers and fines to be collected for non-compliance.

- *Indirect Impact*

Enactment of CB-085-2024 may have a favorable indirect fiscal impact associated with the economic benefits of increasing residents' ability to age in place.

Questions for Committee Consideration:

1. Please describe the details of a Waiver Checklist Form and how DPIE will 'revise it from time to time'.
 2. With the new provisions for Universal Design established by CB-085-2024, does the Department anticipate needing additional staffing to meet these demands in 2026?
 3. 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:

CB-085-2024 shall be effective forty-five (45) calendar days after it becomes law.

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