

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 36

(Chair, Education, Energy, and the Environment
Committee)(By Request - Departmental - Housing and
Community Development)

Education, Energy, and the Environment

Land Use - Zoning - Limitations (Starter and Silver Homes Act of 2026)

This departmental bill – notwithstanding any other law (but subject to certain exceptions) – prohibits a local legislative body from adopting or enforcing any code, ordinance, regulation, standard, or other requirement that (1) establishes, directly or indirectly, specified limitations on the development of a single-family home and in some cases also an accessory structure (limitations such as a specified minimum lot size, minimum home square footage or home exterior dimensions, specified minimum building setbacks, or maximum lot coverage); (2) prohibits, directly or indirectly, the placement of town houses in an area zoned for single-family residential use; or (3) prohibits subdividing an improved lot into three or fewer smaller lots in an area zoned for single-family residential use.

Fiscal Summary

State Effect: The bill does not 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: The Department of Housing and Community Development (DHCD) has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services generally concurs with this assessment, but notes DHCD's indication in the assessment that small businesses engaged in home construction may benefit.

Analysis

Bill Summary:

Prohibitions of Certain Zoning Provisions

The bill – notwithstanding any other law – prohibits a legislative body from adopting or enforcing any code, ordinance, regulation, standard, or other requirement that, directly or indirectly:

- prohibits the placement of town houses in an area zoned for single-family residential use;
- establishes with respect to a single-family home, (1) a minimum lot size greater than 5,000 square feet for lots in areas connected or planned to be connected to public water and sewer systems; (2) minimum square footage or exterior dimension requirements; or (3) design, architectural, or aesthetic elements; or
- establishes with respect to a single-family home and any accessory structures, (1) lot coverage maximums or (2) minimum building setbacks greater than 10 feet for front and rear setbacks and 5 feet for side setbacks.

Notwithstanding any other law, the bill also prohibits a legislative body from adopting or enforcing any code, ordinance, regulation, standard, or other requirement that prohibits the owner of an improved lot in an area zoned for single-family residential use from subdividing the lot into three or fewer smaller lots that conform to local law. This provision does not apply to an improved lot created by subdivision within the preceding three years.

Definitions

“Area zoned for single-family residential use” means an area in which the construction and placement of detached single-family homes is allowed by right under local law.

“Improved lot” means a lot or parcel on which a residential structure is located.

“Legislative body” includes (1) the Maryland-National Capital Park and Planning Commission (M-NCPPC) and (2) any other local body with authority to create or modify zoning regulations or design limitations for residential use.

“Single-family home” means (1) a standalone residential structure that is intended for occupancy by one household and has a private entrance, a kitchen, and bathroom facilities or (2) a town house.

“Town house” means a dwelling unit constructed in a row of three or more attached dwelling units, where each dwelling unit (1) shares at least one common wall with an adjacent dwelling unit and (2) is located on an individual lot or parcel, or is subject to a condominium regime established under Title 11 of the Real Property Article.

Applicability

The bill’s provisions do not apply to (1) an area designated as part of a historic district on or before July 1, 2025, in accordance with § 8-105 of the Land Use Article; (2) agricultural land subject to a permanent easement conveyed or assigned to the Maryland Agricultural Land Preservation Foundation (MALPF), as defined in § 9-206 of the Tax-Property Article; or (3) conservation property subject to a perpetual easement sold or donated to, among others, MALPF or the Maryland Environmental Trust, as defined in § 8-209.1 of the Tax-Property Article.

The bill’s provisions (1) do not supersede applicable building codes, fire codes, or public health and safety regulations necessary to address immediate threats to public safety and (2) apply to a legislative body only to the extent that they do not conflict with other State or federal laws or regulations.

Current Law: 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.

Division II of the Land Use Article establishes M-NCPPC (made up of the Montgomery County and Prince George’s County planning boards) and governs planning and zoning within the Maryland-Washington Regional District (§ 20-101), which consists of (1) the entire area of Montgomery County, subject to certain limitations (relating to certain municipalities not subject to the planning and zoning authority of the county, unless by agreement, and other municipalities that have certain, limited planning and zoning authority) and (2) the entire area of Prince George’s County, except for the City of Laurel as it existed on July 1, 2013.

Background: DHCD indicates that restrictive local zoning ordinances in the State can make building small, more affordable “starter” homes either not economical or not permitted – due to large minimum lot size requirements, square footage requirements, and lot coverage maximums – in many areas zoned for single-family residential use. The department indicates that the restrictions increase the costs of home construction and limit the number of affordable housing options.

Local Fiscal Effect:

Local Implementation

Based on information received from a small number of local jurisdictions, it appears the bill can be implemented, administratively, with existing resources in many jurisdictions, but some may require additional resources (e.g., additional staff or overtime) to manage an increased volume of subdivision reviews and permit processing and inspections. Local jurisdictions also collect fees from such reviews, processing, and inspections. The extent of any administrative impacts depends largely on the amount of increased development, of smaller homes, resulting from the bill.

Infrastructure

Infrastructure spending by local jurisdictions may increase or accelerate to the extent the bill’s prohibitions result in greater density of development, of smaller homes, creating infrastructure demand that outpaces the capacity planned for by a local jurisdiction based on the jurisdiction’s existing regulation of single-family home 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 density resulting from the bill. In jurisdictions that collect development impact fees or excise taxes, the increased development also generates development impact fee or excise tax revenues that can help fund additional infrastructure capacity.

Additional Information

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

Designated Cross File: HB 239 (Chair, Economic Matters Committee)(By Request - Departmental - Housing and Community Development) - Economic Matters.

Information Source(s): Anne Arundel, Baltimore, Charles, Dorchester, and Howard counties; Cities of Baltimore and Laurel; Maryland Association of Counties; Maryland-National Capital Park and Planning Commission; Maryland Municipal League; Department of Housing and Community Development; Maryland Department of Labor; Maryland Department of Planning; Department of Legislative Services

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