MML Amendments to SB 36/HB 239 - Land Use - Zoning - Limitations (Starter and Silver Homes Act of 2026)

1) **Bill Provision: EXEMPTIONS.** Exempts agricultural land, conservation property, and historic districts designated on/before July 1, 2025
    - Problem 1: Limiting when and where a historic district may be determined with the intent of regulating land-use is contradictory to the purpose of this program.
        - Language: Strike "ON OR BEFORE JULY 1, 2025" [MACO #1]
    - Problem 2: Some municipalities are partially served by water/sewer, have legacy neighborhoods on septic, and/or have constrained or segmented systems.
        - Language: Add "(IV) AREAS THAT ARE NOT CONNECTED TO PUBLIC WATER AND SEWER WITH SUFFICEINT CAPACITY TO SUPPORT ADDITIONAL GROWTH OR NOT PLANNED TO BE CONNECTED TO PUBLIC WATER AND SEWER WITHIN 5 YEARS." [MACo #2]
    - Problem 3: Urban-centric zoning mandates do not account for the infrastructure constraints many municipalities face, even where public water and sewer exist.
        - Proposal: Extend exemptions to all local governments, regardless of population size
        - Language: Add "(V)(1) A COUNTY WITH A POPULATION SMALLER THAN 150,000 RESIDENTS, NOT INCLUDING ANY RESIDENTS OF A MUNICIPAL CORPORATION LOCATED WITHIN THE COUNTY; AND (2) A MUNICIPAL CORPORATION." [MACo #3]
2) **Bill Provision: OVERRIDES.** These changes do not override building, fire, health, or safety codes that are necessary to address immediate threats, nor do they conflict with other state or federal laws.
    - Problem 1: As drafted, the bill is unclear about whether local adequate public facilities ordinances (APFOs) remain enforceable, creating uncertainty about whether municipalities can continue to pace development based on available infrastructure. Without explicit clarification, the language risks undermining locally adopted growth-management tools that are designed to prevent development from outpacing water, sewer, transportation, and school capacity.
        - Proposal: Expressly state that the bill does not override local APFOs or equivalent density limits or allocation systems, making clear that these long-standing growth-management tools remain intact. Removing the word "immediate" ensures local governments can address infrastructure constraints proactively, not only in crisis situations, and allows for consistent, predictable implementation.
        - Language:
            - Insert "ADEQUATE PUBLIC FACILITIES ORDINANCES OR LOCAL EQUILIVANT, DENSITY LIMITS OR ALLOCATIONS" after "CODE" [MACo #9]
            - Strike "IMMEDIATE" [MACo #9]
    - Problem 2: Without explicit protection, municipalities risk losing critical tools used to meet state and federal environmental obligations and manage site-level impacts of increased density.
        - Proposal: Preserves municipalities' ability to address environmental impacts of development while allowing the bill's housing provisions to operate as intended.
        - Language: Add "THE PROVISIONS OF THIS SUBSECTION DO NOT SUPERSEDE APPLICABLE STORMWATER DRAINAGE OR CANOPY TREE PRESERVATION REQUIREMENTS IMPLEMENTED BY A LOCAL BODY TO ADDRESS ENVIRONMENTAL CONCERNS"
    - Problem 3: As drafted, the bill could be interpreted to preempt local onsite parking requirements, even where parking constraints are well-documented and directly affect neighborhood functionality,

safety, and access. Municipalities rely on parking studies to manage limited curb space and avoid spillover impacts, especially in built-out communities.

- Proposal: Clarify that locally adopted onsite parking requirements based on a parking study are not superseded by the bill. Requiring a waiver process preserves flexibility, ensuring parking standards can be adjusted where appropriate while maintaining data-driven local control.
- Language:
  - Add "THE PROVISIONS OF THIS SUBSECTION DO NOT SUPERSEDE APPLICABLE ONSITE PARKING REQUIREMENTS IMPLEMENTED BY A LOCAL BODY TO ADDRESS PARKING CONCERNS IDENTIFIED IN A PARKING STUDY.
  - Add "NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBSECTION, A LOCAL LEGISLATIVE BODY OR PLANNING COMMISSION MAY ESTABLISH AND ADMINISTER A PARKING WAIVER OR MODIFICATION PROCESS THAT ALLOWS FOR REDUCTIONS OR ADJUSTMENTS TO ONSITE PARKING REQUIREMENTS BASED ON SITE-SPECIFIC CONDITIONS, DOCUMENTED PARKING NEEDS, OR OTHER OBJECTIVE CRITERIA."

3) **Bill Provision: 5K SQ FT.** Prohibits local zoning ordinances from requiring single-family homes to be built on lots larger than 5,000 sq ft in areas served by public water/sewer
   - Problem 1: Including the term "indirectly" creates significant ambiguity and litigation risk by potentially sweeping in long-standing, neutral zoning and development standards that were never intended to be preempted.
     - Proposal: Remove it to provide clearer boundaries around what is actually prohibited, preserve legitimate local planning tools, and improve predictability and enforceability for both local governments and developers.
     - Language: "NOTWITHSTANDING ANY OTHER LAW, A LEGISLATIVE BODY MAY NOT ADOPT OR ENFORCE ANY CODE, ORDINANCE, REGULATION, STANDARD, OR OTHER REQUIREMENT THAT ESTABLISHES, DIRECTLY OR INDIRECTLY" - remove "INDIRECTLY"
   - Problem 2: This provision disproportionately impacts municipalities because they are far more likely than counties to be served by public water and sewer, meaning the mandate largely overrides municipal zoning while leaving most county areas untouched. It removes a core local planning tool used to align density with infrastructure capacity, neighborhood character, and capital investment, effectively imposing a one-size-fits-all standard regardless of local conditions.
     - Proposal: Only apply to areas that are connected to public water and sewer with sufficient capacity to support additional growth.
     - Language:
       - On page 8, in line 29, after "ESTABLISHES," insert, "IN AREAS THAT ARE CONNECTED TO PUBLIC WATER AND SEWER WITH SUFFICEINT CAPACITY TO SUPPORT ADDITIONAL GROWTH;" [MACo #4]
       - On page 9, in lines 1-2, strike "IN AREAS CONNECTED OR PLANNED TO BE CONNECTED TO PUBLIC WATER AND SEWER SYSTEMS," [MACo #4]
4) **Bill Provision: LOT COVER MIN.** Prohibits local governments from setting minimum square footage or exterior dimension requirements for single-family homes.
   - Problem 1: Including the term "indirectly" creates significant ambiguity and litigation risk by potentially sweeping in long-standing, neutral zoning and development standards that were never intended to be preempted.

        - Proposal: Remove it to provide clearer boundaries around what is actually prohibited, preserve legitimate local planning tools, and improve predictability and enforceability for both local governments and developers.
        - Language: "NOTWITHSTANDING ANY OTHER LAW, A LEGISLATIVE BODY MAY NOT ADOPT OR ENFORCE ANY CODE, ORDINANCE, REGULATION, STANDARD, OR OTHER REQUIREMENT THAT ESTABLISHES, DIRECTLY OR INDIRECTLY" - remove "INDIRECTLY"
    - Problem 2: As drafted, this provision broadly preempts local standards on home size and dimensions without regard to whether existing infrastructure can support additional intensity of development. For municipalities, this risks forcing denser development in areas with constrained water, sewer, or related systems, undermining local planning and capital investment decisions.
        - Proposal: Tie the prohibition on minimum square footage and exterior dimensions to areas with documented public water and sewer capacity to support additional growth.
        - Language:
            - On page 8, in line 29, after "ESTABLISHES," insert, "IN AREAS THAT ARE CONNECTED TO PUBLIC WATER AND SEWER WITH SUFFICEINT CAPACITY TO SUPPORT ADDITIONAL GROWTH;" [MACo #4]
            - On page 9, in lines 1-2, strike "IN AREAS CONNECTED OR PLANNED TO BE CONNECTED TO PUBLIC WATER AND SEWER SYSTEMS," [MACo #4]
    - Problem 3: The minimum lot coverage prohibition could be misread to interfere with interior building standards that are governed by building codes, rather than zoning. This creates confusion about whether local and state building code requirements for health, safety, and habitability could be unintentionally preempted.
        - Proposal: Clarify that the prohibition applies only to exterior dimensions or size requirements, not to interior minimum requirements regulated in building code.
        - Language: Add "FOR PURPOSES OF THIS SUBSECTION, A PROHIBITION ON MINIMUM LOT COVERAGE, SIZE, OR DIMENSIONAL REQUIREMENTS SHALL APPLY ONLY TO EXTERIOR BUILDING DIMENSIONS REGULATED THROUGH ZONING AND SHALL NOT BE CONSTRUED TO SUPERSEDE OR LIMIT INTERIOR MINIMUM STANDARDS OR REQUIREMENTS ESTABLISHED UNDER APPLICABLE BUILDING CODES."
    - Problem 4: Lot coverage limits are an essential environmental and infrastructure tool for single-family neighborhoods, but they operate very differently for attached housing. Relief and solutions should be targeted to townhomes, where it actually increases housing supply, rather than broadly eliminating a safeguard municipalities rely on.
        - Proposal: Maintain lot coverage limits for single-family homes; if eliminated, do so only for townhomes.
        - Language: "THE PROHIBITION ON LOT COVERAGE MAXIMUMS UNDER THIS SUBSECTION SHALL APPLY ONLY TO TOWN HOUSES, AS DEFINED IN THIS SECTION, AND MAY NOT BE CONSTRUED TO LIMIT OR PREEMPT A LOCAL LEGISLATIVE BODY'S AUTHORITY TO ESTABLISH OR ENFORCE LOT COVERAGE REQUIREMENTS FOR SINGLE–FAMILY DETACHED DWELLINGS."
5) **Bill Provision: LOT COVER MAX.** Prohibits local governments from setting lot cover maximums for single-family homes and accessory dwelling structures
    - Problem 1: Including the term "indirectly" creates significant ambiguity and litigation risk by potentially sweeping in long-standing, neutral zoning and development standards that were never intended to be preempted.

        - Proposal: Remove it to provide clearer boundaries around what is actually prohibited, preserve legitimate local planning tools, and improve predictability and enforceability for both local governments and developers.
        - Language: "NOTWITHSTANDING ANY OTHER LAW, A LEGISLATIVE BODY MAY NOT ADOPT OR ENFORCE ANY CODE, ORDINANCE, REGULATION, STANDARD, OR OTHER REQUIREMENT THAT ESTABLISHES, DIRECTLY OR INDIRECTLY" - remove "INDIRECTLY"
    - Problem 2: As drafted, this provision broadly preempts local standards on home size and dimensions without regard to whether existing infrastructure can support additional intensity of development. For municipalities, this risks forcing denser development in areas with constrained water, sewer, or related systems, undermining local planning and capital investment decisions.
        - Proposal: Tie the prohibition on minimum square footage and exterior dimensions to areas with documented public water and sewer capacity to support additional growth.
        - Language:
            - On page 8, in line 29, after "ESTABLISHES," insert, "IN AREAS THAT ARE CONNECTED TO PUBLIC WATER AND SEWER WITH SUFFICEINT CAPACITY TO SUPPORT ADDITIONAL GROWTH;" [MACo #4]
            - On page 9, in lines 1-2, strike "IN AREAS CONNECTED OR PLANNED TO BE CONNECTED TO PUBLIC WATER AND SEWER SYSTEMS," [MACo #4]
    - Problem 3: Including accessory dwelling structures (ADUs) in the lot coverage prohibition unnecessarily strips municipalities of a key tool for managing the impacts of secondary units on small or constrained lots. Unlike primary homes, ADUs are often added incrementally in built-out neighborhoods, where lot coverage limits help address stormwater, tree canopy loss, privacy, and neighborhood-scale impacts.
        - Proposal: Remove accessory dwelling structures
        - Language: strike "AND ANY ACCESSORY DWELLING STRUCTURES."
    - Problem 4: Lot coverage limits are an essential environmental and infrastructure tool for single-family neighborhoods, but they operate very differently for attached housing. Relief and solutions should be targeted to townhomes, where it actually increases housing supply, rather than broadly eliminating a safeguard municipalities rely on.
        - Proposal: Maintain lot coverage limits for single-family homes; if eliminated, do so only for townhomes.
        - Language: "THE PROHIBITION ON LOT COVERAGE MAXIMUMS UNDER THIS SUBSECTION SHALL APPLY ONLY TO TOWN HOUSES, AS DEFINED IN THIS SECTION, AND MAY NOT BE CONSTRUED TO LIMIT OR PREEMPT A LOCAL LEGISLATIVE BODY'S AUTHORITY TO ESTABLISH OR ENFORCE LOT COVERAGE REQUIREMENTS FOR SINGLE–FAMILY DETACHED DWELLINGS."
6) **Bill Provision: SETBACKS**. Prohibits local governments from setting setbacks for single-family homes or accessory structures that exceed 10 feet in the front or rear, or 5 feet on the sides.
    - Problem 1: Including the term "indirectly" creates significant ambiguity and litigation risk by potentially sweeping in long-standing, neutral zoning and development standards that were never intended to be preempted.
        - Proposal: Remove it to provide clearer boundaries around what is actually prohibited, preserve legitimate local planning tools, and improve predictability and enforceability for both local governments and developers.
        - Language: "NOTWITHSTANDING ANY OTHER LAW, A LEGISLATIVE BODY MAY NOT ADOPT OR ENFORCE ANY CODE, ORDINANCE, REGULATION,

STANDARD, OR OTHER REQUIREMENT THAT ESTABLISHES, DIRECTLY OR INDIRECTLY" - remove "INDIRECTLY"

- Problem 2: This one-size-fits-all setback mandate overrides locally adopted standards used to address fire access, stormwater management, drainage, privacy, and neighborhood context. Setback needs vary widely based on lot size, street design, infrastructure, and emergency access, and a rigid statewide cap would create unintended site-specific impacts without meaningfully increasing housing supply.
  - Proposal: Tie the mandate to areas with documented public water and sewer capacity to support additional growth.
    - Language:
      - On page 8, in line 29, after "ESTABLISHES," insert, "IN AREAS THAT ARE CONNECTED TO PUBLIC WATER AND SEWER WITH SUFFICEINT CAPACITY TO SUPPORT ADDITIONAL GROWTH;" [MACo #4]
      - On page 9, in lines 1-2, strike "IN AREAS CONNECTED OR PLANNED TO BE CONNECTED TO PUBLIC WATER AND SEWER SYSTEMS," [MACo #4]
- Problem 3: Secondary buildings often have different safety, drainage, and neighborhood impacts than primary homes. The bill could unintentionally override setback standards that municipalities use to address fire access, stormwater, privacy, and lot constraints for accessory buildings in built-out neighborhoods.
  - Proposal: Remove accessory dwelling structures
  - Language: strike "AND ANY ACCESSORY DWELLING STRUCTURES."

7) **Bill Provision: DESIGN.** Prohibits local jurisdictions from mandating specific design, architectural, or aesthetic elements for single-family homes.
   - Problem 1: Including the term "indirectly" creates significant ambiguity and litigation risk by potentially sweeping in long-standing, neutral zoning and development standards that were never intended to be preempted.
     - Proposal: Remove it to provide clearer boundaries around what is actually prohibited, preserve legitimate local planning tools, and improve predictability and enforceability for both local governments and developers.
     - Language: "NOTWITHSTANDING ANY OTHER LAW, A LEGISLATIVE BODY MAY NOT ADOPT OR ENFORCE ANY CODE, ORDINANCE, REGULATION, STANDARD, OR OTHER REQUIREMENT THAT ESTABLISHES, DIRECTLY OR INDIRECTLY" - remove "INDIRECTLY"
   - Problem 2: Prohibiting local design and architectural standards removes one of the few tools municipalities have to ensure new single-family development fits safely and cohesively into existing neighborhoods. Design standards are often tied to objective concerns—such as building orientation, materials durability, streetscape continuity, and compatibility with historic or context-sensitive areas—not subjective aesthetics. Eliminating this authority can lead to development that creates safety issues, undermines prior planning investments, and generates neighborhood conflict without meaningfully increasing housing supply.
     - Proposal: Remove in its entirety
     - Language: strike page 9, lines 12-13. [MACo #6]
   - Problem 3: Without an explicit grandfathering provision, the bill could invalidate existing, duly adopted local design guidelines that municipalities and developers have relied on for years. This would undermine prior planning efforts, disrupt approved or pending projects, and create uncertainty about which standards remain enforceable.

        - Proposal: Grandfather existing design guidelines adopted before the bill's effective date, while preserving the bill's limitation on new, prescriptive design mandates. This approach protects settled expectations and prior investments without expanding local authority beyond what already exists.
        - Language: "NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBSECTION, THIS SUBSECTION MAY NOT BE CONSTRUED TO SUPERSEDE OR INVALIDATE ANY DESIGN, ARCHITECTURAL, OR DEVELOPMENT GUIDELINES ADOPTED BY A LOCAL LEGISLATIVE BODY OR PLANNING COMMISSION ON OR BEFORE THE EFFECTIVE DATE OF THIS ACT."
8) **Bill Provision: TOWNHOUSE MANDATE.**
    - Prohibits local governments from banning townhouses in areas zoned for single-family residential use.
        - Problem: This overrides locally adopted comprehensive plans and public processes that balance density, infrastructure capacity, and neighborhood context, creating uncertainty and potential incompatibility in established neighborhoods.
            - Proposal: Remove this provision to preserve local authority to determine where attached housing is appropriate based on infrastructure, planning goals, and community input.
            - Language: Strike page 9, lines 14-18 in its entirety.
    - Definition of townhouse: a home that is part of a row of three or more attached homes, where each unit shares at least one wall with another unit, and is either on its own lot or part of a condominium.
        - Problem: Allowing stacked units, triplexes, and quadplexes forces significantly higher density and intensity into areas not planned or designed to accommodate it.
            - Proposal: Limit townhouses to traditional, ground-oriented attached housing that is more compatible with single-family neighborhoods and existing infrastructure.
            - Language: "TOWN HOUSE' MEANS A TYPE OF ATTACHED DWELLING CONSISTING OF A GROUP OF THREE OR MORE DWELLING UNITS, EACH ATTACHED TO AT LEAST ONE OTHER DWELLING UNIT BY A PARTY WALL THAT SERVES AS A VERTICAL BOUNDARY FOR BOTH UNITS. EACH TOWN HOUSE DWELLING UNIT SHALL EXTEND FROM THE GROUND TO THE ROOF, SHALL CONTAIN MULTIPLE FLOORS OR LEVELS, AND SHALL HAVE ITS OWN GROUND–LEVEL EXTERNAL ENTRANCE OR SHARE AN ENTRANCE ONLY WITH AN ADJACENT UNIT. THIS DOES NOT INCLUDE STACKED DWELLING UNITS OR ANY DWELLING UNIT LOCATED DIRECTLY ABOVE OR BELOW ANOTHER DWELLING UNIT."
9) **Bill Provision: SUBDIVISION**. Prevents local governments from prohibiting a property owner in a single-family residential zone from subdividing an improved lot into three or fewer lots, unless the lot was recently subdivided within the previous 3 years.
    - Problem 1: Including the term "indirectly" creates significant ambiguity and litigation risk by potentially sweeping in long-standing, neutral zoning and development standards that were never intended to be preempted.
        - Proposal: Remove it to provide clearer boundaries around what is actually prohibited, preserve legitimate local planning tools, and improve predictability and enforceability for both local governments and developers.
        - Language: "NOTWITHSTANDING ANY OTHER LAW, A LEGISLATIVE BODY MAY NOT ADOPT OR ENFORCE ANY CODE, ORDINANCE, REGULATION,

STANDARD, OR OTHER REQUIREMENT THAT ESTABLISHES, DIRECTLY OR INDIRECTLY" - remove "INDIRECTLY"

- Problem 2: Creates a statewide entitlement to subdivide lots in single-family zones, regardless of local subdivision standards or infrastructure constraints. It overrides locally adopted processes that evaluate access, utilities, stormwater, and neighborhood impacts, and could enable incremental density increases without adequate planning or coordination.
  - Proposal: Clarify that this provision will only be applicable to areas served by water and sewer. Areas served by septic systems cannot support increased density or development to the same extent as those served by water and sewer.
  - Language: On Page 9, in lines 23, after "USE" insert, "AND IS CONNECTED TO PUBLIC WATER AND SEWER WITH SUFFICEINT CAPACITY TO SUPPORT ADDITIONAL GROWTH" [MACo #8]

10) **Bill Provision: EFFECTIVE DATE.** Effective October 1, 2026.
    - Problem: This bill constitutes a significant shift. Local governments need time to change local ordinances, budgets, and otherwise plan as necessary.
      - Proposal: Change the effective date to October 1, 2027.