



February 13, 2026

Senate Education, Energy & Environment Committee and Senate Budget & Taxation Committee

Bill: Senate Bill 267 – Land Use - Residential Housing - Oversight, Regulation, and Taxation (Building Affordably in My Back Yard Act)

Position: Support with Amendments

Dear Members of the Senate Education, Energy & Environment Committee and Senate Budget & Taxation Committee,

Senate Bill 267 proposes a series of statewide reforms intended to accelerate housing production, standardize permitting timelines, establish housing production targets, and expand incentives for affordable housing development. The City of Gaithersburg supports the bill's overarching goal of increasing housing supply and affordability but respectfully requests targeted amendments to ensure local land use authority, practical implementation, and regulatory clarity.

City of Gaithersburg expresses the following concerns and requested amendments:

1. Local Determination of Housing Shortage (§7–106)

The bill does not clearly specify who determines whether a shortage of affordable housing exists.

Determining housing shortages should remain a local jurisdiction decision. Local governments are best positioned to evaluate housing conditions based on infrastructure capacity, zoning, development pipelines, and community needs.

Requested Amendment:

Clarify that any determination of an affordable housing shortage is made by the local jurisdiction, not imposed at the State level.

2. Definition of Complete Application (§12–101)

The definition of a “complete application” includes the word “substantive,” which introduces ambiguity.

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Applications should be considered complete only when all required materials are submitted. Allowing partial or “substantive” submissions undermines effective review and creates uncertainty.

Requested Amendment:

Remove the word “substantive” and clarify that a complete application must contain all information required for processing and review.

3. Application Timelines (§12–202)

The bill establishes a 30-day determination period for application completeness without accounting for complexity or clarity on time calculation. Additionally:

- The 30-day period is arbitrary and does not reflect the realities of complex applications.
- The bill does not specify whether the timeline refers to calendar days or business days.
- Requiring the City to provide a full list of deficiencies and a timeline for curing them is unworkable, as correction timelines depend on developer resources and schedules beyond the City’s control.

Requested Amendments:

- Clarify whether timelines are calendar or business days.
- Remove the requirement that municipalities provide a timeline for curing deficiencies.
- Allow flexibility for complex applications requiring additional coordination or review.

4. Regulatory Freeze (§12–202)

The bill freezes zoning laws for three years once an application is deemed complete.

The City generally supports not changing zoning rules mid-review. However, the bill does not address changes that may occur between review phases (e.g., preliminary to final site plan).

Requested Amendments:

- Limit the zoning freeze to final site plan review and approval, not all development review stages.
- Add language clarifying that amendments to approved site plans are reviewed under the zoning laws in effect at the time the amendment is submitted, not the original application date.

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5. Housing Production Targets (§12–301)

The bill establishes state-imposed housing production targets based on proportional shares of existing county housing stock.

Local jurisdictions are best positioned to set realistic and achievable housing goals. The current methodology assumes future growth will mirror past development patterns, which may not reflect infrastructure capacity, land availability, or redevelopment constraints.

- The State methodology assigns the City 7% of the County’s target, assuming continued proportional growth.
- A local Camoin analysis projects the City will need approximately 2,100 total housing units by 2040, while the State target requires 2,266 additional units in just five years (2026–2030) — a significantly different projection.

Requested Amendment:

Eliminate state-imposed housing production targets and allow local jurisdictions to establish their own housing goals.

6. Affordable Dwelling Unit Standard (§12–401)

The bill defines affordability at 60% AMI, below the City’s existing MPDU standard of 50–80% AMI.

- The proposed threshold conflicts with existing local affordability programs.
- Mandated design guidelines for projects below 60% AMI (parking, height, setbacks) are duplicative of zoning regulations, which already exist to protect health, safety, and welfare and should apply uniformly regardless of affordability level.

Requested Amendments:

- Allow local affordability standards to prevail where they already exist.
- Remove duplicative design mandates and rely on existing zoning regulations.

The City notes that it already has a model home permit process for production builders and has no concerns with that provision.

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7. Special Tax Rates (§6–202.1)

The bill authorizes increased tax rates on vacant or underutilized land. While incentivizing development is important, higher taxes may disproportionately impact property owners with limited resources or those facing unforeseen circumstances that delay development.

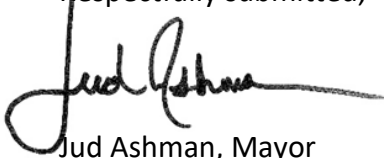
Requested Amendment:

Add safeguards or flexibility to prevent unintended hardship on vulnerable property owners.

In conclusion, The City of Gaithersburg supports the intent of Senate Bill 267 to promote housing development and affordability. With the targeted amendments outlined above, the bill can better balance statewide housing goals with local expertise, land use authority, and practical implementation realities.

The City respectfully urges the Committee to adopt these amendments and advance a balanced, workable approach to housing policy.

Respectfully submitted,



Jud Ashman, Mayor
City of Gaithersburg