



## TESTIMONY

**COMMITTEE:** Senate Education, Energy, and the Environment

**DATE:** February 17, 2026

**POSITION:** Favorable with Amendments

**BILL:** SB 36

The Maryland Municipal League shares the Administration’s commitment to expanding access to safe and affordable housing. Municipalities across Maryland are actively advancing housing solutions through zoning reform, infrastructure investment, and partnerships tailored to their unique community contexts. The Starter and Silver Homes Act of 2026, however, would significantly preempt long-standing local zoning and land use authority by replacing locally adopted standards with uniform statewide mandates. These changes would limit municipalities’ ability to coordinate housing growth with infrastructure capacity, environmental constraints, public safety considerations, and fiscal realities.

Local zoning authority plays a role in shaping housing production, but it is also the primary tool municipalities use to plan for housing alongside water and sewer systems, transportation networks, schools, stormwater management, and emergency services. When that authority is restricted without corresponding funding or revenue flexibility, the costs of infrastructure upgrades and service expansion shift to local governments and residents. Because municipalities rely heavily on property tax revenue to fund these investments, shifting those costs locally can strain fiscal sustainability and complicate long-term affordability objectives.

The League is also concerned about the cumulative impact of multiple preemption provisions on comprehensive plans developed through extensive public engagement, formal adoption by elected local officials, and coordination with state partners. These plans reflect years of community input and legislative action at the local level. Removing or narrowing local planning authority without clear implementation standards or reasonable timelines creates uncertainty for residents, developers, and municipalities alike.

While the League shares the goal of expanding housing options, several provisions raise concerns regarding municipal infrastructure capacity, fiscal sustainability, and the cumulative effect of preempting locally developed planning frameworks. The comments below explain how specific provisions of the bill would function in practice and identify areas where targeted amendments are necessary to preserve local planning authority, ensure infrastructure readiness, and better align statewide housing goals with on-the-ground implementation realities.

### **Minimum Lot Size in Areas Served by Public Water and Sewer**

The bill prohibits local zoning ordinances from requiring single-family homes to be built on lots larger than

*25% of the State’s population resides in municipalities despite the fact that they constitute less than 5% of the State’s land area.*

5,000 square feet in areas served by public water and sewer. Taken together, the fixed 5,000 square-foot standard and the water-and-sewer applicability threshold raise significant concerns for municipalities.

Minimum lot size requirements are a core local planning tool used to calibrate residential density to infrastructure capacity, neighborhood context, and prior public investment. A uniform 5,000 square-foot cap replaces locally adopted standards with a statewide mandate that does not account for differences in system capacity, service constraints, or development patterns across jurisdictions. Even where public water and sewer exist, many municipal systems are constrained, segmented, or operating near capacity, and lot size standards are often used to manage incremental growth in ways that avoid costly system expansions or premature capital investments that municipalities may be required to finance upfront.

Limiting this mandate to areas served by public water and sewer concentrates its effects in municipalities and other already-developed communities where public infrastructure is in place and land is largely built out. These jurisdictions have limited remaining developable land. Because municipalities house approximately 25% of Maryland's population while occupying less than 5% of the state's land area, they must manage new development within existing neighborhoods and infrastructure networks, making them inherently denser and particularly sensitive to incremental increases in development.

While the bill does not preempt adequate public facilities ordinances, capacity remains a practical concern. Infrastructure costs - particularly for water, sewer, transportation, and stormwater - are borne upfront by municipalities, while revenue growth from new development accrues gradually and is more limited for municipalities that rely primarily on property tax revenue. In this context, minimum lot size standards function as an important tool for managing the timing, scale, and fiscal sustainability of growth. A one-size-fits-all mandate risks shifting infrastructure and service costs onto municipalities without sufficient flexibility to align development with local capacity and financial realities.

### **Minimum Lot Coverage and Building Dimension Standards**

The bill prohibits local governments from setting minimum square footage or exterior dimension requirements for single-family homes. As drafted, this language broadly preempts local standards on home size and dimensions without regard to whether existing infrastructure can support additional development. For municipalities, this risks forcing denser development in areas with constrained water, sewer, or related systems, undermining local planning and capital investment decisions. Additionally, the prohibition on minimum lot coverage could be understood to interfere with interior building standards governed by state and local building codes, creating uncertainty as to whether state and local health, safety, and habitability requirements are unintentionally affected. Lot coverage standards also function differently for attached housing, and broad elimination of this tool removes an important safeguard municipalities rely on in single-family neighborhoods.

### **Maximum Lot Coverage for Single-Family Homes and Accessory Structures**

The bill prohibits local governments from setting maximum lot coverage standards for single-family homes and accessory dwelling structures. Including accessory dwelling structures further strips municipalities of a key tool for managing the cumulative impacts of incremental development in built-out neighborhoods, where lot coverage limits help address stormwater, tree canopy loss, privacy, and neighborhood-scale impacts. As with minimum lot coverage, broad preemption is not targeted to where it would meaningfully increase housing supply and instead eliminates a core local planning safeguard.

### **Setback Requirements**

The bill prohibits local governments from setting setbacks for single-family homes or accessory structures

that exceed 10 feet in the front or rear and 5 feet on the sides. This rigid statewide standard overrides locally adopted setback requirements 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 uniform cap risks creating unintended site-specific impacts without a clear connection to increased housing production. Secondary and accessory structures often present distinct safety and drainage considerations, which this provision does not meaningfully account for.

### **Design and Architectural Standards**

The bill prohibits local jurisdictions from mandating specific design, architectural, or aesthetic elements for single-family homes. Design standards are often tied to objective, non-aesthetic considerations such as building orientation, materials durability, streetscape continuity, and compatibility with historic or context-sensitive areas. Eliminating this authority removes one of the few remaining tools municipalities have to ensure new development fits safely and cohesively into existing neighborhoods. Without explicit grandfathering language, the provision could also call into question the enforceability of existing design guidelines that municipalities and developers have relied on for years, creating uncertainty for approved and pending projects.

### **Townhouse Mandate in Single-Family Zones**

The bill prohibits local governments from banning townhouses in areas zoned for single-family residential use. This provision overrides locally adopted comprehensive plans and zoning maps developed through extensive public engagement, and effectively upzones established neighborhoods without regard to local resources or neighborhood context. Further, the bill's definition of "townhouse" includes units that may be part of a condominium, which raises additional concerns that stacked units or higher-density configurations could be permitted in areas not planned or designed to accommodate them.

### **Subdivision of Improved Lots**

The bill prevents local governments from prohibiting the subdivision of an improved lot into three or fewer lots, subject to limited exceptions. This creates a statewide entitlement to subdivide lots in single-family zones regardless of local subdivision standards. Doing so overrides locally adopted review processes that evaluate neighborhood impacts and could allow incremental density increases to occur without adequate coordination, infrastructure planning, or public process.

### **Applicability, Exemptions, and Overrides**

The bill limits its applicability by exempting agricultural land, conservation property, and historic districts designated on or before July 1, 2025. While these exemptions are important, as drafted they do not fully account for how land use regulation, infrastructure planning, and historic preservation function at the local level.

First, restricting the exemption for historic districts to those designated on or before July 1, 2025 undermines the purpose of local historic preservation programs. Municipal historic districts are established through deliberate public processes to protect cultural, architectural, and community resources over time. Conditioning the exemption on a fixed date could discourage future historic designations or call into question a municipality's ability to respond to new preservation needs.

Second, the bill assumes that areas served by public water and sewer are uniformly capable of supporting additional development. In practice, many municipalities are only partially served by water and sewer, contain legacy neighborhoods on septic systems, or operate constrained or segmented infrastructure networks. Applying the bill's mandates in these contexts risks forcing density where systems lack sufficient capacity or

where extensions are not planned. These conditions are common across municipalities of all sizes and reflect practical infrastructure realities that uniform statewide mandates do not fully account for.

To address these concerns, the MML has submitted a set of substantive, good-faith amendment proposals (enclosed) to the Department of Housing and Community Development. These amendments are intended to meaningfully limit unintended municipal impacts and restore appropriate local discretion where necessary to ensure workable implementation.

For these reasons, the Maryland Municipal League respectfully requests a favorable report on Senate Bill 36 if amended to address the issues outlined above.

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For more information relating to this piece of testimony, please contact:

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