



House Bill 239

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

MACo Position: **SUPPORT**
WITH AMENDMENTS

To: Economic Matters Committee

Date: February 12, 2026

From: Dominic J. Butchko & Michael Sanderson

The Maryland Association of Counties (MACo) **SUPPORTS HB 239 WITH AMENDMENTS**. This bill makes several changes to the land use article, including: allowing for the construction of townhouses in all single-family zones; eliminates local ability to meaningfully establish new historic districts; limits single family lot sizes to 5000 square feet; eliminates lot coverage maximums; establishes 10 foot rear and front setbacks and 5 foot side setbacks; eliminates the authority to set design, architectural, or aesthetic standards; and authorizes the unlimited subdivision of any lot where a single family home may be built. Counties have multiple application and implementation concerns, if this bill advances.

For the past three years, Maryland's counties and the General Assembly have shared a clear priority: expanding the supply of affordable housing. That commitment is reflected in major recent actions, including the Housing Expansion and Affordability Act of 2024 (HB 538/SB 484) and legislation authorizing Accessory Dwelling Units (ADUs) statewide in 2025 (HB 1466/SB 891). MACo played a pivotal role in advancing these—and many other—housing measures during this period. That work culminated in MACo's 2026 legislative initiative bill, the Building Affordably in My Back Yard (BAMBY) Act, a county-backed comprehensive and pragmatic path forward to meet the current moment. Counties welcome tools to help advance housing at all levels, where it fits within their infrastructure capacity.

In 2026, the Administration has introduced HB 239 as a component of a broad housing initiative. Counties—key implementation partners—remain committed to working with the Administration to expand housing opportunities. However, as drafted, HB 239 raises significant concerns about unintended consequences and practical implementation at the local level. **The amendments outlined on the following pages are intended to strengthen the bill, ensuring its smooth administration, and reducing operational and fiscal risks for communities.**

If the Committee agrees to advance the central policies of HB 239, a central question to be considered is: to what portions of Maryland should it properly apply? The bill as introduced is universal. Anticipated amendments would reference current public water and sewer. Counties would suggest that sewer *capacity* is a more suitable trigger, but also suggest that non-municipal areas of rural counties be excluded. If the bill is to advance, the Committee should carefully weigh these options – in this bill, as well as in other pro-housing legislation.

As the frontline actor in land use – and housing policy – counties remain committed to working with the Administration in advancing comprehensive housing solutions. The amendments included on the following pages are critical in nature, without which HB 239 will likely have severe operational and fiscal consequences for Maryland’s counties and communities. For this reason, if the Committee adopts the central tenets of HB 239, then MACo urges the Committee to amend HB 239 to remedy these concerns, and issue a **FAVORABLE WITH AMENDMENTS** report.

MACo Proposed Amendments for HB 239

***Amendment #1** - Limiting when and where a historic district may be established based on an assumption it is being used to regulate land use contradicts the program's core purpose. Historic districts exist to preserve significant places and community character, and concerns about misuse should be addressed through clearer criteria—not broad restrictions.*

On page 8, in lines 21 and 22, strike, "ON OR BEFORE JULY 1, 2025".

***Amendment #2** – As drafted this bill would authorize townhomes to be built on well and septic within rural areas. This violates state health regulations and creates a serious public health hazard. This amendment clarifies that these provisions only apply in areas with adequate public water and sewer capacity that can support additional growth.*

On page 8, after line 26, insert "(IV) AREAS THAT ARE NOT CONNECTED TO PUBLIC WATER AND SEWER WITH SUFFICIENT CAPACITY TO SUPPORT ADDITIONAL GROWTH OR NOT PLANNED TO BE CONNECTED TO PUBLIC WATER AND SEWER WITHIN 5 YEARS.".

On page 8, in line 29, after "ESTABLISHES," insert, "IN AREAS THAT ARE CONNECTED TO PUBLIC WATER AND SEWER WITH SUFFICIENT CAPACITY TO SUPPORT ADDITIONAL GROWTH."

On page 9, in lines 1-2, strike "IN AREAS CONNECTED OR PLANNED TO BE CONNECTED TO PUBLIC WATER AND SEWER SYSTEMS,"

On page 9, in line 18, after "USE" insert, "AND IS CONNECTED TO PUBLIC WATER AND SEWER WITH SUFFICIENT CAPACITY TO SUPPORT ADDITIONAL GROWTH OR ARE PLANNED TO BE CONNECTED TO PUBLIC WATER AND SEWER SYSTEMS WITHIN 5 YEARS."

On Page 9, in line 23, after "USE" insert, "AND IS CONNECTED TO PUBLIC WATER AND SEWER WITH SUFFICIENT CAPACITY TO SUPPORT ADDITIONAL GROWTH"

(amendments continue on next page)

Amendment #3 – *The affordable housing challenges in rural Maryland are fundamentally different from those in the urban/suburban core. Without significant infrastructure investment, urban-centric mandates can exacerbate strains that many counties are already struggling to manage. This amendment refocuses the legislation on areas with sufficient capacity to accommodate additional growth.*

On page 8, after line 26, insert,

“(V) (1) A COUNTY WITH A POPULATION GREATER THAN 150,000 RESIDENTS, NOT INCLUDING ANY RESIDENTS OF A MUNICIPAL CORPORATION LOCATED WITHIN THE COUNTY; AND

(2) A MUNICIPAL CORPORATION. ”.

Amendment #4 - *County setbacks are largely guided by state mandated policies such as stormwater regulations and considerations for utilities. These requirements will conflict with such provisions and will apply a one-size-fits-all mandate without on-the-ground considerations, creating conflicting policy directions and complicating implementation.*

On page 9, lines 8-11, strike in their entirety.

Amendment #5 - *County requirements on design are guided by a variety of considerations, including: health and safety, neighborhood inclusion, and community input. Design requirements in many communities ensure that affordable housing does not unnecessarily stand out or draw attention to residents of different income brackets, fostering a strong sense of community.*

On page 9, lines 12-13, strike in their entirety.

Amendment #6 - *Clarifies that these provisions do not supersede county Adequate Public Facilities Ordinances (APFOs), preserving the ability of local governments to ensure schools, roads, water and sewer, and other essential infrastructure can support new development. This also provides clearer implementation guidance by confirming that growth management and public facility capacity standards remain in effect alongside the bill’s new requirements.*

On page 9, in line 29 after “CODES,” insert, **“ADEQUATE PUBLIC FACILITIES ORDINANCES OR LOCAL EQUIVALENT, DENSITY LIMITS OR ALLOCATIONS,”.**

In line 30, strike “**IMMEDIATE**”.

(amendments continue on next page)

***Amendment #7** - Counties recognize the seriousness of the challenges Maryland faces and the need for bold action. However, several provisions in this bill could limit counties' ability to respond to future, unforeseen growth pressures, and implementation will require substantial time to update local codes, regulations, and—in some cases—zoning. Counties therefore recommend a sunset provision to allow the State to evaluate effectiveness over time and identify any unintended consequences.*

On page 11, in line 22 beginning with “That” through “2026” in line 23, strike and substitute, **“That this Act shall take effect July 1, 2027, and shall remain effective for a period of 10 years. With no further action required by the General Assembly, this section shall be abrogated and of no further force and effect.”**

***Amendment # 8** - As an alternative approach, counties request that the provisions of this legislation be tied to their ability to meet locally approved housing targets. Several jurisdictions have invested significantly in assessing local housing needs and establishing jurisdiction-specific targets. This amendment builds on that work and creates a performance-based incentive for counties that successfully meet those targets.*

On page 8, after line 26, add **(IV) A COUNTY THAT MEETS THE FOLLOWING STANDARD: THE AVERAGE NUMBER OF THE COUNTY’S HOUSING UNITS APPROVED OVER A ROLLING THREE-YEAR PERIOD EXCEEDS THE NUMBER OF THE ANNUAL HOUSING UNITS NEEDED, BASED ON ANNUAL HOUSING DATA FROM THE COUNTY’S PLANNING DEPARTMENT.**