
CITY OF BALTIMORE

BRANDON M. SCOTT
Mayor



DEPARTMENT OF LAW
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October 8, 2025

The Honorable President and Members
of the Baltimore City Council
Attn: Executive Secretary
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

Re: City Council Bill 25-0097 – Zoning – Health Clinics – Permitted and Conditional Use --
Amendment

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 25-0097 for form and legal sufficiency. The bill would remove “Health-Care Clinics” as a conditional use in the C-1, C-1-VC, and C-1-E zoning districts, and as a permitted use in the C-2 zoning district.

The City, in promoting the health, safety, and general welfare of the community, may, among other zoning powers, regulate “the location and use of buildings, signs, structures, and land.” Md. Code, Land Use (“LU”) § 10-202(6). In exercising this power, the City must adopt uniform zoning regulations for each class or kind of development throughout each district or zone. LU § 10-301. This requirement is closely related to constitutional guarantees of equal protection before the law. *See, e.g., Prince George’s Cnty. Council v. Concerned Citizens of Prince George’s Cnty.*, 485 Md. 150, 179-81 (2023) (explaining that uniformity statutes “reassure property owners that they will not be subject to arbitrary or invidious discrimination or government favoritism or coercion” and serve as “a state law counterpart to the constitutional equal protection prohibition against purely arbitrary zoning classifications and restrictions”) (internal citations and quotation marks omitted).

The City’s Zoning Code defines a “health-care clinic” as “a facility for the examination and treatment of individuals on an outpatient basis by 1 or more physicians, dentists, chiropractors, physical therapists, or other licensed healthcare practitioners.” City Code, Art. 32, § 1-307(f). The bill would preclude *all* future health-care clinics from the C-1, C-1-VC, C-1-E, and C-2 districts. As such, the bill treats the entire class of health-care clinics uniformly throughout these districts, which is a permissible exercise of the City’s zoning power.

The bill thus does not impermissibly distinguish between similarly situated clinics, clinicians, or individuals served by those clinics. Accordingly, the bill is neutral on its face and does not facially discriminate against residents with disabilities. *See, e.g., CMDs Residential, LLC v. Mayor & City Council of Baltimore*, 714 F. Supp. 3d 583, 618 (D. Md. 2024), *reconsideration*

denied, No. CV CCB-21-1774, 2024 WL 1156309 (D. Md. Mar. 18, 2024) (“A generally applicable law which does not impose any unequal burden on disabled individuals requires no modification under the ADA [*i.e.*, the Americans with Disabilities Act.]”); *Smith Berch, Inc. v. Baltimore Cnty., Md.*, 115 F. Supp. 2d 520, 523 (D. Md. 2000), *order clarified sub nom. Smith-Berch Inc. v. Baltimore Cnty., Maryland*, 216 F. Supp. 2d 537 (D. Md. 2002), *vacated on other grounds*, 64 F. App'x 887 (4th Cir. 2003) (“Were the County to require all medical offices and drug treatment facilities to undergo [the same zoning process], the zoning policy presumably would not violate the ADA.”). *Cf., e.g., Smith-Berch, Inc. v. Baltimore Cnty., Md.*, 68 F. Supp. 2d 602, 623 (D. Md. 1999) (County’s more onerous zoning regulations for proposed methadone clinics than for other similar medical clinics impermissibly discriminated against persons disabled by drug addiction who are seeking recovery services).

Nonetheless, even if a bill is facially neutral, it might still be found to violate the ADA if its application has a disparate impact on disabled individuals. *See, e.g., A Helping Hand, LLC v. Baltimore Cnty., MD*, 515 F.3d 356, 362 (4th Cir. 2008); *Smith-Berch*, 68 F. Supp. 2d at 621 (the ADA “prohibits not only intentional discrimination against disabled individuals, but also any policies or practices that have a disparate impact on disabled individuals”). Here, however, the bill only precludes *future* health-care clinics from locating in the specified commercial zones. Thus, the bill does not impact any existing health-care clinics, let alone those that currently serve individuals considered disabled under the ADA; all such clinics could continue operations as nonconforming uses. *See* City Code, Art. 32, §§ 18-201(d) (defining “nonconforming use” as “a lawfully existing use of a structure or of land that, as of the effective date of . . . an amendment to this Code, does not conform to the use regulations applicable to the district in which it is located”); 18-301 (“Except as otherwise specified in this Code, nonconforming uses may be continued”).

Accordingly, there appears to be no nonspeculative reason to believe the bill would disparately impact individuals the ADA categorizes as disabled. However, the bill could not be used to bar any proposed health-care clinics that have already achieved a “vested right” in the existing C-1, C-1-VC, C-1-E, and C-2 zoning uses. *See, e.g., A Helping Hand, LLC*, 515 F.3d at 370-71 (under Maryland law, an owner obtains a “vested right in the existing zoning use which will be constitutionally protected against a subsequent change in the zoning ordinance prohibiting or limiting that use” if the owner “obtain[s] a permit or occupancy certificate where required by the applicable ordinance” and “proceed[s] under that permit or certificate to exercise it on the land involved so that the neighborhood may be advised that the land is being devoted to that use”) (*citing Powell v. Calvert Cnty.*, 368 Md. 400, 411 (2002)) (further citations omitted).

Procedural Requirements

The City Council must consider the following when evaluating changes to the text of the City’s Zoning Code:

- (1) the amendment’s consistency with the City’s Comprehensive Master Plan;
- (2) whether the amendment would promote the public health, safety, and welfare;
- (3) the amendment’s consistency with the intent and general regulations of this Code;
- (4) whether the amendment would correct an error or omission, clarify existing requirements, or effect a change in policy; and

(5) the extent to which the amendment would create nonconformities.

Baltimore City Code, Art. 32, § 5-508(c).

Any bill that authorizes a change in the text of the Zoning Code is a “legislative authorization,” which requires that certain procedures be followed in the bill’s passage, including a public hearing. Baltimore City Code, Art. 32, §§ 5-501; 5-507; 5-601(a). Certain notice requirements apply to the bill. Baltimore City Code, Art. 32, §§ 5-601(b)(1), (c), (e). The bill must be referred to certain City agencies, which are obligated to review the bill in a specified manner. Baltimore City Code, Art. 32, §§ 5-504, 5-506. Finally, certain limitations on the City Council’s ability to amend the bill apply. Baltimore City Code, Art. 32, § 5-507(c).

Assuming all procedural requirements are followed, the Law Department can approve the bill for form and legal sufficiency.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Jeffrey Hochstetler', with a long horizontal flourish extending to the right.

Jeffrey Hochstetler
Chief Solicitor

cc: Ebony Thompson, Acting City Solicitor
Ty’lor Schnella, Mayor’s Office of Government Relations
Hilary Ruley, Chief Solicitor, General Counsel Division
Ashlea Brown, Chief Solicitor
Michelle Toth, Assistant Solicitor
Desireé Luckey, Assistant Solicitor