
CITY OF BALTIMORE

CATHERINE E. PUGH, Mayor



DEPARTMENT OF LAW

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100 N. Holliday Street
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Baltimore, Maryland 21202

March 29, 2018

Honorable President and Members
of the City Council
Attn: Natawna Austin, Executive Secretary
409 City Hall
Baltimore, MD 21202

RE: City Council Bill 18-0184 - Zoning – Use Regulation – Health Care Clinics

Dear President and Members:

You have requested the advice of the Law Department regarding City Council Bill 18-0184. City Council Bill 18-0184 proposes to change Table 10-301 of Art. 323- Zoning to make health-care clinics conditional uses by ordinance in the C-1, C-1-VC, C-1-E, C-2, and C-3 zoning districts. Health-care clinic is defined 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 .” Baltimore City Code, Art. 32, Sec.1-307(f).

A law that potentially negatively impacts persons with disabilities must be analyzed to determine whether the actions of the Council would be found to constitute a violation of the Americans with Disabilities Act (ADA). The ADA prohibits the City from discriminating against persons with disabilities in its zoning laws and decisions. *See Innovative Health Sys., Inc. v. City of White Plains*, 117 F.3d 37, 44-46 (2nd Cir. 1997); *A Helping Hand, L.L.C. v. Baltimore County*, 2005 U.S. Dist. LEXIS 22196 *60 (D. Md. Sept. 30, 2005).

City Council Bill 19-0184 does not single out any particular type of health-care clinic for its conditional use by ordinance requirement and there are no similar uses that are allowed by right in the districts covered by the bill. The ordinance effects all persons and entities whether or not disabled or serving the disabled the same way. All health-care clinics must obtain a conditional use ordinance to operate in the identified districts. In *Get Back Up, Inc. v. City of Detroit*, 606 Fed. Appx. 792 (6th Cir. 2015), the Court held that an ordinance requiring a residential treatment



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center to obtain a conditional use ordinance did not violate the ADA because the ordinance does not allow any materially similar uses to operate by right in that zoning district.

Based on the foregoing, the Law Department approves the bill for form and legal sufficiency but cautions that in the consideration of any bill seeking a conditional use for a health-care clinic, the City Council must treat all types of health-care clinics the same.

Sincerely yours,



Elena R. DiPietro
Chief Solicitor

cc: Andre Davis, City Solicitor
Karen Stokes, MOGR
Kyron Banks, City Council Liaison
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