
CITY OF BALTIMORE

BRANDON M. SCOTT
Mayor



DEPARTMENT OF LAW

EBONY THOMPSON
CITY SOLICITOR
100 N. HOLLIDAY STREET
SUITE 101, CITY HALL
BALTIMORE, MD 21202

November 12, 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 25-0066 – Zoning – Housing Options and Opportunity

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 25-0066 for form and legal sufficiency. The bill would create a new multi-family dwelling category as “Dwelling: Multi-Family (Low Density)”, meaning a dwelling containing no fewer than two and no more than four dwelling units. The bill would permit these multi-family dwellings by right in the current detached and semi-detached single-family residential districts (R-1 through R-4) and remove the prohibition on converting single-family dwellings into multi-family dwellings in those districts.

The bill would also permit these multi-family dwellings by right in certain rowhouse and multi-family residential districts (R-5 through R-8), as well as in the office residential district (OR). Additionally, the bill would repeal restrictions on residential conversions in the R-7 through R-10 districts, commercial districts, and office residential districts, including eliminating design review when exterior modifications are proposed for residential conversions in the R-7 through R-10 districts. Finally, the bill would add the new multi-family dwelling category to various bulk and yard regulations in the relevant zoning tables and establish minimum enclosed gross floor area regulations for those dwellings.

The City’s planning and zoning powers have been delegated to it by the General Assembly. *See, e.g., Cnty. Council of Prince George's Cnty. v. Robin Dale Land LLC*, 491 Md. 105, 116 (2025); *County Council of Prince George's County v. Zimmer Dev. Co.*, 444 Md. 490, 504 (2015) (“Under Maryland's constitutional scheme, a local government's authority to regulate land use may emanate only from enabling legislation of the General Assembly.”). In relevant part, the General Assembly has granted the City the power to regulate “the location and use of buildings, signs, structures, and land” in order to promote the health, safety, and general welfare of the community. Md. Code, Land Use (“LU”) § 10-202(6).

Typically, in Maryland, “Euclidean zoning laws are applied to properties located in zoning districts through three legislative zoning processes: 1) original zoning; 2) comprehensive rezoning; and 3) piecemeal rezoning.” *Robin Dale Land LLC*, 491 Md. at 117-18 (internal quotation marks

and citation removed). “An essential feature of a comprehensive rezoning is that it typically results in some affected properties being upzoned or downzoned—that is, placed in a different zone that permits entirely different land uses, *or the same types of uses but at higher or lower intensities.*” *Id.* at 118 (emphasis added). “[I]t is unsurprising that substantive changes in zoning reclassifications occur during a comprehensive rezoning because the process is preceded by a period of study involving a substantial area, which considers current and future land use needs and the public interest.” *Id.*

This bill, in effect, upzones the R-1 through R-4 residential districts by increasing the permitted density. Although the bill does not rezone these districts *per se*, it nonetheless enacts a text amendment to the zoning code that substantially increases the intensity of the permitted uses within them—from single-family dwellings to multi-family dwellings with up to four units. This type of substantial change to the underlying districts resembles those that might result from a comprehensive rezoning, but no such rezoning has occurred here. *See, e.g., Mayor & Council of Rockville v. Rylyns Enters., Inc.*, 372 Md. 514, 535 (2002) (setting forth the requirements of comprehensive rezoning, including: that it cover a substantial area; be the product of careful study; accord with present and planned future conditions, consistent with the public interest; and regulate all permitted land uses in a substantial portion of the political subdivision, though it need not result in substantial rezoning).

If challenged, it is possible a court could view this kind of text amendment as effecting a change to underlying zoning districts that is more appropriate for comprehensive rezoning, including its more substantial notice requirements. *See* City Code, Art. 32, § 5-601(b)(3) (requiring notice by posting in conspicuous places within and around the subject area or district(s), as well as by first-class mailing to each property owner in the subject district(s)). However, there does not appear to be any authority directly on point that would clearly prohibit a text change like this, so the bill is not facially illegal.

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.

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. 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. City Code, Art. 32, §§ 5-504, 5-506. Finally, certain limitations on the City Council's ability to amend the bill apply. 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. However, the sponsors may wish to consider the following for purposes of clarity and consistency:

- On page 2, beginning in line 21 with the word "except" and continuing to the end of line 25: It is unclear why "common facilities for residents" needs to be added as an inclusion to the definition, or why that inclusion in paragraph (2) is called an exception to paragraph (1).
- Consider updating the relevant descriptions of detached and semi-detached residential districts in Subtitle 2 of Title 8 of Article 32. Currently, those districts refer only to buildings that contain single dwelling units, but if this bill passes, those districts will now permit low density multi-family dwellings.

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