

INTER-OFFICE MEMORANDUM

DATE: April 15, 2025

TO: Rana Hightower, Committee Director
Planning, Housing, and Economic Development Committee

FROM: Maurene Epps McNeil
Chief Zoning Hearing Examiner

RE: CR-43-2025 and CB-27-2025

Thank you for the opportunity to comment on the above-referenced pieces of legislation concerning Opioid Treatment Services, a newly defined use. As drafted, both CB-27-2025 and CR-43-2025 raise concerns.

The Council's zoning authority stems from the Land Use Article found in the Maryland Annotated Code. Section 14-101(q) of the Land Use Article defines "zoning law" as "the legislative implementation of regulations for zoning by a local jurisdiction" and notes that the term "includes a zoning ordinance, zoning regulation, zoning code, and any similar legislative action to implement zoning controls in a local jurisdiction." Section 22-104 of the Land Use Article allows the District Council to adopt and amend the text of the zoning law by local law. Section 22-206 of the Land Use Article provides that the District Council may amend its zoning laws "in accordance with procedures established in its zoning law." Although one Section of the County Charter does not apply when the District Council is exercising its zoning authority, other Sections of the Charter concerning definitions and rules of construction are still given weight. Section 1017 of the Charter notes that a "bill" means "any measure introduced in the Council for legislative action"; the terms "act", "public local law" and "legislative act" when used in connection with any action by the Council is synonymous with a "bill"; and a "resolution" is "a measure adopted by the Council having the force and effect of law but of a temporary or administrative character." Finally, the County's Zoning Ordinance defines a "legislative amendment" as "an amendment to the text of [the] Zoning Ordinance" and provides that all "legislative amendments ... be introduced as bills." (Prince George's County Code, Sections 27-2500 and 27-3501(b))

General tenets of statutory construction require all these sections to be read together in a reasonable manner and in a way that does not render nugatory any portion thereof. I believe all these laws would require that any introduction of a new zoning use, and regulations for such use, would have to be done by a zoning bill. Mirroring the same language in a resolution could, therefore, be subject to legal challenge. Mirroring the language could also be problematic if the actual bill isn't passed since the use would

exist but arguably not be a legal use and, therefore, not protected as a nonconforming use.

It is clearly within the Council's purview to be concerned about the treatment of its residents suffering from opioid use. I believe a resolution that would allow the Department of Permitting, Inspections and Enforcement and/or the Planning Staff to review requests to construct an Opioid Treatment Center while the bill is under consideration would be a valid resolution, so long as the application would not be formally accepted until the bill is in effect.

CB-027-2025 raises additional concerns. The language on page 5 provides the Planning Director broad discretion to impose "other reasonable requirements" on an application to construct an Opioid Treatment Center. This is problematic unless a Site Plan is required for the use because DPIE is the entity authorized to grant a building permit and the language could be construed as a usurpation of its authority. The Zoning Ordinance does not require Detailed Site Plan review if this nonresidential use has less than 25,000 square feet of gross floor area (see, Section 27-3605), and the bill does not specify a size for the use. I would recommend that the District Council require the approval of a Detailed Site Plan.

Thank you, again, for the opportunity to provide comment on both pieces of legislation. Please let me know if you have any questions.