

SENATE BILL 869

C8, L2

2lr2936

By: Senators Washington, Hayes, McCray, and Sydnor

Introduced and read first time: February 7, 2022

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 6, 2022

Returned to second reading: March 8, 2022

Senate action: Adopted with floor amendments

Read second time: March 8, 2022

CHAPTER _____

1 AN ACT concerning

2 **Baltimore City – Small Box Discount Stores – Zoning Requirements and**
3 **Community Agreements**4 FOR the purpose of ~~requiring~~ authorizing the Mayor and City Council of Baltimore City to
5 establish certain requirements and take certain actions with regard to the location
6 of and use of a property as a small box discount store; requiring the Baltimore
7 Planning Department Mayor and City Council to conduct a small box discount store
8 diversity study; and generally relating to zoning requirements in Baltimore City.9 ~~BY repealing and reenacting, without amendments,~~
10 Article – Land Use
11 Section 10-201, 10-202, and 10-302(2)(ii) and (3)
12 Annotated Code of Maryland
13 (2012 Volume and 2021 Supplement)14 BY adding to
15 Article – Land Use
16 Section 10-306
17 Annotated Code of Maryland
18 (2012 Volume and 2021 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Land Use

~~10-201.~~

(a) ~~It is the policy of the State that:~~

(1) ~~the orderly development and use of land and structures requires comprehensive regulation through the implementation of planning and zoning controls; and~~

(2) ~~planning and zoning controls shall be implemented by local government.~~

(b) ~~To achieve the public purposes of this regulatory scheme, the General Assembly recognizes that local government action will limit free business enterprise and competition by owners and users of property through the planning and zoning controls set forth in this title and elsewhere in the public general and public local laws.~~

~~10-202.~~

~~To promote the health, safety, and general welfare of the community, the Mayor and City Council of Baltimore City may regulate:~~

(1) ~~the height, number of stories, and size of buildings and other structures;~~

(2) ~~the percentage of a lot that may be occupied;~~

(3) ~~off-street parking;~~

(4) ~~the size of yards, courts, and other open spaces;~~

(5) ~~population density; and~~

(6) ~~the location and use of buildings, signs, structures, and land.~~

~~10-302.~~

~~Zoning regulations adopted by the Mayor and City Council of Baltimore City under this subtitle shall:~~

(2) ~~be designed to:~~

(ii) ~~promote health, public safety, and general welfare;~~

~~(3)~~ ~~include reasonable consideration for:~~

~~(i) the character of the district or zone and its suitability for particular uses;~~

~~(ii) the conservation of the value of buildings and other structures;~~
and

~~(iii) encouragement for orderly development and the most appropriate use of land throughout Baltimore City.~~

10-306.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “COMMUNITY BENEFITS AGREEMENT” MEANS A CONTRACT SIGNED BY RECOGNIZED COMMUNITY ASSOCIATIONS AND AN APPLICANT FOR A ZONING PERMIT THAT REQUIRES THE APPLICANT TO PROVIDE SPECIFIC AMENITIES, SIGNAGE, MITIGATIONS, ECONOMIC IMPACTS, AND REQUIREMENTS RELATING TO THE DIVERSITY, BALANCE, AND CHARACTER OF THE LOCAL COMMUNITY OR NEIGHBORHOOD DEFINED IN THE AGREEMENT.

(3) “DISPERSAL REGULATION” MEANS A ZONING REGULATION THAT REQUIRES A MINIMUM DISTANCE BETWEEN QUALIFYING USES, MEASURED IN A STRAIGHT LINE FROM THE NEAREST POINT ON A LOT LINE OF THE PROPERTY OCCUPIED BY ONE QUALIFYING USE TO THE NEAREST POINT ON A LOT LINE OF THE OTHER PROPERTY OCCUPIED BY A QUALIFYING USE.

~~(3)~~ (4) “GROCERY STORE” HAS THE MEANING STATED IN § 9-254 OF THE TAX – PROPERTY ARTICLE.

~~(4)~~ (5) “PHARMACY” HAS THE MEANING STATED IN § 12-101 OF THE HEALTH OCCUPATIONS ARTICLE.

~~(5)~~ (6) (1) “SMALL BOX DISCOUNT STORE” MEANS A RETAIL STORE THAT HAS A FLOOR AREA OF MORE THAN 5,000 SQUARE FEET AND LESS THAN 12,000 SQUARE FEET AND THAT OFFERS FOR SALE:

1. A COMBINATION AND VARIETY OF CONVENIENCE SHOPPING GOODS AND CONSUMER SHOPPING GOODS; AND

2. ~~WHERE~~ THE MAJORITY OF THE ITEMS IN THE INVENTORY ~~ARE OFFERED FOR SALE~~ AT A PRICE NOT TO EXCEED \$5.

(II) "SMALL BOX DISCOUNT STORE" DOES NOT INCLUDE:

1. A GROCERY STORE;

2. A STORE THAT CONTAINS A PHARMACY WHERE PRESCRIPTION DRUGS ARE COMPOUNDED, DISPENSED, OR DISTRIBUTED;

3. A STORE THAT OFFERS FOR SALE GASOLINE, DIESEL FUEL, OR ON-SITE ELECTRIC CHARGING CAPABILITIES FOR VEHICLES;

4. A RETAIL STORE WHERE THE MAJORITY OF THE PRODUCTS SOLD ARE PERSONAL HYGIENE PRODUCTS OR COSMETICS; OR

5. A STORE THAT PRIMARILY ENGAGES IN THE RESALE OF USED CONSUMER GOODS.

(B) ~~THE~~ IN ACCORDANCE WITH §§ 10-201 AND 10-202 OF THIS TITLE AND §§ 10-301 AND 10-302 OF THIS SUBTITLE, THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY SHALL MAY ENACT PLANNING AND ZONING CONTROLS THAT:

(1) ESTABLISH A DISPERSAL REGULATION THAT PROVIDES FOR A MINIMUM DISTANCE BETWEEN SMALL BOX DISCOUNT STORES ~~OF 1 MILE;~~

(2) ESTABLISH THE DEVELOPMENT OF A SMALL BOX DISCOUNT STORE AS A CONDITIONAL USE ~~DEPENDENT ON WHETHER THE PROPOSED SMALL BOX DISCOUNT STORE IS LIKELY TO HAVE A DETRIMENTAL IMPACT ON:~~

~~(I) EXISTING LOCAL RETAIL AND GROCERY STORES; AND~~

~~(II) THE DEVELOPMENT OF GROCERY STORES AND OTHER STORES OFFERING HEALTHY FOOD OPTIONS;~~

~~(3) IMPLEMENT, AS PART OF THE APPROVAL OF A ZONING PERMIT APPLICATION FOR A SMALL BOX DISCOUNT STORE, A REQUIREMENT THAT THE APPLICANT, INCLUDING THE OPERATOR OR OWNER OF THE BUILDING IF THAT INDIVIDUAL IS NOT THE SAME PERSON AS THE OWNER OR OPERATOR OF THE PROPOSED SMALL BOX DISCOUNT STORE, EXECUTE A COMMUNITY AGREEMENT WITH THE ADJACENT COMMUNITIES WITHIN A 0.5 MILE RADIUS OF THE PROPOSED SITE FOR THE SMALL BOX DISCOUNT STORE;~~

~~(4) NOTIFY THE ADJACENT COMMUNITIES WITHIN A 0.5 MILE RADIUS OF THE PROPOSED SITE FOR THE SMALL BOX DISCOUNT STORE OF THE EXISTENCE OF A ZONING PERMIT APPLICATION NOT LATER THAN 15 BUSINESS DAYS AFTER SUBMISSION OF THE APPLICATION; AND~~

1 **(3) AS PART OF THE APPROVAL PROCESS FOR THE CONDITIONAL USE,**
2 **AUTHORIZE THE CONSIDERATION OF WHETHER THE PROPOSED CONDITIONAL USE**
3 **IS LIKELY TO:**

4 **(I) HAVE ANY DETRIMENTAL IMPACTS ON THE ECONOMY,**
5 **DIVERSITY, OR PUBLIC SAFETY OF THE NEIGHBORHOOD WHERE THE PROPOSED**
6 **CONDITIONAL USE IS LOCATED;**

7 **(II) HAVE ANY DETRIMENTAL IMPACTS ON EXISTING LOCAL**
8 **RETAIL AND GROCERY STORES; OR**

9 **(III) IMPEDE THE ENTRY OR PRESERVATION OF FULL-SERVICE**
10 **GROCERY STORES;**

11 **(4) ~~(I)~~ ESTABLISH A MECHANISM FOR THE ADOPTION AND**
12 **APPROVAL OF A COMMUNITY BENEFITS AGREEMENT BETWEEN THE APPLICANT,**
13 **ALONG WITH THE OWNER OR OPERATOR OF THE BUILDING IN WHICH THE SMALL**
14 **BOX DISCOUNT STORE WILL BE LOCATED IF THE APPLICANT IS NOT THE OWNER OR**
15 **OPERATOR OF THE BUILDING, AND RECOGNIZED COMMUNITY ASSOCIATIONS;**
16 **~~LOCATED WITHIN A 0.5-MILE RADIUS OF THE PROPOSED SITE;~~**

17 **~~(I) REQUIRE THE APPLICANT TO:~~**

18 **~~1. ENTER INTO AN APPROVED COMMUNITY BENEFITS~~**
19 **~~AGREEMENT IN ACCORDANCE WITH ITEM (I) OF THIS ITEM; OR~~**

20 **~~2. DEMONSTRATE TO THE BALTIMORE CITY ZONING~~**
21 **~~ADMINISTRATOR THAT THE APPLICANT HAS USED THE APPLICANT'S BEST EFFORTS~~**
22 **~~TO NEGOTIATE A COMMUNITY BENEFITS AGREEMENT IN ACCORDANCE WITH ITEM~~**
23 **~~(I) OF THIS ITEM; AND~~**

24 **~~(III) IF THE BALTIMORE CITY ZONING ADMINISTRATOR~~**
25 **~~DETERMINES THAT THE APPLICANT HAS NOT USED BEST EFFORTS TO NEGOTIATE A~~**
26 **~~COMMUNITY BENEFITS AGREEMENT IN ACCORDANCE WITH ITEM (I)2 OF THIS ITEM,~~**
27 **~~REQUIRE THAT THE APPLICATION'S APPROVAL BE DELAYED UNTIL THE APPLICANT~~**
28 **~~HAS MET EITHER REQUIREMENT OF ITEM (I) OF THIS ITEM;~~**

29 **(5) REQUIRE THE NOTICE OF A ZONING APPLICATION FOR A SMALL**
30 **BOX DISCOUNT STORE TO BE GIVEN TO THE RESIDENTS AND OWNERS OF PROPERTY**
31 **THAT IS LOCATED WITHIN A 0.5-MILE RADIUS OF THE PROPOSED SITE;**

32 **~~(I) WITHIN 21 BUSINESS DAYS AFTER THE APPLICATION IS~~**
33 **~~FILED; AND~~**

1 ~~(H) BEFORE A HEARING ON THE APPLICATION IS SCHEDULED;~~

2 AND

3 ~~(5) (6)~~ ESTABLISH A MECHANISM FOR THE ENFORCEMENT OF
4 COMMUNITY BENEFITS AGREEMENTS ~~EXECUTED UNDER ITEM (3)~~ APPROVED IN
5 ACCORDANCE WITH ITEM (4) OF THIS SUBSECTION.

6 ~~(C) A REGULATION ESTABLISHED IN ACCORDANCE WITH SUBSECTION~~
7 ~~(B)(1) OF THIS SECTION SHALL APPLY TO PERMITS FOR ALL USES, STRUCTURES,~~
8 ~~BUILDING ALTERATIONS, OR SITE MODIFICATIONS.~~

9 ~~SECTION 2. AND BE IT FURTHER ENACTED, That Baltimore City shall~~
10 ~~implement the provisions of Section 1 of this Act on or before September 1, 2022.~~

11 ~~SECTION 3. AND BE IT FURTHER ENACTED, That a small box discount store in~~
12 ~~Baltimore City that is in existence or that has received all necessary zoning permits before~~
13 ~~the implementation of the provisions of Section 1 of this Act shall execute a community~~
14 ~~agreement with the adjacent communities within a 0.5 mile radius of the small box~~
15 ~~discount store not later than 60 days after the implementation of the provisions of Section~~
16 ~~1 of this Act.~~

17 SECTION 2. AND BE IT FURTHER ENACTED, That:

18 (a) The Baltimore City Planning Department Mayor and City Council of
19 Baltimore City shall conduct a comprehensive small box discount store diversity study.

20 (b) The study shall:

21 (1) be completed by a qualified analyst selected by the Planning
22 Department Mayor and City Council; and

23 (2) appropriately classify, define, and regulate small box discount stores
24 along a number of economic, demographic, and public health dimensions, including:

25 (i) a list of the number and distribution of small box discount stores
26 in Baltimore City;

27 (ii) a description of the environmental, public safety, and economic
28 impact of a representative sample of existing stores; and

29 (iii) recommendations for changes to the establishment of small box
30 discount stores as a conditional use, including restrictions, standards, enforcement
31 procedures, and regulations.

1 (c) ~~The Planning Department~~ Mayor and City Council shall hold stakeholder
 2 meetings and solicit public comments on the study.

3 (d) On or before November 30, 2022, the ~~Planning Department~~ Mayor and City
 4 Council shall report its findings and recommendations to ~~the Mayor and City Council of~~
 5 ~~Baltimore City and~~ the members of the Baltimore City House and Senate delegations to
 6 the General Assembly, in accordance with § 2–1257 of State Government Article.

7 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before September 1,
 8 2022, the Mayor and City Council of Baltimore City shall report to the members of the
 9 Baltimore City House and Senate delegations to the General Assembly, in accordance with
 10 § 2–1257 of the State Government Article, on the implementation of the provisions of
 11 Section 1 of this Act.

12 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~June~~
 13 July 1, 2022.

Approved:

_____ Governor.

_____ President of the Senate.

_____ Speaker of the House of Delegates.