

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 869

(Senator Washington, *et al.*)

Education, Health, and Environmental Affairs

Environment and Transportation

Baltimore City - Small Box Discount Stores - Zoning Requirements and
Community Agreements

This bill authorizes the Mayor and City Council of Baltimore City to enact specified planning and zoning controls relating to small box discount stores and requires the mayor and city council to conduct a specified comprehensive small box discount store diversity study. **The bill takes effect July 1, 2022.**

Fiscal Summary

State Effect: The bill does not directly affect State finances.

Local Effect: Baltimore City expenditures may increase in FY 2023, as discussed below. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Planning and Zoning Controls Relating to Small Box Discount Stores

The bill authorizes the mayor and city council to enact planning and zoning controls that:

- establish a dispersal regulation that provides for a minimum distance between small box discount stores;
- establish the development of a small box discount store as a conditional use;

- as part of the approval process for the conditional use, authorize the consideration of whether the proposed conditional use is likely to (1) have any detrimental impacts on the economy, diversity, or public safety of the neighborhood where the proposed conditional use is located; (2) have any detrimental impacts on existing local retail and grocery stores; or (3) impede the entry or preservation of full-service grocery stores;
- establish a mechanism for the adoption and approval of a community benefits agreement between the applicant (along with the owner or operator of the building in which the small box discount store will be located, if the applicant is not the owner or operator of the building) and recognized community associations;
- require the notice of a zoning application for a small box discount store to be given to the residents and owners of property that is located within a 0.5-mile radius of the proposed site; and
- establish a mechanism for the enforcement of approved community benefits agreements.

“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) the majority of the items in the inventory at a price not to exceed \$5. “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.

“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.

“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.

The mayor and city council must report to the members of the Baltimore City House and Senate delegations to the General Assembly, by September 1, 2022, on the implementation of these provisions.

Comprehensive Small Box Discount Store Diversity Study

The bill requires the mayor and city council to conduct a comprehensive small box discount store diversity study that must be completed by a qualified analyst selected by the mayor and city council. The study must appropriately classify, define, and regulate small box discount stores along a number of economic, demographic, and public health dimensions, including (1) a list of the number and distribution of small box discount stores in Baltimore City; (2) a description of the environmental, public safety, and economic impact of a representative sample of existing stores; and (3) recommendations for changes to the establishment of small box discount stores as a conditional use, including restrictions, standards, enforcement procedures, and regulations.

The mayor and city council must hold stakeholder meetings and solicit public comments on the study. By November 30, 2022, the mayor and city council must report findings and recommendations to the members of the Baltimore City House and Senate delegations to the General Assembly.

Current Law: Under Title 10 of the Land Use Article, pursuant to a policy that orderly development and use of land and structures requires comprehensive regulation through implementation of planning and zoning controls, and that those planning and zoning controls must be implemented by local government, the Mayor and City Council of Baltimore City are authorized to 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. Zoning regulations adopted by the Mayor and City Council of Baltimore City must be designed to (1) control street congestion; (2) promote health, public safety, and general welfare; (3) provide adequate light and air; (4) promote the conservation of natural resources; (5) prevent environmental pollution; (6) properly manage growth and development; and (7) promote or facilitate adequate transportation, water, sewerage, schools, recreation, parks, and other public facilities.

The Mayor and City Council of Baltimore City may divide the city into districts and zones to carry out the purposes of the zoning regulations. Within the districts and zones, the mayor and city council may regulate the construction, alteration, repair, or use of buildings, structures, or land. Zoning regulations must be uniform for each class or kind of development throughout each district or zone and must include reasonable consideration for (1) the character of the district or zone and its suitability for particular uses; (2) the conservation of the value of buildings and other structures; and (3) encouragement for orderly development and the most appropriate use of land throughout Baltimore City.

Local Expenditures: Baltimore City expenditures may increase in fiscal 2023 due to costs associated with hiring, or contracting with, a qualified analyst to conduct the required comprehensive small box discount store diversity study. Any such costs have not been quantified at this time.

Small Business Effect: To the extent planning and zoning controls are enacted pursuant to the bill, small business retailers and small business grocery stores in Baltimore City may meaningfully benefit from the imposition of measures authorized by the bill and any resulting effect such measures have on business competition.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Baltimore City; Maryland Department of Planning; Department of Legislative Services

Fiscal Note History: First Reader - March 2, 2022
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