

FROM	NAME & TITLE	CHRIS RYER, DIRECTOR 	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 TH FLOOR, 417 EAST FAYETTE STREET		
	SUBJECT	CITY COUNCIL BILL #25-0040 / ZONING – USES – RETAIL: SMALL BOX ESTABLISHMENT		

TO The Honorable President and
Members of the City Council
City Hall, Room 400
100 North Holliday Street

DATE: September 2, 2025

This memo will correct our prior memo of August 20, 2025.

At its regular meeting of June 5, 2025, the Planning Commission considered City Council Bill #25-0040, for the purpose of permitting, Zoning – Uses – Retail: Small Box Establishment.

Due to the complexity of this item, the Planning Commission voted in three parts. In its consideration of this Bill, the Planning Commission reviewed the attached staff report, which recommended approval of City Council Bill #25-0040 and the three amendments recommended by the Law Department, and adopted the following resolution, with eight members being present (eight in favor):

RESOLVED, That the Planning Commission concurs with the recommendation of its departmental staff, adopts the findings and equity analysis outlined in the staff report, with consideration for testimony and facts presented in the meeting, and recommends that City Council Bill #25-0040 be **amended and approved** by the City Council with the amendments #1 and #2 provided by the Law Department in their report.

RESOLVED, That the Planning Commission does not concur with amendment #3 provided by the Law Department in their report, and voted to recommend retaining the distance standard language and the nonconforming use discontinuance and abandonment language in the bill.

If you have any questions, please contact Mr. Eric Tiso, Division Chief, Land Use and Urban Design Division at 410-396-8358.

CR/ewt

attachment

cc: Ms. Nina Themelis, Mayor's Office
The Honorable John Bullock, Council Rep. to Planning Commission
Ms. Rebecca Witt, BMZA
Mr. Geoffrey Veale, Zoning Administration
Ms. Stephanie Murdock, DHCD
Ms. Hilary Ruley, Law Dept.
Mr. Francis Burnszynski, PABC
Mr. Luciano Diaz, DOT
Ms. Nancy Mead, Council Services



Brandon M. Scott
Mayor

PLANNING COMMISSION

Jon Laria, Chair; Eric Stephenson, Vice Chair

STAFF REPORT



Chris Ryer
Director

May 15, 2025

REQUEST: City Council Bill #25-0040/ Zoning – Uses – Retail: Small Box Establishment:

For the purpose of making small box discount retail stores a conditional use by approval of the Board of Municipal Zoning Appeals in all commercial zoning districts; setting use standards for new small box discount retail stores; and defining certain terms.

RECOMMENDATION: Approval

STAFF: Eric Tiso

INTRODUCED BY: Council Vice President Green Middleton, and Councilmembers Ramos, Parker, Dorsey, Conway, Torrence, Gray, Bullock, Porter, and Glover.

OWNER: Multiple – potentially all owners of retail establishment structures containing more than 5,000 square feet and less than 12,000 square feet of floor area available for use as a *Retail: Small Box Discount Establishment*.

GENERAL AREA: This bill would apply to all parts of the City of Baltimore within C-1 through C-5 commercial zoning districts and subdistricts.

HISTORY

- CCB #23-0431 was reviewed by the Planning Commission on January 25, 2024, and recommended disapproval of this bill. The bill died at the end of the last Council session.

CONFORMITY TO PLANS

The 2024 Comprehensive Master Plan for the City of Baltimore was enacted by Ordinance #24-426, dated December 2, 2024. There are no specific

ANALYSIS

Background: Staff understands that this bill is a follow-on action from amendments to Md. Code, Land Use §10-306, made in 2022, that was intended to help address concerns with dollar stores. Staff notes that the changes to the Maryland Land Use Code further empowered the City to amend its own zoning code for that purpose, but did not make any changes directly. This bill will create a new land use category, *Retail: Small Box Discount Establishment*, by establishing a new use definition for that use. That new use would be permitted as a conditional use in all Commercial Zoning Districts in Baltimore.

This bill will create a new use definition for *Retail: Small Box Establishment* (as a new §1.312.(v), and renumbering subsequent definitions). The use will include retail stores with a floor area between 5,000 and 12,000 square feet, that are part of a chain of stores with ten or more locations, that offer assorted inexpensive general goods for sale in small units. This new definition is intended to capture what are commonly known as “dollar stores.”

§ 1-312. “Property line” to “Roof deck”.

...

(V) RETAIL: SMALL BOX ESTABLISHMENT.

(1) IN GENERAL.

“RETAIL: SMALL BOX ESTABLISHMENT” MEANS A RETAIL STORE THAT:

- (I) IS PART OF A CHAIN WITH 10 OR MORE LOCATIONS IN BALTIMORE CITY DOING BUSINESS UNDER THE SAME NAME, REGARDLESS OF THE TYPE OF OWNERSHIP OF THE LOCATION;
- (II) HAS A FLOOR AREA OF MORE THAN 5,000 SQUARE FEET AND LESS THAN 12,000 SQUARE FEET; AND
- (III) OFFERS FOR SALE ASSORTED INEXPENSIVE GENERAL GOODS IN SMALL UNITS.

(2) EXCLUSIONS.

“RETAIL: SMALL BOX ESTABLISHMENT” DOES NOT INCLUDE:

- (I) A GROCERY STORE;
- (II) A STORE THAT CONTAINS A PHARMACY WHERE PRESCRIPTION DRUGS ARE COMPOUNDED, DISPENSED, OR DISTRIBUTED;
- (III) A FUEL STATION;
- (IV) A RETAIL STORE WHERE THE MAJORITY OF THE PRODUCTS SOLD ARE PERSONAL HYGIENE PRODUCTS OR COSMETICS;
- (V) A STORE THAT PRIMARILY ENGAGES IN THE RESALE OF USED CONSUMER GOODS.

Use Exclusions: The bill includes some exclusions in the new definition, which are intended to make the new definition apply to dollar stores, but not to other forms of business such as grocery stores, fuel stations, pharmacies, and second-hand stores. Staff understands the intent of the bill, and applauds the effort to closely tailor this new use definition, but there may be a simple loop-hole. Staff wants to highlight that if a proposed dollar store offered some number of electric vehicle charging stations, thereby becoming a fueling station, it might escape this definition entirely. By including *Fuel Station* to the exclusions, the typical convenience store that is a fuel station with a convenience store that would fall in this bill’s target square footage range is excluded by design. The key interpretation may be whether the *Fuel Station* portion of the use is a co-primary use or if it is accessory in nature.

Use Standard: A new use standard is proposed to be added in Article 32, Title 14 that would prohibit a new *Retail: Small Box Establishment* from locating within a half-mile of another existing *Retail: Small Box Establishment*. The intent of this use standard is to limit the overall number of these businesses within the City. The new use standard is in the bill as follows:

§ 14-335.2. RETAIL: SMALL BOX ESTABLISHMENT.

ANY NEW RETAIL: SMALL BOX ESTABLISHMENT SHALL BE AT LEAST 2,640 FEET FROM ANY EXISTING RETAIL: SMALL BOX ESTABLISHMENT.

Minimum Separation Distance: This bill would prohibit a new *Retail: Small Box Discount Establishment* from locating within a half-mile of another such establishment (expressed as 2,640 feet above). For existing *Retail: Small Box Discount Establishments* already located within a half-mile of one another, this would make both such *Retail: Small Box Discount*

Establishments nonconforming uses. However, the categorization as a nonconforming use would only last as long as both such retail stores continued to operate in their existing locations – once one or the other closed, the surviving business would no longer be nonconforming due to proximity to another of its kind of land use. But, should another retailer wish to re-use the space vacated by a closed *Retail: Small Box Discount Establishment* by a different *Retail: Small Box Discount Establishment*, its application would be denied. Staff notes that there is about 6,829 acres of commercially-zoned land in the City, and about 52% of that area would not be eligible for a new *Retail: Small Box Discount Establishment* because of proximity to existing businesses.

Discontinuance: The bill provides for a significantly shorter period of time required to determine when a *Retail: Small Box Establishment* has been discontinued. In Title 18, § 18-307 (a) is amended to except this specific use from the general requirements, creates a new § 18-307 (b), and renumbers subsequent sections:

(B) *RETAIL: SMALL BOX ESTABLISHMENT DISCONTINUANCE OF USE.*

WHENEVER THE ACTIVE AND CONTINUOUS OPERATION OF ANY NONCONFORMING RETAIL: SMALL BOX ESTABLISHMENT USE, OR ANY PART OF THAT USE, HAS BEEN DISCONTINUED FOR 30 CONSECUTIVE DAYS:

- (1) THE DISCONTINUANCE CONSTITUTES AN ABANDONMENT OF THE DISCONTINUED NONCONFORMING USE, OR DISCONTINUED PART OF THAT USE, REGARDLESS OF ANY RESERVATION OF AN INTENT TO RESUME ACTIVE OPERATIONS OR OTHERWISE NOT ABANDON THE USE; AND
- (2) THE DISCONTINUED NONCONFORMING USE, OR DISCONTINUED PART OF THAT USE:
 - (I) MAY NOT BE REESTABLISHED; AND
 - (II) ANY SUBSEQUENT USE OF ANY PART OF THE LAND OR STRUCTURE PREVIOUSLY USED FOR THE DISCONTINUED USE, OR DISCONTINUED PART OF THAT USE, SHALL CONFORM TO THE REGULATIONS OF THE ZONING DISTRICT IN WHICH THE LAND OR STRUCTURE IS LOCATED.

Land Use Table: Since a new land use is defined, it must also be added to the appropriate use table so that the use is available in certain zones. In this case, Table 10-301 allows this new use as a conditional use requiring approval by the Board of Municipal and Zoning Appeals (BMZA) in each Commercial zone C-1 through C-5. The table also refers the reader to the use standards created in § 14-335.2.

Equity:

- Impact:
 - It is unclear what effect this proposed Zoning Code amendment would have on residential communities near to Commercial Districts, or upon other business communities nearest the sites that are or could be locations for *Retail: Small Box Discount Establishments*. Staff understands that the driving concern for this bill involves how a typical chain dollar store operates their business, but there is no direct tie between good operations and zoning classifications. While it is certainly possible that a bad operator may choose to close, and that location won't be reoccupied by another such business, there is also the chance that a well-operated business that might be a community asset would be prevented from locating in an area. There are too many variables to draw certain conclusions.
 - In the short term, this bill will have little effect due to the existing presence of the retailers to be regulated by it. However, as normal commercial turn-over occurs, it will

strongly influence whether new or replacement small box discount retail establishments would locate in certain portions of Baltimore (see discussion of separation requirements above).

- Engagement:
 - Some communities have been discussing their perceived need for this legislation for several years, as they have viewed the presence of small box discount retailers as an indicator of lack of commercial value of their area and as indicative of some retailers' decisions not to invest in those communities in more than a shallow way. These perceptions are viewed as in turn discouraging other types of commercial activity that communities prefer or are actively seeking.
- Internal Operations:
 - The proposed legislation would not directly affect the Department of Planning activities or operations. However, some aspects of the bill if enacted could create a large demand for staff in Zoning Administration and Zoning Enforcement. Likewise, as a new conditional use, there will be some increase in potential case load for the BMZA. Planning staff defers to the BMZA and the Zoning Administrator for additional comment.

Notification: Notification of this action was sent to over 17,300 recipients via GovDelivery.



Chris Ryer
Director