

Ordinance No. 411-2019

AS AMENDED

AN EMERGENCY ORDINANCE

Establishing a moratorium on the review and issuance of zoning permits, certificates of occupancy and other license or permit applications for small box discount stores.

Council Member Griffin

~~WHEREAS, “small box discount stores” means a retail store of between 3,000 and 15,000 square feet that sells at retail, directly to the consumer, a limited assortment of physical goods, products, or merchandise, personal grooming and health products, household goods, and other consumer products, including food or beverages for off-premise consumption, that generally cost less than \$10 dollars or cost 20%—40% lower than the same types of goods, products and merchandise sold at grocery or drug stores; and~~

~~WHEREAS, there is a proliferation of small box discount stores such as Dollar Tree, Family Dollar (owned by Dollar Tree) and Dollar General in urban areas including the City of Cleveland, where Family Dollar currently operates 34 stores; and~~

~~WHEREAS, despite Family Dollar’s recent announcement that it will close stores in 2019, Dollar General and other small box discount stores still plan to expand in small towns and urban areas where they cater to low and middle income customers looking for discounted goods and where there are often no neighborhood grocery stores; in fact, Dollar General has announced that it will open 975 new stores in the United States this year; and~~

~~WHEREAS, Dollar Tree and Dollar General have more stores than the following biggest U.S. retailers—Walmart, Kroger, Target, Costco, Home Depot, CVS and Walgreens—combined; and~~

~~WHEREAS, “small box discount stores” means a retail store between 3,000 and 15,000 square feet that sells directly to consumers a limited assortment of physical goods, products, or merchandise, personal grooming and health products, household goods, and other consumer products, including food or beverages for off-premise consumption, most of which are sold for \$10.00 or less, and that does not dedicate at least 15% of shelf space to fresh food and produce; and~~

~~WHEREAS, “small box discount stores” as defined above do not include stores that dedicate less than 5% of shelf space to food sales, sell gasoline or diesel fuel, or contain a prescription pharmacy; and~~

~~WHEREAS, this City Council desires to foster businesses that improve access to a healthy diet by selling fresh and affordable food and produce and to protect neighborhoods’ economic vitality by ensuring a diversity of businesses with sufficient opportunities for independent owners; and~~

~~WHEREAS, there is a proliferation of small box discount stores in the City of Cleveland; and small box discount stores continue to announce plans to expand in urban areas where they cater to low and middle income customers looking for discounted goods and where there are often no neighborhood grocery stores; and~~

~~WHEREAS, although small box discount stores may fill a need in places that lack basic retail services, the growing evidence is that small box discount stores are not only a byproduct of economic distress – they are a cause of it; and~~

~~WHEREAS, small box discount stores’ strategy of saturating communities with multiple stores makes it impossible for local grocery stores to stay open, if they are already in a neighborhood, or for new local grocers to open a store and prosper; and~~

~~WHEREAS, there is usually less than 15% of shelf space or very limited shelf space devoted to fresh produce in small box discount stores and most have only a limited selection of processed foods; and~~

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WHEREAS, small box discount stores sell packaged foods in single-serving quantities that have lower price points, but are in actuality more expensive per ounce; and

WHEREAS, small box discount stores employ fewer people at lower wages than grocery stores, often face class-action lawsuits for violating fair labor standards and lean heavily on taxpayers to subsidize their employees' healthcare; and

WHEREAS, profits from small box discount stores go back to their corporate office, while local business profits go back to the community in which they serve; and

WHEREAS, there are concerns about safety and security surrounding small box discount stores because of the often high incidences of crime and theft in and around them, often due to their lack of security; and

~~WHEREAS, "small box discount stores" as defined above does not include stores that dedicate less than 5% of shelf space to food sales, sell gasoline or diesel fuel, contain a prescription pharmacy, or dedicate at least 15% of shelf space to fresh foods and produce; and~~

WHEREAS, this ordinance constitutes an emergency measure for the immediate preservation of the public peace, property, health, safety, or welfare in that ~~a moratorium on the review and issuance of zoning permits on the issuance of certain zoning permits, certificates of occupancy and other license, certificates of occupancy and other license or permit applications for small box discount stores is necessary while the City considers reasonable restrictions and regulations for such stores in the City; now, therefore,~~

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

~~**Section 1.** That, for the reasons stated in the preamble, this Council establishes a moratorium on the review and issuance of zoning permits, certificates of occupancy and other license or permit applications for small box discount stores until December 31, 2020 or until such time as the City has established regulations regarding review and issuance of small box discount stores, whichever is earlier.~~

Section 1. That, notwithstanding and as an exception to any provisions of the Codified Ordinances of Cleveland, Ohio, 1976 and for the reasons stated in the preamble, this Council establishes a moratorium on the issuance of zoning permits, certificates of occupancy and other license or permit applications to establish a small box discount store as a new use until November 1, 2020 or until such time as the City has established regulations regarding review and issuance of small box discount stores, whichever is earlier. "Small box discount stores" means a retail store between 3,000 and 15,000 square feet that sells directly to consumers a limited assortment of physical goods, products, or merchandise, personal grooming and health products, household goods, and other consumer products, including food or beverages for off-premise consumption, most of which are sold for \$10.00 or less, and that does not dedicate at least 15% of shelf space to fresh food and produce.

Section 2. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

BG:rns
4/1/19

THERE IS NO LEGAL OBJECTION TO THIS LEGISLATION IF AMENDED AS FOLLOWS:

1. In the title, line 2, strike "review and".

2. Strike the first, second, third, and fourth whereas clauses in their entirety and insert:

"WHEREAS, "small box discount stores" means a retail store between 3,000 and 15,000 square feet that sells directly to consumers a limited assortment of physical goods, products, or merchandise, personal grooming and health products, household goods, and other consumer products, including food or beverages for off-premise consumption, most of which are sold for \$10.00 or less, and that does not dedicate at least 15% of shelf space to fresh food and produce; and

WHEREAS, "small box discount stores" as defined above do not include stores that dedicate less than 5% of shelf space to food sales, sell gasoline or diesel fuel, or contain a prescription pharmacy; and

WHEREAS, this City Council desires to foster businesses that improve access to a healthy diet by selling fresh and affordable food and produce and to protect neighborhoods' economic vitality by ensuring a diversity of businesses with sufficient opportunities for independent owners; and

WHEREAS, there is a proliferation of small box discount stores in the City of Cleveland; and small box discount stores continue to announce plans to expand in urban areas where they cater to low and middle income customers looking for discounted goods and where there are often no neighborhood grocery stores; and".

3. Strike the sixth whereas clause in its entirety.

4. In the existing seventh whereas clause line 1, strike "usually less than 15% of shelf space" and insert "no or very limited shelf space".

5. Strike the existing twelfth whereas clause in its entirety.

6. In the existing thirteenth whereas clause, strike line 3 in its entirety and insert: "on the issuance of certain zoning permits, certificates of occupancy and other license".

7. Strike Section 1 in its entirety and insert:

Section 1. That, notwithstanding and as an exception to any provisions of the Codified Ordinances of Cleveland, Ohio, 1976 and for the reasons stated in the preamble, this Council establishes a moratorium on the issuance of zoning permits, certificates of occupancy and other license or permit applications to establish a small box discount store as a new use until November 1, 2020 or until such time as the City has established regulations regarding review and issuance of small box discount stores,

whichever is earlier. "Small box discount stores" means a retail store between 3,000 and 15,000 square feet that sells directly to consumers a limited assortment of physical goods, products, or merchandise, personal grooming and health products, household goods, and other consumer products, including food or beverages for off-premise consumption, most of which are sold for \$10.00 or less, and that does not dedicate at least 15% of shelf space to fresh food and produce.

Date: _____ (Signed): _____

Stephanie Melnyk
Chief Assistant Director of Law

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