

Ordinance No. 816-2020

By Council Members Brancatelli, Griffin and Kelley (by departmental request)

AN EMERGENCY ORDINANCE

To supplement the Codified Ordinances of Cleveland, Ohio, 1976, by enacting new Section 347.20 relating to small box discount retail stores.

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

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

Section 1. That the Codified Ordinances of Cleveland, Ohio, 1976, are amended by enacting new Section 347.20 to read as follows:

Section 347.20 Small Box Discount Retail Stores

(a) *Purpose.* The regulations of this section are established to regulate the location of small box discount retail stores for the purpose of protecting neighborhoods from negative secondary effects created by the concentration or clustering of such businesses. Furthermore, the regulations are established to avoid and reduce over-concentration and to maintain cleanliness for the health and safety of residents within our neighborhoods.

(b) *Definitions.* For purposes of this section:

(1) “Small Box Discount Retail Store” means a retail store of between 3,000 and 15,000 square feet that dedicates less than fifteen percent (15%) of shelf space to fresh or fresh frozen foods and produce and sells at retail an assortment of physical goods, products or merchandise directly to the consumer, including food or beverages for off-premise consumption, personal grooming and health products, household goods and other consumer products that generally cost less than \$10.00.

(2) “Fresh Produce” means fruits and vegetables that have not been processed in any manner. This term does not include such items as potted or dried herbs, wild rice, dried fruits and vegetables, raw nuts of any kind, popcorn, fruit or vegetable plants/seedlings, seeds/grains, flowers, maple syrup, cider, eggs, meat, cheese and seafood.

(3) “Fresh or Fresh Frozen Food” means food for human consumption that is in its raw state, or unprocessed; food that was quickly frozen while still fresh (blanching, blast freezing) and no deterioration has taken place.

(4) *Exclusions.* For purposes of this section, “small box discount retail store” does not include retail 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 fifteen percent (15%) of shelf space to fresh or fresh frozen foods and produce.

(c) *Spacing.* No small box discount retail store shall be established on a lot or lots within ten thousand five hundred and sixty (10,560) feet (two miles) of another lot or lots containing an existing small box discount retail store. No two (2) small box discount retail stores shall be located in the same building or on the same lot. Such distance shall be measured in a geometrically straight line which represents the shortest distance between the lot or lots accommodating the proposed small box discount retail store and the lot or lots from which the existing small box discount retail store is located. Such measurement shall be made using a scaled map, or a survey if deemed

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necessary, and shall be made without regard to intervening structures, objects, uses, the street grid, landforms or any other topographic feature.

(d) *Maps Maintained in the Office of the City Planning Commission.* The Director of City Planning shall maintain a map of existing Small Box Discount Retail Store locations and other information necessary to determine compliance with the spacing regulations under division (c) of this section.

(e) *Floor and Shelf Plan Required.* For any small box discount retail store subject to Section 347.20(c), a Floor and Shelf Plan shall be submitted as part of its Building Permit application in addition to any other required plans and information, and shall contain each of the following:

(1) The amount of shelf space dedicated to food sales and the amount of shelf space dedicated to fresh or fresh frozen foods and produce; and

(2) The types of goods, products, or merchandise to be sold and the general cost of such items.

(f) *Maintenance.* The owner and/or operator of a small box discount retail store shall comply with applicable provisions of these codified ordinances regarding maintenance of the premises and shall comply with the following:

(1) Keep the exterior of the site including the sidewalks and treelawns abutting the property free of litter and debris; and

(2) Provide one or more solid waste containers located directly outside the primary entrance for the placement of paper, wrappers, and other items by customers and others. Such containers shall be maintained in good condition and be of suitable capacity to sufficiently contain litter and debris between scheduled waste collections.

(g) *Exception.* Section 347.20(c) shall not apply to any small box discount retail store as defined in Section 347.20(b)(1) currently in operation prior to the effective date of this section.

(h) *Penalty.* Whoever violates any provision of Section 347.20 shall be subject to the penalties set forth in Section 327.99.

Section 2. That this ordinance is 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.

RC:nl
10-21-2020
FOR: Director Collier

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READ FIRST TIME on OCTOBER 21, 2020 **REPORTS**
and referred to **DIRECTORS** of City Planning Commission, Finance, Law;
COMMITTEES on Development Planning and Sustainability, Finance

CITY CLERK

READ SECOND TIME

CITY CLERK

READ THIRD TIME

PRESIDENT

CITY CLERK

APPROVED

MAYOR

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REPORT
after second Reading

PASSAGE RECOMMENDED BY
COMMITTEE ON
DEVELOPMENT, PLANNING AND
SUSTAINABILITY

FILED WITH COMMITTEE

PASSAGE RECOMMENDED BY
COMMITTEE ON
FINANCE

FILED WITH COMMITTEE