



**ZONING AMENDMENT
STAFF REPORT**

City Council Meeting Date:
December 3, 2019

Council District ALL

Zoning Commission Recommendation: Approval by a vote of 9-0 Opposition: None submitted Support: None submitted	Continued	Yes ___ No <u>X</u>
	Case Manager	<u>Arty Wheaton-Rodriguez</u>
	Surplus	Yes ___ No <u>X</u>
	Council Initiated	Yes ___ No <u>X</u>

Owner / Applicant: City of Fort Worth Planning and Development Department

Site Location: City-wide

Proposed Change: An Ordinance amending the Comprehensive Zoning Ordinance of the City of Fort Worth, being Ordinance No. 21653, as amended, codified as Appendix "A" of the Code of The City of Fort Worth, by amending:

- Article 1 "Standards for Selected Uses" of Chapter 5 "Supplemental Use Standards", to add section 5.151 "Store, Small Box Discount" to provide development standards for small box discount stores;
- Chapter 4, "District Regulations", section 4.803 "Nonresidential District Use Table" and Section 4.1203 "Form-Based District Use Table" to provide for zoning districts where small box discount stores are allowed by Conditional Use Permit; and
- Chapter 9 "Definitions" to add definition for small box discount store.

To review the proposed amendments: <http://fortworthtexas.gov/zoning/cases/>

Request: TEXT AMENDMENT: Proposed Text Amendment to the Zoning Ordinance Relating to Small Box Discount Store

Background:

Staff is proposing a Zoning Ordinance text amendment to create regulations associated with Small Box Discount Stores. A small box discount store is a retail store with a floor area less than 10,000 square feet that offers for sale an assortment of physical goods, products or merchandise directly to the consumer, including food or beverages for off-premise consumption, household products, personal grooming and health products and other consumer goods.

Small box discount stores do not include retail stores that: contain a prescription pharmacy; sell gasoline or diesel fuel; primarily sell specialty food items (e.g. meat, seafood, cheese, or oils and vinegars); dedicate less than 15% of floor area or shelf space to fresh foods and vegetables.

The proposed text amendment provides that a CUP would be required to add the small box discount store use to a commercial district and would establish conditions that must be met, including separation requirements (2 miles) and the inclusion of fresh produce, meat and dairy products (10% of the floor area).

Fort Worth has participated in various healthy initiatives in order to provide citizens with access to healthy choices. In a continued effort to promote access to healthy food options, the City is also looking to make sure that the concentration of small box discount stores does not hinder access healthy foods in food deserts.

- On August 20, 2019 City Council was provided a briefing on Small Box Discount Stores
- On October 9, 2019 the Zoning Commission received a briefing on the proposed text amendment.

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF FORT WORTH, BEING ORDINANCE NO. 21653, AS AMENDED, CODIFIED AS APPENDIX "A" OF THE CODE OF THE CITY OF FORT WORTH, BY AMENDING ARTICLE 1 "STANDARDS FOR SELECTED USES", OF CHAPTER 5, "SUPPLEMENTAL USE STANDARDS," TO ADD SECTION 5.151 "STORE, SMALL BOX DISCOUNT" TO PROVIDE DEVELOPMENT STANDARDS FOR SMALL BOX DISCOUNT STORES; TO AMEND CHAPTER 4, "DISTRICT REGULATIONS", SECTION 4.803 "NONRESIDENTIAL DISTRICT USE TABLE" AND SECTION 4.1203 "FORM-BASED DISTRICT USE TABLE" TO PROVIDE FOR ZONING DISTRICTS WHERE SMALL BOX DISCOUNT STORES ARE ALLOWED BY CONDITIONAL USE PERMIT; AND TO AMEND CHAPTER 9 "DEFINITIONS" TO ADD DEFINITION FOR SMALL BOX DISCOUNT STORE; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in 2014, the City of Fort Worth City Council passed resolution number 4278-01-2014 supporting the Blue Zones Project™ to improve well-being and economic vitality; and

WHEREAS, the private sector, led by Texas Health Resources and the Fort Worth Chamber of Commerce, has taken on the challenge to help Fort Worth become the largest city in the work to hold the special designation as a Blue Zones™ Community, where people live longer, better and healthier lives; and

WHEREAS, in 2014, more than 86 percent of nearly \$3 trillion in annual U.S. healthcare costs are spent on chronic disease. Yet much of these diseases can be prevented and reduced in impact through lifestyle changes; and

WHEREAS, since 2013, the City of Fort Worth City Council has adopted multiple ordinances to reduce the number of areas where smoking is allowed; and

WHEREAS, in 2016, the City of Fort Worth City Council passed ordinance number 22335-08-2016 to increase access to fresh foods; and

WHEREAS, in 2018, the City of Fort Worth has become the largest city in the world to hold the special designation as a Certified Blue Zones™ Community; and

WHEREAS, in 2019, The City of Fort Worth City Council adopted the Fort Worth Active Transportation Plan, Resolution No. 5074-04-2019, which aims to create a regionally coordinates and locally connected bicycle and pedestrian system that provides a safe, comfortable, accessible,

and equitable network of trails, sidewalks, and on-street bicycle facilities for people of all ages and abilities that encourages a healthy lifestyle; and

WHEREAS, in 2019, the City of Fort Worth City Council adopted Resolution No. 5115-08-2019 to support an application to the Texas Department of Transportation for funding to implement the Fort Worth Active Transportation Plan to upgrade sidewalks, crosswalks, and intersections in school zones; and

WHEREAS, the City of Fort Worth has moved from 185th out of 190 Metropolitan Areas to 31st healthiest city in the nation; and

WHEREAS, the City of Fort Worth City Council continues to seek ways to increase our ranking as one of the healthy cities in America by increasing access to healthy food and activities while reducing opportunities for unhealthy activities

WHEREAS, the City of Fort Worth City Council desires to promote access to healthy food options in underserved neighborhoods by regulating small box retail stores; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS:

SECTION 1.

Chapter 5, "Supplemental Use Standards", Article 1, "Standards for Selected Use", of Ordinance No. 21653, the Zoning Ordinance of the City of Fort Worth, is hereby amended to revise Article 1 to add section 5.151 to add development standards for small box discount store, to read as follows:

Sec. 5.151 SMALL BOX DISCOUNT STORE.

Small box discount store may be permitted in accordance with the use tables in Chapter 4, Articles 6, 8 and 12, the City Council may consider the following criteria:

- (a) the proposed location is no less than 2 miles from any existing small box discount store.

The measurement shall be in a direct line from the property line of the proposed small box discount store to the property line of the existing small box discount store, in a direct line across intersections.

- (b) a minimum of 10% of the floor area is dedicated to fresh produce, meat and dairy products.

SECTION 2.

Chapter 9 " Definitions", Section 9.101 "Defined Terms" of Ordinance No. 21653, the Zoning Ordinance of the City of Fort Worth, is hereby amended to add a definition for "Small box discount store" to read as follows:

Small Box Discount Store: A retail store with a floor area less than 10,000 square feet that offers for sale an assortment of physical goods, products or merchandise directly to the consumer, including food or beverages for off-premise consumption, household products, personal grooming and health products and other consumer good. Small box discount stores do not include retail stores that: contain a prescription pharmacy; sell gasoline or diesel fuel; primarily sell specialty food items (e.g. meat, seafood, cheese, or oils and vinegars); dedicate less than 15% of floor area or shelf space to fresh foods and vegetables.

SECTION 3.

Sections 4.803 and 4.1203, of Articles 6, "Nonresidential District Use Table" and "Form Based Code District Use Table" respectively, are hereby amended to add "small box discount store" as a use under "Retail Sales and Service" and to provide that the use is only allowed by a conditional use permit (CUP).

SECTION 4.

This ordinance shall be cumulative of all provisions of ordinances and of the Code of the City of Fort Worth, Texas (2015), as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 5.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and, if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 6.

Any person, firm, or corporation, who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation exists shall constitute a separate offense.

SECTION 7.

All rights and remedies of the City of Fort Worth, Texas, are expressly saved as to any and all violations of the provisions of Ordinances No. 3011, 13896, 21653 and any other ordinances affecting zoning which have accrued at the time of the effective date of this ordinance, and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 8.

The City Secretary of the City of Fort Worth, Texas, is hereby directed to publish the

caption, penalty clause and effective date of this ordinance for two (2) days in the official newspaper of the City of Fort Worth, Texas, as authorized by Section 52.013, Texas Local Government Code.

SECTION 9.

All other provisions of the Zoning Ordinance of the City of Fort Worth not herein amended shall remain in full force and effect.

SECTION 10.

This ordinance shall take effect upon adoption and publication as required by law.

APPROVED AS TO FORM AND LEGALITY:

By: _____

Melinda Ramos, Assistant City Attorney

ADOPTED: _____

EFFECTIVE: _____

By: _____

Mary Kayser, City Secretary