

Ordinance No. 22-025

An ordinance amending the "Unified Development Code" Chapter of the Code of the City of Arlington, Texas, 1987, through the amendment of Article 3, Use Standards, Section 3.1.5, Table of Allowed Uses, to add a new commercial use type labeled "Small Box Discount Store" under the Retail (Sales) use category; through the amendment of Section 3.2.3, Commercial Uses, to establish supplemental use standards for said use type; and through the amendment of Article 12, Definitions, Section 12.3.3, Commercial Uses, to define said use type; providing for a fine of up to \$2,000 for each offense in violation of the ordinance; providing this ordinance be cumulative; providing for severability; governmental immunity; injunctions; publication and an effective date

WHEREAS, after notice and public hearing on the 18th day of May, 2022, the Planning and Zoning Commission heard and recommended amendment to the "Unified Development Code" Chapter of the Code of the City of Arlington, Texas, 1987, as amended; and

WHEREAS, the United States Department of Agriculture has designated eight (8) census tracts within the City of Arlington as Low Income/Limited Access (LI/LA), formerly known as "Food Deserts"; and

WHEREAS, LI/LA designated census tracts are defined as having at least 20% of their residents as living in poverty and at least 33% of their residents living more than one mile from a supermarket; and

WHEREAS, the proliferation of small box discount stores has failed to provide healthy fresh food options for City of Arlington residents; and

WHEREAS, there are already 34 small box discount stores located within the city limits and an additional 16 small box discount stores located within one mile of the city limits; and

WHEREAS, the Arlington City Council wishes to encourage the development and retention of supermarkets selling healthy fresh food options to its residents; and

WHEREAS, the Arlington City Council intends to promote the general health and welfare of its residents by working to decrease the number of LI/LA designated census tracts within its jurisdiction; and

WHEREAS, after notice and public hearing, and upon consideration of the recommendation of the Commission and of all testimony and information submitted during the public hearing, the City Council has determined that it

is in the best interest of the public and in support of the health, safety, morals and general welfare of the citizens that the amendments relative to the “Unified Development Code” Chapter be approved; NOW THEREFORE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the “**Unified Development Code**” Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of **Article 3, Use Standards, Section 3.1.5, Table of Allowed Uses, Subsection B., Non-Residential and Mixed-Use Districts, Table 3.1-2: Allowed Uses – Non-residential and Mixed-Use Districts** by adding a new use type known as “Small Box Discount Store” under use category “Retail (Sales)”. Said use type shall only be allowed by specific use permit. Use districts where said use type may be allowed by specific use permit are as follows:

TABLE 3.1-2: Allowed Uses – Non-residential and Mixed-Use Districts														
P = Permitted Use S = Specific Use Permit * = Supplemental Use Standards Apply														
		Non-residential and Mixed-Use												
Use Category	Use Type	L	O	N	C	G	H	D	B	L	I	N	R	Supplemental Use Standards
		O	C	C	C	C	C	B	P	I	M	U	U	
COMMERCIAL USES														
Retail (Sales)	Small box discount store		S*	S*	S*	S*	S*	S*		S*	S*	S*	S*	3.2.3.1

Further, that **Section 3.2.3, Commercial Uses, Subsection I., Retail (Sales)**, is hereby amended by the addition of **Subsection 7., Small Box Discount Store**, which shall read as follows:

7. Small Box Discount Store

- a. A lot containing a small box discount store shall be located at least 1.5 miles from any lot containing another small box discount store.
- b. May only operate within a multi-tenant building and not in a free-standing structure.

Further, that **Article 12, Definitions, Section 12.3.3, Commercial Uses, Subsection K., Retail (Sales)**, is hereby amended by the addition of **Subsection 13., Small Box Discount Store**, which shall read as follows:

13. Small Box Discount Store

A retail store with a floor area between 5,000 and 15,000 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:

- a. contain a prescription pharmacy;
- b. sell gasoline or diesel fuel;
- c. primarily sell specialty food items (e.g., ethnic foods, meat, seafood, cheese, or oils and vinegars); or
- d. dedicate more than 20% of floor area or shelf space to fresh foods or fresh frozen foods.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand Dollars and No Cents (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington; and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.


7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, Texas, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective on the 1st day of August, 2022.

PRESENTED AND GIVEN FIRST READING on the 7th day of June, 2022, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 28th day of June, 2022, by a vote of 6 ayes and 1 nays at a regular meeting of the City Council of the City of Arlington, Texas.



JIM R. ROSS, Mayor

ATTEST:



ALEX BUSKEN, City Secretary

APPROVED AS TO FORM:
TERIS SOLIS, City Attorney

BY 
