

ORDINANCE NO. 037-2023

AN ORDINANCE ENACTING CHAPTER 1138 DISCOUNT RETAIL STORES OF THE MAUMEE CODIFIED ORDINANCES, TO ESTABLISH ZONING STANDARDS FOR DISCOUNT RETAIL STORES, AND DECLARING AN EMERGENCY

WHEREAS, the City of Maumee Administrator has proposed text changes to Codified Ordinance Section 1125.11 which is part of the City of Maumee Zoning Code;

WHEREAS, the Planning Commission conducted a public hearing on said proposed modifications as required by section 1105.08 of the Maumee Codified Ordinances;

WHEREAS, Maumee has previously adopted supplemental regulations for real property located in the City of Maumee;

WHEREAS, in order to provide regulations for retail stores located within the City of Maumee, Chapter 1138 of the Codified Ordinances should be adopted;

WHEREAS, all applicable provisions for adoption of this ordinance have been complied with prior to passage.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Maumee, Ohio, that:

SECTION 1. Chapter 1138 of the Maumee Codified Ordinances be, and the same hereby is enacted as follows:

Chapter 1138 Discount Retail Stores

1138.01 PURPOSE AND DEFINITIONS

(a) *Purpose.* The regulations of this section are established to regulate the location of 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) "Discount Retail Store" means a retail store of between two thousand (2,000) and twenty thousand (20,000) square feet that dedicates less than twenty percent (20%) 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 ten dollars (\$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, "discount retail store" does not include retail stores that sell gasoline or diesel fuel, contain a prescription pharmacy or dedicate at least twenty percent (20%) of shelf space to fresh or fresh frozen foods and produce.

1138.02 LOCATION OF DISCOUNT RETAIL STORES

(a) *Spacing.* No discount retail store shall be established on a lot or lots within ten thousand five hundred and sixty (10,560) feet (two (2) miles) of another lot or lots containing an existing discount retail store. No two (2) 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 discount retail store and the lot or lots from which the existing discount retail store is located. Such measurement shall be made using a scaled map, or a survey if deemed necessary, and shall be made without regard to intervening structures, objects, uses, the street grid, landforms or any other topographic feature.

(b) *Maps Maintained.* The Urban Planning Manager shall maintain a map of existing Discount Retail Store locations and other information necessary to determine compliance with the spacing regulations under division (d) of this section.

(c) The Discount Retail store shall comply with all applicable Maumee Building Code Standards and Architectural Standards and shall submit a detailed plan to the Maumee Urban Planning Manager for approval for the Discount Retail Store location. The plan shall include a site drawing locating the curbs and distances as well as material to provide compatibility with surrounding uses and a rendering or picture of the proposed facade.

(d) *Floor and Shelf Plan Required.* For any discount retail store, a Floor and Shelf Plan shall be submitted to the Urban Planning Manager 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.

(e) *Maintenance and Other Requirements.* The owner and/or operator of a 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 tree lawns abutting the property free of litter and debris; and

(2) Provide one (1) 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.

(3) All exterior infrastructure on or adjoining the rental site shall be repaired or replaced according to Maumee Code, including sidewalks, curbs and landscaping prior to being granted an occupancy permit.

(f) *Exception.* Chapter 1138 shall not apply to any discount retail store as defined in herein currently in operation prior to the effective date of this section. If a discount retail store not currently subject to these regulations becomes subject to the nonconforming use provisions as set forth in Chapter 1130 of the Maumee Codified Ordinances or is otherwise repaired or remodeled or sold after the effective date of this ordinance, said discount retail store shall be required to comply with the regulations set forth herein.

1138.03 CIVIL REMEDIES.

If any structure is erected, constructed, reconstructed, relocated, altered, repaired, converted or maintained, or if any structure or land is used in violation of this chapter, the City, in addition to any other remedies provided for herein, may institute such action or proceedings as are authorized by law to prevent and enjoin such unlawful erection, construction, reconstruction, relocation, alteration, conversion, maintenance or use, or to correct or abate such violation, or to prevent the occupancy of such structure or land.

1138.99 CRIMINAL PENALTIES.

(a) Whoever violates any of the provisions of this Chapter shall be guilty of a misdemeanor of the fourth degree. If the offender has previously been convicted of or pleaded guilty to a violation of the Maumee Zoning Code, then the offender is guilty of a misdemeanor of the third degree.

(b) Each calendar day such violation shall be permitted to continue or exist shall constitute a separate and distinct offense.

SECTION 2. Any ordinances, parts of ordinances or the chapters of the Maumee Municipal Code in conflict herewith are hereby amended and repealed in part to reflect the foregoing changes.

SECTION 3. This ordinance is declared to be an emergency measure immediately necessary to preserve the public interest and for the health, safety and welfare of the citizens of the City of Maumee, and more specifically to allow for the immediate implementation of regulations for discount retailers which will be a benefit for the citizens of Maumee, wherefore this ordinance will go into immediate effect upon its adoption by Council.


SECTION 4. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of council's committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements of the Charter of Maumee, Ohio.

Motion to declare an emergency: Fiscus Seconded: Puffenberger
Yeas 7 Nays 0
Motion to Pass: Fiscus Seconded: Puffenberger
Yeas 7 Nays 0
Passed: October 4, 2023




Mayor.

ATTEST:



Municipal Clerk.

Approved as to form by:


Law Director.

CERTIFICATE OF POSTING

I, Clerk of Council of the Municipality of Maumee, Ohio, do hereby certify that Ordinance/Resolution No. 037-2023 was duly posted on 10-5-23 and remained posted for a period of fifteen days thereafter, in not less than five of the most public places in the municipality as determined by the Council of said Municipality.


Clerk of Council

Date: Oct-20, 2023