

ORDINANCE NO. 4583  
Zoning Text Amendment No. 2018-06

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE MESQUITE ZONING ORDINANCE ADOPTED ON SEPTEMBER 4, 1973, AND RECODIFIED ON NOVEMBER 21, 1988, BY MAKING CERTAIN DELETIONS AND ADDITIONS IN SECTIONS FOUND UNDER CHAPTERS 3-200, 3-500 AND 6-100 THEREBY PROVIDING NEW AND REVISED REGULATIONS FOR VARIETY STORES; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE THEREOF.

WHEREAS, according to a 2012 community health assessment by the Mesquite Department of Community Development, Mesquite residents face increasing threats to sufficient access to fresh and affordable produce, and residents typically have more access to convenience stores and fast food than to nutritious food; and

WHEREAS, according to that assessment, of the six leading causes of death in the United States – heart disease, stroke, diabetes, and certain cancers – are diet-related chronic diseases, and rates of overweight and obesity, which are risk factors for these diseases, continue to increase – particularly in minority and low-income populations; and

WHEREAS, in 2008, Mesquite had four variety stores and that number has quadrupled since that time; and

WHEREAS, variety stores typically offer mostly inexpensive, energy-dense, low-nutritive foods and beverages rather than fresh, nutritious food; and

WHEREAS, people choose among foods that are readily available and therefore healthy options should be at least as available and accessible as unhealthy ones; and

WHEREAS, a good mix of food retail has the potential to revitalize neighborhoods and commercial centers and improve access to a healthy diet, particularly for populations in underserved areas; and

WHEREAS, the City Council desires to promote the availability of fresh and quality foods, especially in underserved neighborhoods, by assessing the food retail environment based upon an evaluation of the subject retail landscape at the time of a zoning application; and

WHEREAS, in order that the intended purposes of the Mesquite Zoning Ordinance are best served, it has been determined necessary to amend certain language of said ordinance; and

WHEREAS, the Planning and Zoning Commission did give public notice and did hold a public hearing regarding proposed revisions and has recommended amendment of the ordinance; and

WHEREAS, the City Council did give public notice and did hold a public hearing regarding the proposed amendment.

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

SECTION 1. That the Mesquite Zoning ordinance adopted on September 4, 1973, and recodified on November 21, 1988, be and the same is hereby amended by providing additions and deletions in sections found under Chapters 3-200, 3-500 and 6-100 to read as follows, said Ordinance in all other respects to remain in full force and effect:

- (1) *Chapter 3-200.* Amend Table 3-203 in Chapter 3-200 by deleting the current schedule of permitted uses under SIC CODE 533 and adding a new schedule of permitted uses under SIC CODE 533 to read as follows:

*Table 3-203 Schedule of Permitted Uses*

<i>SIC CODE</i>	<i>USE DESCRIPTION</i>	<i>O</i>	<i>GR</i>	<i>LC</i>	<i>C V</i>	<i>MU</i>	<i>CB</i>	<i>S S</i>	<i>C</i>	<i>I</i>	<i>P K N G S T N D</i>	<i>SPECIAL CONDITIONS</i>
<b>53</b>	<b>GENERAL MERCHANDISE STORES</b>		P	P		P	P		P	P	1	
531	Department Stores											
533	Variety Stores		*C	*C		*C	*C		*C	*C	1	*If location meets 3-510.A, allowed by CUP
539	Miscellaneous General Merchandise Stores		P	P		P	P		P	P	1	

- (2) *Chapter 3-500.* Amend Chapter 3-500 by adding a new Section 3-510 to read as follows:

**3-510 Variety stores.**

- A. Variety stores are prohibited unless the proposed use is located more than 5,000 feet from another variety store.
- B. Incidental outdoor display is prohibited at all variety stores.
- C. If located at least 5,000 feet from another variety store, this use is permitted by conditional use permit (“CUP”) only. In addition to the criteria for a CUP set forth in Section 5-303.B, when reviewing a request for CUP for a variety store use, the City Council shall consider:
  - 1. Whether the proposed variety store will likely have a detrimental impact on the development of grocery stores and other businesses that sell fresh and healthy food items in the area to be served by the proposed use.

2. The availability of healthy food options in the area of the proposed use including the proximity of full-service grocery stores within one-half mile of the proposed use and effect of the use on the retail food environment index as defined by the Centers for Disease Control and Prevention.
  3. Whether the proposed use is within a food desert, as defined by the United States Department of Agriculture at the time of application.
- D. A CUP approved under this section must stipulate that a minimum of 10 percent of the floor area of the variety store must be dedicated to fresh produce, meat and dairy products.
- E. A nonconforming variety store in existence on August 1, 2018, may relocate on the same parcel or within the same shopping center that it currently exists without obtaining a CUP provided the nonconforming variety store has not been terminated as provided in Section 1-304, Termination of Nonconforming Situations, of Part 1 of the zoning ordinance and the use complies with all other applicable regulations.
- (3) *Chapter 6-100.* Amend Section 6-102 in Chapter 6-100 by adding new definitions for “grocery store” and “variety store” to read as follows:

*Grocery store:* A retail store where a minimum of 50 percent of the floor area or more than 25,000 square feet of floor area is devoted to food items including, but not limited to, fresh produce, fresh meats, fresh dairy products and prepackaged foods.

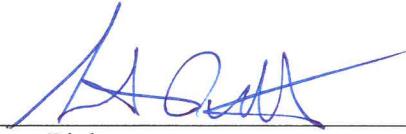
*Variety store:* A retail store that sells a wide variety of relatively small and inexpensive items, as defined by “A Planner’s Dictionary” published by the American Planning Association.

SECTION 2. That all ordinances, or portions thereof, of the City of Mesquite in conflict with the provisions of this ordinance, to the extent of such conflict are hereby repealed. To the extent that such ordinances or portions thereof not in conflict herewith, the same shall remain in full force and effect.

SECTION 3. That should any word, sentence, clause, paragraph, phrase or section of this ordinance be held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision hereof other than the part so decided to be invalid, illegal or unconstitutional and shall not affect the validity of the Mesquite Zoning Ordinance as a whole.

SECTION 4. That the need to regulate proper development of the City of Mesquite and in order to protect the public interest, comfort and general welfare of the City of Mesquite, creates an urgency and emergency for the preservation of the public health, safety and welfare and requires that this ordinance shall take effect immediately from and after its passage.

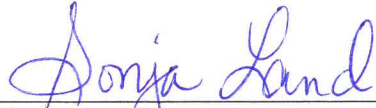
DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas,  
on the 16th day of July, 2018.



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Stan Pickett  
Mayor

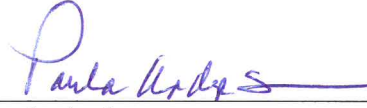
ATTEST:



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Sonja Land  
City Secretary

APPROVED:



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Paula Anderson  
Interim City Attorney