

**AN ORDINANCE AMENDING TITLE 18, ZONING, OF THE SANTA CLARA
MUNICIPAL CODE RELATING TO LARGE-SCALE RETAIL STORES
AND SUPERSTORES**

The City Council of the City of Santa Clara ordains as follows:

PART I

It is the purpose and intent of the City Council to limit the negative impacts of large-scale retail stores on traffic circulation, land use patterns, and the economic and social health of the community by prohibiting certain such uses known as Superstores, and by making all other such uses subject to a conditional use permit in all zoning districts, and by creating procedures for preparation of an economic impact analysis by a permit applicant, with recommendations to be submitted to the Planning Commission.

PART II

Chapter 18, Zoning, of the Santa Clara Municipal Code is amended by adding the following provisions:

Section ____, Definitions:

“Large-Scale Retail Store” means a single business establishment engaged in retail sales whose total sales floor area exceeds seventy-five thousand (75,000) square feet.

“Superstore” means a single business establishment engaged in retail sales to the general public whose total sales floor area exceeds ninety thousand (90,000) square feet and that devotes more than five (5%) percent of the total sales floor area to the sale of non-taxable merchandise. The superstore definition does not include a discount club store, where shoppers pay a membership fee in order to take advantage of discounted prices on a wide variety of items such as food, clothing, tires, and appliances, and many items are sold in large quantities or bulk.

“Sales floor area” means only interior building space devoted to the sale of merchandise, and does not include restrooms, office space, storage space, automobile service areas, or open-air garden sales space. For the purpose of determining whether total sales floor area of a single business establishment exceeds 90,000 square feet, the aggregate square footage of all adjacent stores which share common check stands, management, a controlling ownership interest, warehouses, or distribution facilities shall be considered a single establishment. This definition shall apply to the cumulative total

square footage of related or successive permits which are part of a larger project, such as additions or expansions to a building, or multiple buildings on a single lot.

“Non-taxable merchandise” means products, commodities, or items the sale of which is not subject to California State sales tax.

Section ____, Use Permit – Requirements For Large-Scale Retail Stores:

A. No Large-Scale Retail Store may be established within the city, in any zoning district, including any planned development district, by right. Any person wishing to construct and/or operate a Large-Scale Retail Store within the City shall apply for and receive a Use Permit, as specified in Chapter 18.110, SCCC.

B. An applicant for a use permit for a Large-Scale Retail Store shall follow the procedures for use permits otherwise provided under Chapter 18.110, SCCC. To the extent consistent with state law, a full environmental impact report prepared pursuant to the California Environmental Quality Act shall be prepared in all cases for such use permit applications. In addition, the applicant shall submit to the Planning Department an Economic Impact Analysis (EIA) prepared by an independent consultant qualified by education, training, and experience to conduct economic and fiscal impact analyses. The consultant shall be selected from a list of qualified consultants pre-approved by the City Council and updated from time to time, recommended by the Planning Department and approved by the Planning Commission, and paid for in full by the applicant.

1. Cost of Preparation and Preparation of EIA. The project applicant, owner(s), operator(s), or building owner(s) of the proposed Large-Scale Retail Store shall pay for the entire expense of the preparation of the EIA, which shall be prepared by the city or by another qualified entity or consultant solely selected and retained by the city to work for and on the behalf of the city. The project applicant, owner(s), operator(s), or building owner(s) of the proposed Large-Scale Retail Store shall also pay an administrative fee, as established by city council resolution. The project applicant shall place funds in an escrow account to cover the expense of the preparation of the EIA for payment to the city consultant, as such may be negotiated between the city and the consultant. The EIA shall not be prepared by the owners, operators, or building owners of the proposed Large-Scale Retail Store or by the project applicant.

2. Contents of EIA. The EIA shall analyze the potential short- and long-term economic impacts of the proposed Large-Scale Retail Store and shall at a minimum include all of the following in the analysis:

a. A survey of the existing retail stores, including their current average retail sales, that provide retail sales and food and beverage retail sales within the city, and/or

in other retail and food and beverage retail market areas that would be served by the proposed Large-Scale Retail Store, regardless of whether such stores are within the political boundaries of the city, and that are likely to be economically affected by the proposed Large-Scale Retail Store, as defined by the city and the city's consultant. The geographic area of the stores identified in this survey shall be referred to herein as the "affected area."

b. A survey of the existing, proposed, and/or pending Large-Scale Retail Stores within the affected area.

c. A survey of the number of persons who are employed on either a full-time or a less than full-time basis, and a delineation of each, by the existing retail stores in the affected area, and an estimate of the number of persons who would be employed on both a full-time or a less than full-time basis, and a delineation of each, by the proposed Large-Scale Retail Store.

d. An analysis of the short- and long-term effect the proposed Large-Scale Retail Store could have on the retail stores specified above, which shall include an analysis of the proposed Large-Scale Retail Store's potential impact on the following within the affected area: retail sales, food and beverage retail sales, store closures, jobs, small businesses, and any food and beverage retail and/or retail stores that could potentially close, including an analysis of the potential for using the closed site(s) for similar or other uses. Such analysis shall consider population trends in the affected area, as identified through census bureau data, building permits, Association of Bay Area Governments (ABAG) data, and other regional trend information. Such analysis shall also include a survey of established compensation and wages standards, including benefits, for both full and part-time employees in comparable stores operated by the applicant compared to those established in the affected area.

e. An analysis of both the short- and the long-term potential effects of the proposed Large-Scale Retail Store on retail and food and beverage retail sales in the affected area, including a conclusion as to whether the proposed Large-Scale Retail Store would cause a net increase or decrease in retail and food and beverage retail sales in the affected area.

f. A fiscal impact analysis, which shall include, but not be limited to, an analysis of the projected sales tax revenues for the proposed Large-Scale Retail Store and an analysis of both the short- and the long-term effects of the proposed Large-Scale Retail Store on net sales tax revenues generated by existing retail and food and beverage retail stores in the city and, if applicable, other tenants located in the same retail center as the existing retail and food and beverage retail stores. This analysis shall explain the

factors used in conducting the analysis. This analysis shall also analyze the fiscal impacts, if any, that the proposed Large-Scale Retail Store would have on city services, including police and fire services, public transportation, and traffic and traffic-related maintenance , to the extent that such impacts are not addressed in the environmental impact report prepared pursuant to the California Environmental Quality Act. The analysis shall also address any potential increase in demand for affordable housing and social services within the City, based upon the wage and benefit comparison undertaken under subpar t (d) above.

g. An analysis of the proposed Large-Scale Retail Store's potential short- and long-term net effect on the ability of consumers in the affected area to obtain a variety of food and beverage and retail products in light of the analysis conducted pursuant to Section _____, above, concerning potential closure of retail and/or food and beverage retail stores within the affected area.

h. An analysis of the average savings a typical consumer might expect, if any, by the approval of the proposed Large-Scale Retail Store.

3. Public Review of EIA. Upon receipt of a completed Economic Impact Analysis as described in paragraph B of this section, the Planning Department shall provide public notice of its completion. The Planning Department shall make the completed Economic Impact Analysis available for public review, including by posting it on the City's website, for a period of no less than thirty (30) days prior to any public hearing on the application for a use permit for the Large-Scale Retail Store.

4. Additional Findings. In addition to any other findings required for a use permit provided under Chapter 18.110, prior to approving a use permit for a Large-Scale Retail Store the Planning Commission, or the City Council on appeal, shall find that the Large-Scale Retail Store will not have a net adverse economic impact within the market area. Such finding shall be based on the Economic Impact Analysis described in paragraph B of this section, any public comments on the Economic Impact Analysis received during the public review period specified in paragraph B.3. of this section, and any other information submitted to and received by the Planning Department, Planning Commission, and/or City Council prior to the close of any public hearing(s) on the application.

Section _____, Superstores Prohibited.

Superstores, as defined in this Chapter, are prohibited in the City, in all zoning districts, including planned development districts.

PART III

This ordinance shall take effect and be in force thirty (30) days from and after the date of passage.

PART IV

Except as specifically set forth herein, this ordinance suspends and supercedes all conflicting resolutions, ordinances, plans, codes, laws, and regulations.

PART V

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase be declared invalid.