

**Meeting Date: 8/20/2013**

**Report Type:** Public Hearing

**Report ID:** 2013-00607

**Title: Repeal or Amendment of Superstore Ordinance (Passed for Publication 08/08/2013; Published 08/06/2013)**

**Location:** Citywide

**Issue:** The City of Sacramento Community Development Department has initiated a zoning code amendment that would repeal the superstore regulations. The code amendment would not alter the requirement for "big box" stores to obtain a conditional use permit. Two alternative ordinances have been prepared that retain and amend the superstore regulations.

**Recommendation:** Conduct a public hearing and upon conclusion, pass 1) a Resolution approving the environmental review of the superstore ordinance; and 2) an Ordinance amending Chapters 17.108, 17.216, 17.220, 17.228, and 17.440 of the Sacramento City Code, relating to superstores.

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**Department:** Community Development Dept

**Division:** Long Range Planning

**Dept ID:** 21001222

**Attachments:**

- 01-Description/Analysis
- 02-Background
- 03-Background Large Format Retail
- 04-Background Peer Jurisdictions
- 05-Resolution CEQA
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- 07-Repeal Redline
- 08-Ordinance Option A Clean
- 09-Ordinance Option A Redline
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**City Attorney Review**

Approved as to Form  
Jeffrey Heeren  
8/15/2013 9:07:46 AM

**City Treasurer Review**

Reviewed for Impact on Cash and Debt  
Russell Fehr  
8/2/2013 9:53:05 AM

**Approvals/Acknowledgements**

Department Director or Designee: Max Fernandez - 8/5/2013 2:08:57 PM

## Description/Analysis

**Issue:** Superstores are retail stores exceeding 90,000 square feet and 10 percent gross floor area devoted to non-taxable merchandise (i.e., groceries). Under current zoning regulations, a superstore requires preparation of an economic impact analysis and approval of a conditional use permit by the Planning and Design Commission. The recommended amendments would repeal the superstore regulations.

Two alternative ordinances would either a) require an economic impact analysis only for superstores proposed in certain older City neighborhoods or b) retain the existing superstore regulations citywide and provide the following criteria for exceptions to the requirement to prepare an economic impact analysis:

1. for existing retail stores that are not expanded more than 25 percent, and
2. for superstores proposed in existing Planned Unit Developments.

In either alternate option, the ordinance would eliminate the requirement for a wage and benefit analysis as a part of any required economic impact analysis.

**Policy Considerations:** The proposed ordinance is consistent with the City's goals and policies as established in the 2030 General Plan. These policies, which describe the importance of key land use and sustainability policies, include:

- **Goal ED1.1 Business Climate.** Maintain a supportive business climate and a healthy, sustainable economy that increases the City's ability to expand existing businesses and attract and retain new businesses.
- **ED1.1.3 Market Trends:** The City shall monitor industry and market trends and regularly provide current information to City policymakers and the business community.

**Economic Impacts:** Superstores (as defined by the City's Zoning Code) often provide lower wages and benefits than conventional (unionized) grocery stores. However, the unintended consequence of the ordinance has been to push superstores to neighboring jurisdictions – resulting in a leakage of sales tax revenue. Specifically, since the adoption of the City's superstore ordinance, no superstores have been approved in the City of Sacramento, while new large-format retail stores have opened just beyond the City's borders, including:

- June 2009 – Walmart @ Florin Town Center (6051 Florin Rd.)
- May 2011 – Walmart @ West Sacramento (755 Riverpoint Ct.)
- March 2013 – Walmart @ Bruceville / Whitelock (10075 Bruceville Rd.)

**Environmental Considerations:** The proposed action would alter the review procedures for certain large retail stores by eliminating the requirement for an economic impact analysis. The action would not change existing general plan, zoning or other development requirements for parcels of land within the City, and would not authorize any specific development. Future projects that would be subject to California Environmental Quality Act (CEQA) review would remain subject to such review. Economic or social effects are not treated as significant effects on the environment (CEQA Guidelines section 15131(a)) but may be considered in individual

projects under appropriate conditions, or at the discretion of the City. The action would not prevent any such consideration. Typically (in the context of environmental review), an economic impact analysis (urban decay analysis – absent a wage and benefit component) is conducted to determine whether existing retail space may become blighted as a result of a proposed new major retail facility.

It can be seen with certainty that the amendment of the ordinance would have no significant effect on the environment and is exempt pursuant to CEQA Guidelines section 15061(b)(3).

**Sustainability:** None.

**Commission/Committee Action:** On May 23, 2013, the Planning and Design Commission voted 11-1-1 to recommend approval of the proposed ordinance. On June 18, 2013, the Law and Legislation Committee voted 2-2 on two motions, resulting (pursuant to the Committee's policy) in the item moving forward with no recommendation. On August 8, 2013, staff presented an alternative ordinance that would retain the superstore regulations in the Central City and East Sacramento and exempt the rest of the City from their provisions. City Council directed staff to prepare another alternative ordinance that would set criteria for exemptions from the economic impact analysis.

**Rationale for Recommendation:** The superstore ordinance requires an economic impact analysis that includes a wage and benefit study. Staff believes that this is an onerous requirement that has resulted in no superstores being built within the City of Sacramento, while these superstores have instead located in neighboring jurisdictions that do not have these same requirements for the wage and benefit study. Repeal of the superstore regulations will help the City be more economically competitive with surrounding jurisdictions.

**Financial Considerations:** The cost estimate for implementation of the proposed superstore ordinance repeal is negligible. The fiscal impact of individual large-format retail stores can be evaluated.

**Emerging Small Business Development (ESBD):** No goods or services are being purchased as a result of this report.

## **Attachment 1 – Background**

Pursuant to Zoning Code §17.208.010 – Zoning Title Text Amendments: “Amendments to the text of this title may be initiated by the planning director, planning and design commission, or city council.” This amendment to repeal the superstore ordinance has been initiated by the Planning Director.

### **Staff’s Recommendation – Repeal of the Superstore Ordinance**

The staff’s recommendation to repeal the superstore ordinance would:

1. Eliminate the requirement (§17.228.119) for an Economic Impact Analysis. This analysis provides information about wage and benefit differentials between the proposed superstore and existing retail businesses and information about jobs and tax revenues in the City.
2. Rely upon the retail store size thresholds which generally require a conditional use permit for any store greater than 40,000 or 60,000 gross square feet; however, in the C-3 zone (Central Business District) a retail store less than 125,000 gross square feet is allowed by right.
3. Rely upon the site plan and design review process which is a discretionary action subject to CEQA.

### **Alternate Proposals – Modification of the Superstore Ordinance**

**Option A (Geographic Approach)** would modify the superstore ordinance to:

1. Retain the requirement (§17.228.119) for an Economic Impact Analysis, but would eliminate the requirement for wage and benefit analysis.
2. Restrict the applicability of the superstore provisions to specific geographic areas of the City (see map), and remove the superstore restrictions for new growth areas.



## Planning and Design Commission Hearing

On May 23, 2013, the Planning & Design Commission voted 11-1-1 to recommend approval of the original proposed ordinance to repeal the superstore regulations. The Commissioners noted:

- If the superstore provisions are repealed, the existing large-format retail store regulations would permit case-by-case review
- CEQA already requires blight analysis for very large retail development proposals
- An economic impact analysis is a valuable tool that could be required when warranted
  - The Commissioners noted that applicants should be informed early in the process when an economic impact analysis would be required
  - Perhaps the Commission could request the analysis during review and comment shortly after project application submittal
  - The cost of an economic impact analysis (even with the wage and benefit analysis) is not financially onerous
- Land use policy is not the appropriate mechanism for controlling competition or promoting union benefits (the Commission was not unanimous on this point)
- Walmart is a predatory business model that is not supportive of local business and lack of union benefits entails a taxpayer burden for health care (the Commission was not unanimous on this point)

Public testimony in favor of the repeal testified that:

- The “grocery” overlay is of limited value
- The membership exemption creates a regulatory inconsistency
- Big box stores may, in some circumstances, provide groceries to neighborhoods currently characterized as “food deserts”
- The repeal would enhance choice, reduce stifling prohibitions and restrictions, and allow private sector to respond to shifts in retail consumer patterns
- Big box stores act as anchor tenants to attract small tenants
- The repeal would bring fiscal benefit to the City and reduce sales tax leakage
- The repeal would bring construction and low-skill retail jobs to Sacramento

Public testimony opposed to the repeal testified that:

- Large format retail stores are inappropriate for the midtown / downtown grid
- Grocery stores are in over-supply – we don’t need more retailers selling groceries
- Walmart tends to move from one location to another – leaving vacant big boxes in its wake – with attendant problems of graffiti, litter, and blight
- Superstores (Walmart in particular) are multi-category-killers that limit consumer choice

## Law and Legislation Committee Hearing

On the date of June 18, 2013, after 40 minutes of discussion, the Committee voted 2-2 on two motions, resulting (per the Committee’s policy) in the item moving forward with

no recommendation. Councilmember Cohn and Chair Schenirer recommended that the City Manager and staff explore geographic options to retain the superstore provisions for specific areas of the City while allowing them in new growth areas.

## Stakeholder Meetings

Staff hosted a workshop on April 29, 2013, that was attended by approximately 100 members of the public. After a presentation of the staff proposal, members of the public provided comments.

Staff hosted a stakeholder meeting on July 8, 2013, that was attended by representatives of labor, business, and neighborhoods. A potential compromise was floated and was the basis for the updated staff recommendation. This compromise would:

1. Eliminate the requirement for the wage and benefit analysis for superstores proposed anywhere in the City
2. Retain the superstore provisions (e.g., conditional use permit and economic impact analysis) for the “heritage neighborhoods” surrounding the Central City
3. Eliminate the superstore provisions for new growth areas

While business stakeholders expressed support for the compromise, labor did not indicate an interest in the compromise and the neighborhood representatives proposed a different approach that would delegate superstore decision-making to neighborhood and business associations.

## Legislative History – Big Box and Superstores - Sacramento

[R96-072](#) Power Center and Big Box Retail Policy adopted *February 13, 1996*

The goal of the policy is to provide a balanced approach to locating power centers and free-standing big box retail development, such as the proposed Price Costco building, so as to optimize the benefits and minimize the negative impacts of these retailers on the City, the existing and planned retail uses, and on residential uses.

Site design guidelines of the policy:

- 1) Plan the center as a comprehensive unit
- 2) Design buildings at a human scale
- 3) Design the center to be as transit compatible as possible
- 4) Provide effective on-site pedestrian/ bicycle links to eliminate internal auto trips
- 5) Break up large expanses of parking with landscaping and walkways
- 6) Provide a coordinated sign program

Big box stores were defined as any retail store at least 40,000 square feet in size.

[OR2005-013](#): (M04-081) On *February 15, 2005*, the Sacramento City Council adopted an interim ordinance regulating large retail stores known as superstores. The direction of the Council was to prepare a final ordinance for review and approval. The ordinance

defined a superstore as a retail store exceeding 90,000 square feet with more than 20% of the overall square footage devoted to non-taxable sales.

[OR2006-027](#) (M04-025) adopted *April 18, 2006*, which affirmed the requirement for a special permit for a retail store exceeding 90,000 square feet but changed the threshold to 10% non-taxable sales.

[OR2007-101](#) (M07-067) adopted *December 11, 2007*, specified that superstores require conformance with footnote 81 within the Railyards Special Planning District.

[OR2013-0007](#) (LR11-006) adopted April 9, 2013, comprehensively updated the planning and development regulations, which includes recodified sections pertaining to big boxes.

### Sacramento’s Superstore Provisions – Zoning Code

On September 30, 2013, the comprehensive update of the City’s zoning code will be effective.

Under the terms of the new code, retail uses are *allowed by right below a size threshold, but require a conditional use permit when the building size exceeds these thresholds*. Site plan and design review is required, even for the by-right uses.

Code Section	Zone	Conditional Use Required when Building Exceeds
§17.216.510	SC	60,000 sq.ft.
§17.216.610	C-1	40,000 sq.ft.
§17.216.710	C-2	40,000 sq.ft.
§17.216.810	C-3	125,000 sq.ft.
§17.216.910	C-4	40,000 sq.ft.
§17.220.110	M-1	40,000 sq.ft.
§17.220.210	M-1(S)	40,000 sq.ft.
§17.310.110	M-2	40,000 sq.ft.
§17.410.110	M-2(S)	40,000 sq.ft.
§17.220.610	MRD	40,000 sq.ft.

Retail uses larger than the threshold would require a conditional use permit from the Planning and Design Commission (PDC).

Code Section	Zone	Use	Limitation	Approval Required by
§17.216.510.B.2	SC	Superstore	Subject to special use regulations in §17.228.119	PDC
§17.216.610.B.2	C-1	Superstore	Subject to special use regulations in §17.228.119	PDC
§17.216.710.B.2	C-2	Superstore	Subject to special use regulations in §17.228.119	PDC
§17.216.810.B.2	C-3	Superstore	Subject to special use regulations in §17.228.119	PDC
§17.216.910.B.2	C-4	Superstore	Subject to special use regulations in §17.228.119	PDC
§17.220.110.B.2	M-1	Superstore	Subject to special use regulations in §17.228.119	PDC
§17.220.210.B.2	M-1(S)	Superstore	Subject to special use regulations in §17.228.119	PDC
§17.220.310.B.2	M-2	Superstore	Subject to special use regulations in §17.228.119	PDC
§17.220.410.B.2	M-2(S)	Superstore	Subject to special use regulations in §17.228.119	PDC
§17.440.040.D	Sacramento Railyards SPD	Superstore	Subject to special use regulations in §17.228.119	

Under the new code, the existing provisions of the superstore ordinance are recodified as follows:

**17.228.119 Superstore.**

- A. The requirement for a conditional use permit for a superstore applies to proposals to construct a new building or structure for a superstore, and it applies to proposals to utilize an existing building or structure for a superstore.

- B. Upon submittal and acceptance of an application for a conditional use permit for a superstore, and in addition to all other requirements of this title relating to applications for conditional use permits, an Economic Impact Analysis (“EIA”) shall be prepared for the project. The EIA shall be prepared by the city or by a qualified entity or consultant selected and retained by the city, the cost of which shall be an expense of the applicant. The EIA shall not be prepared by or under the direction of the applicant.
- C. The EIA shall analyze the potential economic impacts of the proposed superstore and shall include at least the following information:
  - 1. A survey of existing retail stores in the city reasonably likely to be impacted or materially affected by the proposed superstore. A survey of the number of persons employed by existing retail stores in the city, and estimate of the number of persons who will likely be employed by the proposed superstore, and an analysis of whether the proposed superstore will result in a net increase or decrease of jobs in the city;
  - 2. A survey of the wage and benefit differentials, if any, between the proposed superstore and existing retail stores in the city;
  - 3. An analysis of the effects of the proposed superstore on retail sales and whether there will be a net increase or decrease in net retail sales in the city; and
  - 4. An analysis of the sales tax revenues that are likely to be generated by the proposed superstore, and an analysis of the effect of the proposed superstore on sales tax revenues generated by existing retail stores in the city, including an analysis of the sales tax revenues that are likely to be lost by existing retail stores in the city, either due to loss of business or from closure.
- D. The EIA shall be considered by the planning and design commission at the time of consideration of the conditional use permit application.

**17.108.200 definitions.**

“Retail store” means an establishment engaged in selling goods or merchandise to the general public for personal or household consumption or use. Goods or merchandise may be new or used. A retail store promotes itself to the general public; may buy, receive, and sell merchandise; may process or manufacture some of the products in stock, such as jewelry or baked goods; and may process articles owned by the customer, such as cleaners or shoe repair. Membership-type stores, indoor markets, bazaars, antique malls, consignment shops, thrift stores, and secondhand stores are examples of retail stores. Regulation of this use varies, depending on size of building. “Retail store” does not include superstores.

“Superstore” means a retail store with more than 90,000 gross square feet of floor area and more than 10% gross floor area devoted to the sale of non-taxable merchandise. Notwithstanding the foregoing, the term “superstore” shall exclude wholesale clubs or other establishments selling primarily bulk merchandise and charging membership dues or otherwise restricting merchandise sales to customers paying a periodic assessment or fee.

**Attachment 2 – Large Format Retail Stores****Large Format Retail Stores within 15 Mile Radius of City of Sacramento**

Store Name	Store Location
Target	2505 Riverside Blvd.
Target	2005 Town Center Plaza, West Sacramento
Target	6507 4th Ave.
Target	3601 N Freeway Blvd.
Target	1919 Fulton Ave.
Target	8101 Cosumnes River Blvd. – Strawberry Creek Centre
Target	5001 Madison Ave.
Target	10881 Olson Dr.
Target	4601 2nd Street, Davis
Target	7505 Laguna Blvd., Elk Grove
Target	5837 Sunrise Blvd., Citrus Heights

Store Name	Store Location
Walmart	755 Riverpoint Ct., West Sacramento
Walmart	3661 Truxel Rd., Sacramento
Walmart	2700 Marconi Ave.
Walmart	6051 Florin Rd.
Walmart	5821 Antelope Rd.
Walmart	7901 Watt Ave., Antelope [sells groceries]
Walmart	8961 Greenback Lane, Orangevale
Walmart	3460 El Camino Ave.
Walmart	8465 Elk Grove Blvd. (10075 Bruceville Rd.), Elk Grove
Walmart	1400 Lead Hill Blvd., Roseville
Walmart	850 Five Star Blvd., Roseville
Walmart	900 Pleasant Grove Blvd., Roseville
Walmart	Sierra College Blvd./ I-80 – Rocklin [sells groceries]
Walmart	255 Lincoln Blvd., Lincoln

*Walmart stores in the Sacramento region typically range from 120,000 sq. ft. to 180,000 sq. ft.*

#### Neighborhood Markets:

- Elk Grove - 8455 Elk Grove Blvd. (November 2012)
- Granite Bay – 4080 Douglas Blvd.
- 2700 Marconi Ave. @ Fulton (Taylor Center) – former Goore’s children’s store
- Lincoln @ Hwy 65 / 2<sup>nd</sup> Street (former Rainbow Market) – Fall 2012

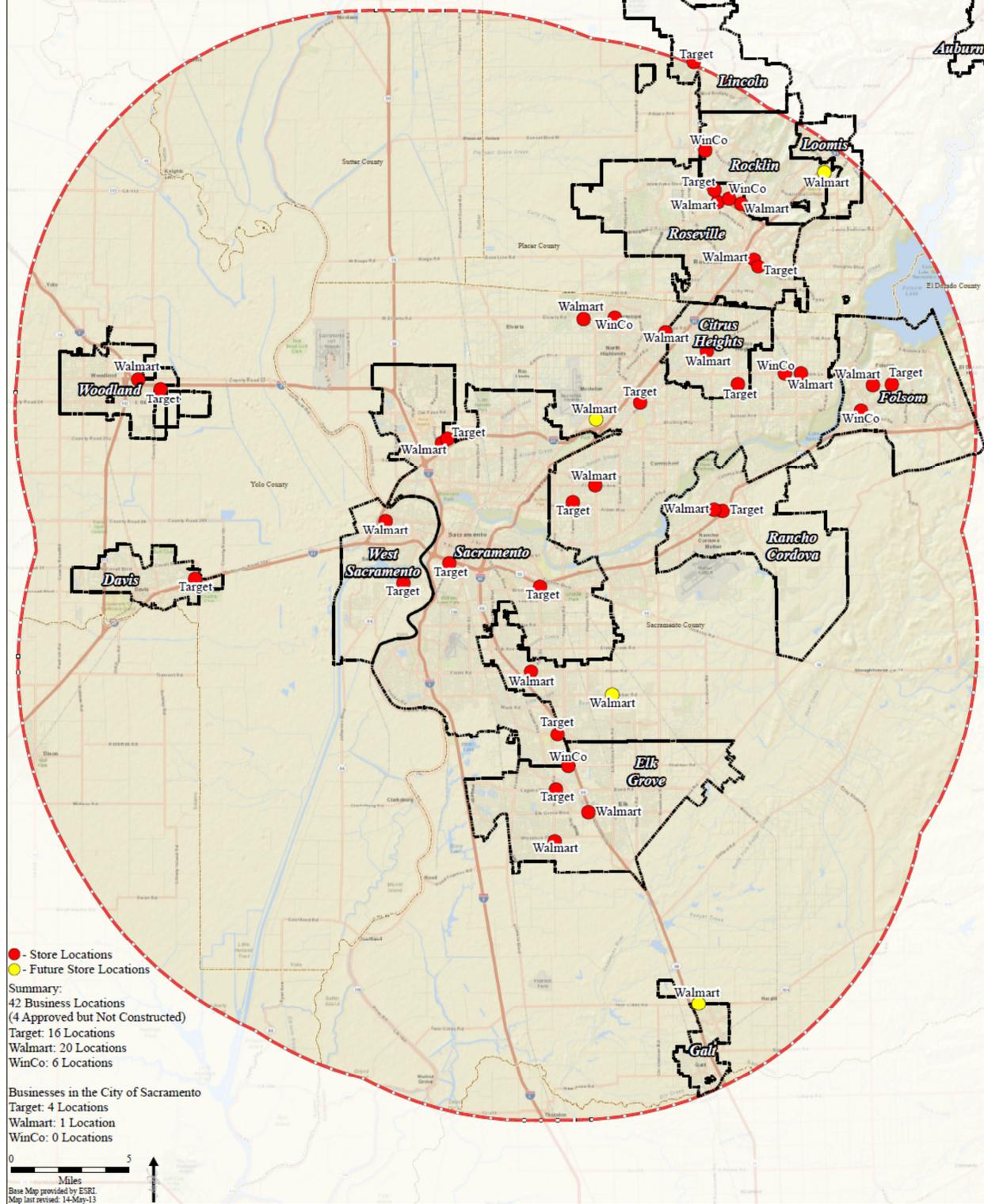
*The space of the neighborhood market formats typically devoted to grocery/non-taxable sales ranges from 30,000 to 50,000 sq. ft.*

Store Name	Store Location
Winco	8142 Sheldon Rd., Elk Grove
Winco	4137 Elverta Rd., Antelope
Winco	8701 Greenback Ln., Orangevale
Winco	200 Blue Ravine Rd., Folsom
Winco	10151 Fairway Dr., Roseville
Winco	3835 Atherton Rd., Rocklin

*The typical size of a Winco is 92,000 sq. ft – with the majority of the space devoted to the sale of non-taxable items; thus, a typical Winco would meet the City’s definition of a superstore.*

# Large-Format Retail Stores

Within 15 miles of the City of Sacramento



Attachment 3 – Peer Jurisdictions

Big Box and Superstore Legislation – Peer Jurisdictions

A. Summary – Sacramento Region

Jurisdiction	Circumstances	Regulations
	75,000-150,000 & >10% non-taxable	Requires economic / fiscal impact analysis ( <i>does not include wage &amp; benefit analysis</i> )
Sacramento County	No specific superstore provisions	
Rancho Cordova	No specific superstore provisions	
Citrus Heights	No specific superstore provisions	
Folsom	No specific superstore provisions	
Roseville	No specific superstore provisions	
West Sacramento	No specific superstore provisions	
Davis	General merchandise w/ >20% non-taxable	Requires conditional use permit if in a PUD

The following paragraphs discuss the zoning ordinance provisions, related to big box retail and/or superstores for jurisdictions within a 15-mile trade area surrounding the City of Sacramento.

1. Elk Grove

Section 23.26.015 defines a

“Retail, Superstore” as  $\geq$  75,000 square feet (but < 150,000 square feet) with  $\geq$ 10% non-taxable goods

“Retail, Superstore, Large Format” as  $\geq$  150,000 square feet with  $\geq$ 10% floor area dedicated to sale of non-taxable goods.

Chapter 23.32.030 identifies that the *large* format superstores are not permitted in any zone.

Footnote 14 requires that the superstore applicant (for a conditional use permit) shall fund special studies and analyses:

- a. A community impact analysis, which shall analyze the project design and compatibility of the proposed use with the surrounding neighborhood and the community as a whole
- b. An economic/fiscal impact analysis, which shall analyze:
  - i. The potential economic and fiscal impacts of the proposed use, both in terms of sales tax and impact on existing businesses in the community
  - ii. Whether the proposed *superstore* will result in a net increase or decrease of jobs in the City, segregated by types of jobs

- iii. The effects of the proposed *superstore* on the retail sales in the City and whether there will be a net increase or decrease in net retail sales in the City
- c. A crime analysis, which shall analyze the potential impact of the proposed use on existing police services in the City
- d. An urban decay analysis as required for preparation of the environmental impact report (EIR) under the California Environmental Quality Act, which evaluates the extent to which the proposed use would have competitive impacts on existing retail facilities in the City and thus would generate urban decay and a physical deterioration of existing retail centers in the City. In instances where an EIR is not required, the urban decay analysis shall be prepared as part of the review of the conditional use permit application.
- e. The special studies provided for herein may be included as part of the environmental document for the project or may be stand-alone documents.

**2. Rancho Cordova**

No specific superstore provisions.

**3. Citrus Heights**

No specific superstore provisions.

**4. Folsom**

No specific superstore provisions.

**5. Roseville**

No specific superstore provisions.

**6. County of Sacramento**

No specific superstore provisions.

**7. City of West Sacramento**

No specific superstore provisions.

**8. Davis**

Section 40.01.010 defines “Discount Superstore” as a general merchandise store with more than 20% of the gross floor area dedicated to non-taxable and/or grocery sales, and is subject to a conditional use permit. The Second Street Crossing Target project (137,000 square feet) applied for conditional use permit, design review, and PUD entitlements, and approvals in November 2006, and was subjected to Ballot Measure K (approved by 51.5%) which accepted Council actions. As part of the conditional use permit, the City prepared a fiscal impact report that was limited to the impact on City operating costs and revenues. The socio-economic section of the project EIR examined the economic impacts on existing businesses and commercial retail space in the City.

The study concluded that the proposed Target would capture retail sales that were otherwise leaking to adjacent jurisdictions.

## Other California Jurisdictions with Superstore Ordinances

### B. Summary – Other Jurisdictions

Jurisdiction	Circumstances	
Los Angeles	75-150 ksf & >10% non-taxable	Requires an economic impact study if within “economic assistance area” (does not include wage & benefit analysis)
Inglewood	75-150 ksf & >10% non-taxable	Requires economic / fiscal impact analysis (does not include wage & benefit analysis)
San Diego	>50 ksf (100 ksf in Central City)	<u>Development Permit Required - repealed</u>
South San Francisco	>80 ksf	Must provide surety bond to cover eventual cost of building demolition / maintenance of vacant building
Vallejo	>75 ksf w/ >10 ksf non-taxable	Requires economic / fiscal impact analysis (does not include wage & benefit analysis)
Dublin	>170 ksf & >10% non-taxable	Prohibited
Santa Clara	>150 ksf & >15% non-taxable	Prohibited
Turlock	>100 ksf & >5% non-taxable	Requires conditional use permit

### C. Los Angeles

Ordinance # 176,166, effective October 4, 2004, requires a conditional use permit for superstores, defined as retail establishments whose total Sales Floor Area exceeds 100,000 square feet and which devote more than 10% of sales floor area to the sale of Non-Taxable Merchandise. This definition excludes wholesale clubs or other establishments selling primarily bulk merchandise and charging membership dues or otherwise restricting merchandise sales to customers paying a periodic assessment fee. The Ordinance also established a requirement (§12.24.U.14(d)) that any superstore proposed to be located within an “economic assistance area” must submit an economic impact study to analyze:

- Any adverse impact or economic benefit on grocery or retail shopping centers in the Impact Area
- Physical displacement of any businesses, the nature of the displaced businesses, and whether the superstore would create economic stimulation in the Impact Area

- Demolition of housing, or any other action or change that results in a decrease of extremely low, very low, low or moderate income housing on site
- Destruction or demolition of any park or other green space, playground, childcare facility, community center
- Provision of lower in cost and/or higher in quality goods and services to residents than currently available or that are currently unavailable from a cost benefit perspective
- Jobs displaced or created (and whether the jobs are temporary or permanent, and in what employment sector)
- Fiscal impact either positive or negative on City tax revenue
- Disclosure of lease provisions which, in the event the owner or operator of the Superstore vacates the premises, would require the premises to remain vacant for a significant amount of time
- Any materially adverse or positive economic impacts or blight on the Impact Area
- Any measures available which will mitigate materially adverse economic impacts, if any, identified by the applicant, if necessary

#### **D. Inglewood**

Ordinance adopted in June 2006 established Section 12-95.5.I which was modeled on the superstore ordinance adopted by the City of Los Angeles.

#### **E. Vallejo**

Ordinance 1555 adopted in 2005 established Chapter 16.76 which provides special standards and development regulations for superstores in order to minimize the negative economic and environmental impacts associated with such superstores. Superstores are defined as >75,000 square feet gross floor area with >10,000 square feet of the gross floor area devoted to the sale of nontaxable merchandise, including but not limited to food and beverage retail sales. Superstores require a conditional use permit subject to a finding (after review of an economic impact study) that the positive economic impacts created by the proposed superstore would outweigh the negative economic impacts or, that despite any negative impacts, other considerations warrant the granting of a major conditional use permit for the superstore.

The contents of the economic impact study shall analyze the potential short- and long-term economic impacts of the proposed superstore and shall, at a minimum, include the following in the analysis:

1. A survey of the existing stores that provide retail sales and food and beverage retail sales within the city, and adjacent retail market areas that would be economically affected by the proposed superstore.
2. A survey of the existing, proposed, and/or pending superstores within the affected area.

3. A survey of the number of persons who are employed on either a full-time or a less than full-time basis by the existing retail stores, and an estimate of the number of persons who would be employed on both a full-time or a less than full-time basis by the proposed superstore.
4. An analysis of the short- and long-term effect the proposed superstore could have on the retail stores (retail sales, food and beverage retail sales, store closures, jobs, and any food and beverage retail and/or retail stores that could potentially close). Such analysis shall also include a survey of established compensation and wages standards in comparable stores operated by the applicant compared to those established in the affected area.
5. An analysis of both the short- and the long-term potential effects of the proposed superstore on retail and food and beverage retail sales in the affected area, including a conclusion as to whether the proposed superstore would cause a net increase or decrease in retail and food and beverage retail sales in the affected area.
6. A fiscal impact analysis.
7. An analysis of the proposed superstore'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
8. An analysis of the average savings a typical consumer might expect, if any, by the approval of the proposed superstore.

#### **F. South San Francisco**

Ordinance adopted in 2011 established Section 20.350.024 which required that any large format retail (any commercial center exceeding 80,000 square feet of floor area) must provide a surety bond to cover the cost of building demolition and maintenance of vacant building site if the primary building is ever vacated or abandoned.

#### **G. Dublin**

Ordinance 22-08 adopted in May 2008 established Chapter 8.42 which prohibits superstores in any zone, where a superstore means a store that exceeds 170,000 square feet of Gross Floor Area and devotes at least 10% of the total sales floor area to the sale of non-taxable merchandise.

#### **H. Santa Clara**

Ord. 1843 §2 adopted May 5, 2009 established Chapter 18.72 which prohibits superstores in all zoning districts. A superstore is defined as 150,000 square feet that designates more than 15% of the total sales floor area to the sale of nontaxable merchandise.

## **I. Turlock**

Zoning Code Section 9-3-302 (footnotes 21/22) requires a conditional use permit for >100,000 square feet of gross floor area that devotes at least 5% percent of the total sales floor area to the sale of nontaxable merchandise.

## **J. San Diego**

An ordinance adopted in 2010 established Zoning Code Section 143.0302 required that any large retail establishment of >50,000 square feet gross floor area in all commercial and industrial zones, and in all planned districts, except the Centre City Planned District, required a Neighborhood Development Permit (regulating setback, building design, landscaping); development of a large retail establishment of 100,000 or more square feet gross floor area in all commercial and industrial zones, and in all planned districts required a Site Development Permit. However, City Council subsequently repealed the ordinance after Wal-Mart obtained enough signatures to place the repeal of the ordinance on the ballot. Council did not want to fund a special election and public opinion was clearly opposed to the ordinance.

## RESOLUTION NO. 2013-

Adopted by the Sacramento City Council

On the date of \_\_\_\_\_

### APPROVING EXEMPTION FROM CEQA REVIEW FOR THE AMENDMENT OF THE SUPERSTORE ORDINANCE

#### BACKGROUND:

- A. On May 9, 2013, the City Planning and Design Commission conducted a public hearing on, and forwarded to the City Council, a recommendation to approve the Planning and Development Code.
- B. On August 8, 2013, the City Council Passed for Publication the Ordinance and on August 20, 2013, the City Council conducted a public hearing, for which notice was given pursuant Sacramento City Code Section 17.200.010(C)(2) by publication and posting, and received and considered evidence concerning the proposed ordinance amendments.
- C. The proposed action would alter the review procedures for certain large retail stores by eliminating the requirement for an economic impact analysis. The action would not change existing general plan, zoning or other development requirements for parcels of land within the City, and would not authorize any specific development. Future projects that would be subject to review under the California Environmental Quality Act (CEQA) would remain subject to such review.
- D. Economic or social effects are not treated as significant effects on the environment (CEQA Guidelines section 15131(a)) but may be considered in individual projects under appropriate conditions, or at the discretion of the City. The action would not prevent any such consideration.

#### BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. It can be seen with certainty that the adoption of the ordinance would have no significant effect on the environment and is exempt from review under the CEQA pursuant to CEQA Guidelines section 15061(b)(3).
- Section 2. The City Council directs that, upon approval of the project, the City Manager shall file a notice of exemption with the County Clerk of Sacramento County.
- Section 3. Pursuant to Guidelines section 15091(e), the documents and other materials that constitute the record of proceedings upon which the City Council has based its decision are located in and may be obtained from, the Office of the City Clerk at 915 I Street, Sacramento, California. The City Clerk is the custodian of records for all matters before the City Council.

**ORDINANCE NO. 2013-**  
Adopted by the Sacramento City Council

xxxxx, 2013

**AN ORDINANCE AMENDING CHAPTERS 17.108, 17.216, 17.220, 17.228, AND  
17.440 OF THE SACRAMENTO CITY CODE, RELATING TO SUPERSTORES**

**BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:**

**SECTION 1.**

A. The definition of “Retail store” in section 17.108.190 of the Sacramento City Code is amended to read as follows:

“Retail store” means an establishment engaged in selling goods or merchandise to the general public for personal or household consumption or use. Goods or merchandise may be new or used. A retail store promotes itself to the general public; may buy, receive, and sell merchandise; may process or manufacture some of the products in stock, such as jewelry or baked goods; and may process articles owned by the customer, such as cleaners or shoe repair. Membership-type stores, indoor markets, bazaars, antique malls, consignment shops, thrift stores, and secondhand stores are examples of retail stores. Regulation of this use varies, depending on size of building.

B. Except as specifically amended by subsection A, above, section 17.108.190 of the Sacramento City Code remains unchanged and in full force and effect.

**SECTION 2.** The definition of “Superstore” in section 17.108.200 of the Sacramento City Code is repealed.

**SECTION 3.**

A. The row for “Superstore” is deleted from each of the following Tables in chapters 17.216, 17.220, and 17.440 of the Sacramento City Code:

1. 17.216.510 B (SC zone)
2. 17.216.610 B (C-1 zone)
3. 17.216.710 B (C-2 zone)
4. 17.216.810 B (C-3 zone)

5. 17.216.910 B (C-4 zone)
6. 17.220.110 B (M-1 zone)
7. 17.220.210 B (M-1(S) zone)
8. 17.220.310 B (M-2 zone)
9. 17.220.410 B (M-2(S) zone)
10. 17.440.040 D (Railyards Special Planning District)

B. Except as specifically amended by subsection A, above, the Tables in chapters 17.216, 17.220, and 17.440 of the Sacramento City Code remain unchanged and in full force and effect.

**SECTION 4.** Section 17.228.119 of the Sacramento City Code is repealed.

**SECTION 5.** This Ordinance shall take effect on October 5, 2013.

**ORDINANCE NO. 2013-**  
Adopted by the Sacramento City Council

xxxxx, 2013

**AN ORDINANCE AMENDING CHAPTERS 17.108, 17.216, 17.220, 17.228, AND  
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B. Except as specifically amended by subsection A, above, section 17.108.190 of the Sacramento City Code remains unchanged and in full force and effect.

**SECTION 2.** The definition of “Superstore” in section 17.108.200 of the Sacramento City Code is repealed.

~~“Superstore” means a retail store with more than 90,000 gross square feet of floor area and more than 10% gross floor area devoted to the sale of non-taxable merchandise. Notwithstanding the foregoing, the term “superstore” shall exclude wholesale clubs or other establishments selling primarily bulk merchandise and charging membership dues or otherwise restricting merchandise sales to customers paying a periodic assessment or fee.~~

**SECTION 3.**

A. The row for “Superstore” is deleted from each of the following Tables in chapters 17.216, 17.220, and 17.440 of the Sacramento City Code:

1. 17.216.510 B (SC zone)

2. 17.216.610 B (C-1 zone)
3. 17.216.710 B (C-2 zone)
4. 17.216.810 B (C-3 zone)
5. 17.216.910 B (C-4 zone)
6. 17.220.110 B (M-1 zone)
7. 17.220.210 B (M-1(S) zone)
8. 17.220.310 B (M-2 zone)
9. 17.220.410 B (M-2(S) zone)
10. 17.440.040 D (Railyards Special Planning District)

B. Except as specifically amended by subsection A, above, the Tables in chapters 17.216, 17.220, and 17.440 of the Sacramento City Code remain unchanged and in full force and effect.

**SECTION 4.** Section 17.228.119 of the Sacramento City Code is repealed.

**~~17.228.119 Superstore.~~**

~~A. The requirement for a conditional use permit for a superstore applies to proposals to construct a new building or structure for a superstore, and it applies to proposals to utilize an existing building or structure for a superstore.~~

~~B. Upon submittal and acceptance of an application for a conditional use permit for a superstore, and in addition to all other requirements of this title relating to applications for conditional use permits, an Economic Impact Analysis (“EIA”) shall be prepared for the project. The EIA shall be prepared by the city or by a qualified entity or consultant selected and retained by the city, the cost of which shall be an expense of the applicant. The EIA shall not be prepared by or under the direction of the applicant.~~

~~C. The EIA shall analyze the potential economic impacts of the proposed superstore and shall include at least the following information:~~

~~1. A survey of existing retail stores in the city reasonably likely to be impacted or materially affected by the proposed superstore. A survey of the number of persons employed by existing retail stores in the city, and estimate of the number of persons who will likely be employed by the proposed superstore, and an analysis of whether the proposed superstore will result in a net increase or decrease of jobs in the city;~~

~~2. A survey of the wage and benefit differentials, if any, between the proposed superstore and existing retail stores in the city;~~

~~3. An analysis of the effects of the proposed superstore on retail sales and whether there will be a net increase or decrease in net retail sales in the city; and~~

~~4. An analysis of the sales tax revenues that are likely to be generated by the proposed superstore, and an analysis of the effect of the proposed superstore on sales tax revenues generated by existing retail stores in the city, including an analysis of the sales tax revenues that are likely to be lost by existing retail stores in the city, either due to loss of business or from closure.~~

~~D. The EIA shall be considered by the planning and design commission at the time of consideration of the conditional use permit application.~~

**SECTION 5.** This Ordinance shall take effect on October 5, 2013.

**OPTION A – GEOGRAPHIC-BASED EXCEPTIONS**

**ORDINANCE NO. 2013-xxx**

Adopted by the Sacramento City Council

xxxxx, 2013

**AN ORDINANCE AMENDING SECTION 17.228.119 OF THE SACRAMENTO CITY CODE, RELATING TO SUPERSTORES**

**BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:**

**SECTION 1.** Section 17.228.119 of the Sacramento City Code is amended to read as follows:

**17.228.119 Superstore.**

A. The requirement for a conditional use permit for a superstore applies to proposals to construct a new building or structure for a superstore, and it applies to proposals to utilize an existing building or structure for a superstore.

B. If the superstore will be located in the area depicted in exhibit A, at the end of this section, then upon submittal and acceptance of an application for a conditional use permit for a superstore, and in addition to all other requirements of this title relating to applications for conditional use permits, an Economic Impact Analysis (“EIA”) shall be prepared for the project. The EIA shall be prepared by the city or by a qualified entity or consultant selected and retained by the city, the cost of which shall be an expense of the applicant. The EIA shall not be prepared by or under the direction of the applicant. The EIA shall analyze the potential economic impacts of the proposed superstore and shall include at least the following information:

1. A survey of existing retail stores in the city reasonably likely to be impacted or materially affected by the proposed superstore. A survey of the number of persons employed by existing retail stores in the city, and estimate of the number of persons who will likely be employed by the proposed superstore, and an analysis of whether the proposed superstore will result in a net increase or decrease of jobs in the city;

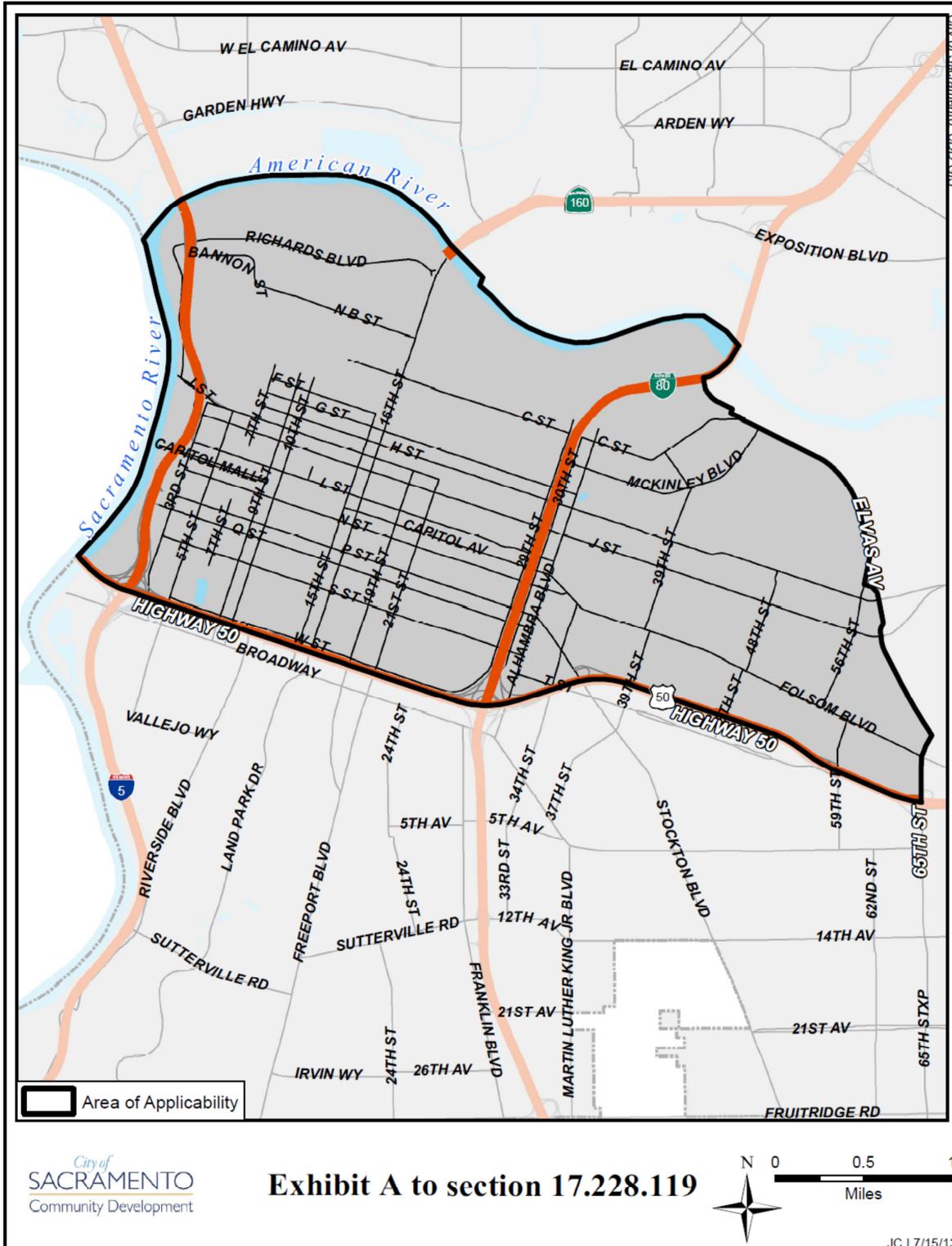
2. An analysis of the effects of the proposed superstore on retail sales and whether there will be a net increase or decrease in net retail sales in the city; and

3. An analysis of the sales tax revenues that are likely to be generated by the proposed superstore, and an analysis of the effect of the proposed superstore on sales tax revenues generated by existing retail stores in the city, including an analysis of

the sales tax revenues that are likely to be lost by existing retail stores in the city, either due to loss of business or from closure.

C. The EIA shall be considered by the planning and design commission at the time of consideration of the conditional use permit application.

### EXHIBIT A



**SECTION 2.** This Ordinance shall take effect October 5, 2013.

ORDINANCE NO. 2013-xxx

Adopted by the Sacramento City Council

xxxxx, 2013

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**17.228.119 Superstore.**

   A. The requirement for a conditional use permit for a superstore applies to proposals to construct a new building or structure for a superstore, and it applies to proposals to utilize an existing building or structure for a superstore.

   B. ~~If the superstore will be located in the area depicted in exhibit A, at the end of this section, then~~ Upon submittal and acceptance of an application for a conditional use permit for a superstore, and in addition to all other requirements of this title relating to applications for conditional use permits, an Economic Impact Analysis (“EIA”) shall be prepared for the project. The EIA shall be prepared by the city or by a qualified entity or consultant selected and retained by the city, the cost of which shall be an expense of the applicant. The EIA shall not be prepared by or under the direction of the applicant. ~~C.~~The EIA shall analyze the potential economic impacts of the proposed superstore and shall include at least the following information:

   1. A survey of existing retail stores in the city reasonably likely to be impacted or materially affected by the proposed superstore. A survey of the number of persons employed by existing retail stores in the city, and estimate of the number of persons who will likely be employed by the proposed superstore, and an analysis of whether the proposed superstore will result in a net increase or decrease of jobs in the city;

~~2. A survey of the wage and benefit differentials, if any, between the proposed superstore and existing retail stores in the city;~~

   2. An analysis of the effects of the proposed superstore on retail sales and whether there will be a net increase or decrease in net retail sales in the city; and

   34. An analysis of the sales tax revenues that are likely to be generated by the proposed superstore, and an analysis of the effect of the proposed superstore on sales tax revenues generated by existing retail stores in the city, including an analysis of

the sales tax revenues that are likely to be lost by existing retail stores in the city, either due to loss of business or from closure.

CD. The EIA shall be considered by the planning and design commission at the time of consideration of the conditional use permit application.

Exhibit A

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3. An analysis of the sales tax revenues that are likely to be generated by the proposed superstore, and an analysis of the effect of the proposed superstore on sales tax revenues generated by existing retail stores in the city, including an analysis of the sales tax revenues that are likely to be lost by existing retail stores in the city, either due to loss of business or from closure.

C. The EIA shall be considered by the planning and design commission at the time of consideration of the conditional use permit application.

D. No EIA shall be required under this section for either of the following:

1. The conversion of a retail store to a superstore, if the retail store was lawfully established prior to January 1, 2013, and the square footage of the existing building or structure is not expanded by more than 25 percent; or
2. A superstore in a planned unit development, if the planned unit development was approved prior to January 1, 2013.

**SECTION 2.** This Ordinance shall take effect October 5, 2013.

**ORDINANCE NO. 2013-xxx**

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~~3.~~ 2. An analysis of the effects of the proposed superstore on retail sales and whether there will be a net increase or decrease in net retail sales in the city; and

~~4.~~ 3. An analysis of the sales tax revenues that are likely to be generated by the proposed superstore, and an analysis of the effect of the proposed superstore on sales

tax revenues generated by existing retail stores in the city, including an analysis of the sales tax revenues that are likely to be lost by existing retail stores in the city, either due to loss of business or from closure.

~~D. C.~~ The EIA shall be considered by the planning and design commission at the time of consideration of the conditional use permit application.

D. No EIA shall be required under this section for either of the following:

1. The conversion of a retail store to a superstore, if the retail store was lawfully established prior to January 1, 2013, and the square footage of the existing building or structure is not expanded by more than 25 percent; or
2. A superstore in a planned unit development, if the planned unit development was approved prior to January 1, 2013.

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