

ORDINANCE NO. _____ (N.C.S.)

AN ORDINANCE RELATING TO LARGE-SCALE RETAIL STORES

(ZCA 2009 - ____)

WHEREAS, the Salinas Zoning Code is silent with respect to the regulation of large-scale retail stores; and

WHEREAS, large-scale retail stores over 75,000 square feet in size present unique challenges to the City of Salinas; and

WHEREAS, large-scale retail stores require an additional commitment of City resources, including life safety resources, beyond those required for smaller-sized retail uses and also create additional environmental impacts to the surrounding community, including traffic impacts on nearby neighborhoods and the discouragement of pedestrian travel thereby increasing traffic congestion; and

WHEREAS, figures from the Institute of Transportation Engineers' *Trip Generation Manual*, a compilation of traffic generation studies, show large-scale retail stores are likely to generate more traffic on a daily or weekly basis than smaller-sized retail uses, and are likely to increase the total vehicle miles traveled, with corresponding negative impacts on traffic and air quality; and

WHEREAS, industry and academic studies indicate that the establishment of large-scale retail stores over 75,000 square feet in size may have negative economic impacts on the community and on existing neighborhood-serving commercial areas by redirecting business and shifting sales away from existing neighborhood-serving commercial areas thereby causing a "ripple effect" of store closures, vacant retail spaces, increased potential for urban decay, and the deterioration of the neighborhood-serving commercial centers which they anchor; and

WHEREAS, the negative physical and environmental impacts associated with the anticipated business loss and loss of economic vitality in the City's existing neighborhood-serving commercial areas include urban and suburban blight and decay which depresses commercial and residential real property values and attracts vandalism and crime; and

[Insert findings regarding publication of notice, dates of public hearings, etc. here]

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

SECTION 1. INCORPORATION OF FINDINGS.

The City Council declares that the above findings are true and correct and the same are hereby incorporated into this ordinance.

SECTION 2. COMPLIANCE WITH CALIFORNIA ENVIRONMENTAL QUALITY ACT.

The City Council finds and determines that the adoption of this ordinance is exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15305 (Minor Alterations in Land Use Limitations) and 15308 (Actions by Regulatory Agencies for Protection of the Environment) and further finds and determines that this ordinance is exempt from further environmental analysis pursuant to Sections 15061(b)(3) (Review for Exemption).

SECTION 3. Chapter 17, Zoning, of the Salinas 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 gross floor area exceeds seventy-five thousand (75,000) square feet.

“Total gross floor area” means 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.

“Land Use Classification” means the applicable land use category contained in the most recent edition of the Institute of Transportation Engineers’ *Trip Generation* manual, or if no such classification exists, the applicable State Board of Equalization business type classification used for annual taxable sales reporting purposes.

“Long term” means a period of time longer than three years.

“Net” means the general or overall result after positive and negative factors have been weighed against each other.

“Short term” means a period of time three years or less.

“Affected area” means the combined primary and secondary trade area of a Large-Scale Retail Store.

Section ____, Conditional Use Permit Requirement For Large-Scale Retail Stores:

Any person seeking either: (i) to construct and/or operate a new Large-Scale Retail Store within the City, (ii) to expand or modify an existing business establishment such that the expanded or modified establishment is a Large-Scale Retail Store, or (iii) to modify the Land Use Classification of an existing Large-Scale Retail Store, shall first apply for and receive a conditional use permit as provided under Division 8 of Chapter 37, Zoning.

Section ____, Economic Impact Analysis Requirement For Large-Scale Retail Stores:

An applicant for a conditional use permit for a Large-Scale Retail Store shall follow the procedures for conditional use permits otherwise provided under Division 8 of Chapter 37, Zoning. In addition, the applicant shall submit to the Community Development Division 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 by the Community Development Director from a list of qualified consultants pre-approved by the City Council and updated from time to time, recommended by the Community Development 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 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, 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 Monterey Bay Area Governments (AMBAG) 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 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 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 subpart (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 retail products in light of the EIA's analysis of the potential for closure of existing 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 this section, the Community Development Department shall provide public notice of its completion. The Community Development 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 this section, any public comments on the Economic Impact Analysis received during the public review period specified in paragraph 3. of this section, and any other information submitted to and received by the Community Development Department, Planning Commission, and/or City Council prior to the close of any public hearing(s) on the application.

SECTION 4. EFFECTIVE DATE.

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

SECTION 5. NO TAKING OF PROPERTY RIGHT INTENDED.

Nothing in this ordinance shall be interpreted to affect an unconstitutional taking of the property right of any person. If the City Council determines, based on specified evidence in the administrative record, that the application of one or more provisions of this ordinance to a proposed project would affect an unconstitutional taking of a property right, the City Council shall disregard such provision or provisions to the extent necessary to avoid such unconstitutional taking.

SECTION 6. SEVERABILITY.

If any section, subsection, clause, or phrase of this ordinance is for any reason held to be invalid, such section, subsection, clause, or phrase shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed each section, subsection, clause, or phrase hereof irrespective of the fact that anyone or more sections, subsections, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTION 7.

The Salinas City Clerk is hereby directed to cause the following summary of this ordinance to be published by one (1) insertion in The Salinas Californian, a newspaper of general circulation published and circulated in the City of Salinas and hereby designated for that purpose by the Salinas City Council:

[insert City Clerk summary here]