

ORDINANCE NO. 176166

An ordinance establishing regulations of "Superstores" in "Economic Assistance Areas" in the City of Los Angeles.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Paragraph (a) of Subdivision 14 of Subsection U of Section 12.24 of the Los Angeles Municipal Code is amended to read:

(a) Definitions. For purposes of this Subdivision the following words and phrases are defined as follows:

Economic Assistance Areas means the existing geographically defined areas: Five State Enterprise Zones, Federal Empowerment Zone, Federal Renewal Community Zone, thirty-seven Community Redevelopment Agency Project Areas, and Earthquake Project Areas, and a one-mile buffer surrounding each of the above-identified zones, as identified by the Community Development Department and as shown on the "Los Angeles Economic Assistance Areas" Map, dated January 2004, which is attached to Council File No. 00-1675 S2 and is on file in the Community Development Department, and which may be amended from time to time.

Major Development Project means the construction of, the addition to, or the alteration of, any buildings or structures which create or add 250,000 square feet or more of warehouse floor area, 250 or more hotel/motel guest rooms, or 100,000 square feet or more of floor area in other nonresidential or non-warehouse uses. The above definition shall apply to the cumulative sum of related or successive permits which are part of a larger project, such as piecemeal additions to a building, or multiple buildings on a lot as determined by the Director of Planning. For the purpose of this subdivision, floor area shall be as defined in Section 12.03 of this Code.

Non-taxable Merchandise means products, commodities, or items not subject to California state sales tax. For purposes of this ordinance, the definition of non-taxable merchandise shall not include, without limitation, Sales Floor Area devoted to any of the following categories: services, including the services of a chiropractor, optometrist, optician, physician, surgeon, podiatrist, dentist, spa, gym, nail salon, and travel accommodation services; theaters and other entertainment uses; and food products sold through vending machines.

Sales Floor Area means the interior building space devoted to the sale of merchandise, but excludes restrooms, office space, storage space, automobile service areas, or open-air garden sales space. For the purpose of determining the total sales floor area of a single business establishment, the aggregate square footage of all adjacent stores that share common check stands, management of the business operation of such adjacent stores, controlling ownership interest in the business operation of such adjacent stores, warehouses, or distribution facilities shall be considered a single business establishment.

Superstore means a Major Development Project that sells from the premises goods and merchandise, primarily for personal or household use, and 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. This definition also excludes the sale or rental of motor vehicles, except for parts and accessories, and the sale of materials used in construction of buildings or other structures, except for paint, fixtures, and hardware.

Sec. 2. A new Paragraph (d) is added to Subdivision 14 of Subsection U of Section 12.24 of the Los Angeles Municipal Code to read:

(d) Superstores in Economic Assistance Areas.

(1) Additional Findings. In addition to the findings otherwise required by this Section and set forth in Paragraph (b) of this Subdivision, prior to approval of a Superstore that is located in an Economic Assistance Area, the City Planning Commission or the City Council on appeal shall find, after consideration of all economic benefits and costs, that the Superstore would not materially adversely affect the economic welfare of the Impact Area, based upon information contained in an economic impact analysis report submitted by the applicant, any other information received or obtained by the Community Development Department or the Community Redevelopment Agency, a recommendation by the Community Development Department, or the Community Redevelopment Agency pursuant to Subparagraph (3) below, and any other information received before or at a public hearing required by this Section. The phrase "Impact Area" refers to a three mile radius surrounding the proposed location of the Superstore.

(2) Procedures. An application for approval of a Superstore pursuant to this paragraph shall follow the procedures for conditional use permits otherwise required by this Section. In addition, the applicant shall prepare and submit the economic impact analysis report referenced in subparagraph (1) to the

Community Development Department or to the Community Redevelopment Agency, where appropriate, for review in conjunction with its application to the Department of Planning. The economic impact analysis report shall be reviewed by the Department or Agency and/or a consultant, if deemed necessary by the Department or Agency and paid for in full by the applicant. The Community Development Department and the Community Redevelopment Agency shall complete its review of the report within 60 days after receipt of the report from the applicant. The report shall identify whether:

(i) Efforts to establish a market larger than 20,000 square feet within the Impact Area have been unsuccessful or whether the proposed use will have an adverse impact or economic benefit on grocery or retail shopping centers in the Impact Area;

(ii) The Superstore would result in the physical displacement of any businesses, and, if so, the nature of the displaced businesses or would create economic stimulation in the Impact Area;

(iii) The Superstore would require the 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;

(iv) The Superstore would result in the destruction or demolition of any park or other green space, playground, childcare facility, community center;

(v) The Superstore would provide 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 within the Impact Area in which the project is proposed to be located;

(vi) The Superstore would displace jobs within the Impact Area or provide economic revitalization and/or job creation. For purposes of determining this impact, the applicant must identify the number of jobs displaced or created, the quality of the jobs, whether the jobs are temporary or permanent, and the employment sector in which the lost jobs are located;

(vii) The Superstore would have a fiscal impact either positive or negative on City tax revenue;

(viii) Any restrictions exist on the subsequent use of the property on which the Superstore is proposed to be located, including the provisions of a lease if applicable, 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;

(ix) The Superstore will result in any materially adverse or positive economic impacts or blight on the Impact Area; and

(x) Any measures are available which will mitigate any materially adverse economic impacts, if any, identified by the applicant, if necessary.

(3) Recommendation. The Community Development Department, or the staff of the Community Redevelopment Agency if the Superstore is proposed to be located in a redevelopment area or in the surrounding one-mile buffer zone, shall review the economic impact analysis report and, after consideration of economic benefits and costs, make a written recommendation as to whether the proposed Superstore will result in a materially adverse economic impact on the Impact Area and, if so, whether conditions are available which will mitigate the economic impact. The written recommendation, including proposed mitigation measures, if any, shall be submitted to the Department of Planning by the Community Development Department, or the staff of the Community Redevelopment Agency, as appropriate, in accordance with the written procedures on file with the Department and the Agency.

Sec. 3. **Severability.** If any provision of this Ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the invalidity shall not affect the remaining provisions of this Ordinance, which can be implemented without the invalid provisions and, to this end, the provisions of this Ordinance are declared to be severable.

(101768)

Sec. 4. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located in the Main Street lobby to the City Hall; one copy on the bulletin board located at the ground level at the Los Angeles Street entrance to the Los Angeles Police Department; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that the foregoing ordinance was introduced at the meeting of the Council of the City of Los Angeles of August 11, 2004, and was passed by a vote of not less than two-thirds of all its members, at its meeting of AUG 18 2004

J. MICHAEL CAREY, City Clerk

By *Marina Koskova*
Deputy

Approved AUG 19 2004

James Hahn
Mayor

Approved as to Form and Legality
Rockard J. Delgadillo, City Attorney

By *Terry Kaufmann Macias*
TERRY KAUFMANN MACIAS
Deputy City Attorney

Pursuant to Charter Section 559, I
disapprove this ordinance on behalf of the
City Planning Commission and recommend
it not be adopted

August 9, 2004

see attached report.

Con Howe
CON HOWE
Director of Planning

Date AUG 09 2004

File No(s). CF 00-1675-S1; CPC 2000-4247-CA

DECLARATION OF POSTING ORDINANCE

I, MARIA C. RICO, state as follows: I am, and was at all times hereinafter mentioned, a resident of the State of California, over the age of eighteen years, and a Deputy City Clerk of the City of Los Angeles, California.

Ordinance No. 176166 - Amended Paragraph (a) of Subdivision 14 of Subsection U of Section 12.24 of the L.A.M.C. to establish regulations of "Superstores" in "Economic Assistance Areas" in the City of Los Angeles - a copy of which is hereto attached, was finally adopted by the Los Angeles City Council on Aug. 18, 2004, and under the direction of said City Council and the City Clerk, pursuant to Section 251 of the Charter of the City of Los Angeles and Ordinance No. 172959, on August 25, 2004, I posted a true copy of said ordinance at each of three public places located in the City of Los Angeles, California, as follows: 1) One copy on the bulletin board at the Main Street entrance to Los Angeles City Hall; 2) one copy on the bulletin board at the ground level Los Angeles Street entrance to the Los Angeles Police Department; and 3) one copy on the bulletin board at the Temple Street entrance to the Hall of Records of the County of Los Angeles.

Copies of said ordinance were posted conspicuously beginning on August 25, 2004 and will be continuously posted for ten or more days.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 25th day of August 2004 at Los Angeles, California.


Maria C. Rico, Deputy City Clerk

Ordinance Effective Date: Oct. 4, 2004

Council File No. 00-1675-S1