

Robert E. Shannon
City Attorney of Long Beach
333 West Ocean Boulevard
Long Beach, California 90802-4664
Telephone (562) 570-2200

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDINANCE NO. ORD-06-0040

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AMENDING THE LONG BEACH
MUNICIPAL CODE BY AMENDING TABLES 32-1 AND 33-2;
AND BY ADDING SECTION 21.15.2985, RELATING TO
SUPERSTORES

WHEREAS, General Plan policies promote and encourage vital
neighborhood commercial districts that are evenly distributed throughout the city so that
residents are able to meet their basic daily shopping needs at neighborhood shopping
centers; and

WHEREAS, Section 65860 of the California Government Code requires
that a zoning ordinance be consistent with the City's General Plan; and

WHEREAS, the California Government Code also provides that in order
for the ordinance to be consistent with the General Plan, the various land uses
authorized by the ordinance should be compatible with the objectives, policies, general
land uses, and programs specified in the General Plan; and

WHEREAS, given the changes in the retail sector and the evolution
toward ever-bigger stores, it is necessary that the zoning ordinance be amended to
regulate larger retail establishments appropriately; and

WHEREAS, the Long Beach zoning ordinance (Title 21 of the Long Beach
Municipal Code) has not kept pace with the evolution of the retail sector and fails to
adequately distinguish the size, scale and scope of various retail activities; and

WHEREAS, there is an emerging national trend toward increasing the
size of retail outlets and the diversity of products offered at such large-scale discount
stores and discount superstores; and

WHEREAS, large-scale discount superstores typically combine discount

1 general merchandise and full-service grocery sales under one roof, and, while similar in
2 size to other large-scale retailers and to wholesale membership clubs, such discount
3 superstores tend to generate more intensive impacts; and

4 WHEREAS, the establishment of discount superstores in Long Beach is
5 likely to negatively impact the vitality and economic viability of the City's neighborhood
6 commercial centers by drawing sales away from traditional supermarkets located in
7 these centers; and

8 WHEREAS, industry and academic studies indicate discount superstores
9 rarely add any retail services currently not provided within a community, and that the
10 majority of sales growth at a discount supercenter comes from a direct shift of dollars
11 from existing retailers within a community, primarily from grocery stores; and

12 WHEREAS, discount superstores compete directly with existing grocery
13 stores that anchor neighborhood-serving commercial centers; and

14 WHEREAS, smaller stores within a neighborhood center rely upon the
15 foot traffic generated by the grocery store for their existence and in neighborhood
16 centers where the grocery store closes, vacancy rates typically increase and
17 deterioration takes place in the remaining center; and

18 WHEREAS, discount superstores adversely affect the viability of small-
19 scale, pedestrian-friendly neighborhood commercial areas, contributing to blight in
20 these areas; and

21 WHEREAS, the proposed zoning ordinance amendments are intended to
22 preserve the city's existing neighborhood-serving shopping centers that are located
23 within the community; and

24 WHEREAS, the city's current distribution of neighborhood shopping
25 centers provide convenient shopping and employment in close proximity to most
26 residential neighborhoods in Long Beach, consistent with the Long Beach General
27 Plan; and

28 WHEREAS, this distribution of shopping and employment creates a land

1 use pattern that reduces the need for vehicle trips and encourages walking and biking
2 for shopping, services, and employment;

3 WHEREAS, discount superstores have particularly high transportation
4 impacts because of the frequency of grocery trips combined with the overall scale of the
5 establishments, since a typical household makes 2-3 grocery-related trips weekly; and

6 WHEREAS, figures from the Institute of Transportation Engineer's *Trip*
7 *Generation* manual, a compilation of traffic generation studies, shows that discount
8 superstores are likely to generate more traffic on a daily or weekly basis than other
9 types of large stores; and

10 WHEREAS, large-scale retail stores of more than 100,000 square feet in
11 floor area that sell a large volume and variety of non-taxable grocery and pharmacy
12 items in a supermarket format significantly increase traffic volumes, strain the existing
13 street network, promote traffic intrusion into nearby neighborhoods, discourage
14 pedestrian travel, and otherwise aggravate traffic congestion; and

15 WHEREAS, numerous local jurisdictions in the country and the State of
16 California, taking all of the above considerations in mind, have enacted ordinances that
17 either completely prohibit new retail stores over a certain size or require special impact
18 studies; and

19 WHEREAS, the proposed amendments, by prohibiting large-scale
20 combined retail and grocery stores, can serve as a means for protecting Long Beach's
21 neighborhood-serving shopping centers and perpetuate the land use pattern
22 established by the City's General Plan; and

23 WHEREAS, the proposed new regulations would not affect large retail
24 establishments that do not include a sizeable grocery component ("discount clubs");
25 and

26 WHEREAS, discount superstore activities are distinguished from the
27 above-mentioned large-scale retailers because they have the potential to create
28 particularly high impacts on traffic and transportation, and on the vitality of

1 neighborhood commercial districts; and

2 WHEREAS, the proposed amendments are intended to protect grocery
3 stores in existing neighborhood centers to prevent a significant change in land use,
4 employment and traffic patterns throughout the city; and

5 WHEREAS, the proposed regulations will place stricter controls on the
6 establishment of, or conversion to large-scale combined retail and grocery stores and
7 would prevent a large-scale store with potential negative environmental impacts from
8 being established in Long Beach, but will not itself generate environmental impacts or
9 necessitate environmental review; and

10 WHEREAS, the adoption of these regulations do not approve any
11 development project nor do they disturb the physical environment either directly or
12 indirectly as the regulations modify the limitations of land use by prohibiting large-scale
13 retail business stores that exceed 100,000 square feet of gross floor area from devoting
14 more than 10% of that floor area to the sale of non-taxable (food/grocery) merchandise;
15 and

16 WHEREAS, the Planning Commission held a public hearing at a meeting
17 on July 20, 2006 for which a public notice was published in accordance with applicable
18 state and local law, and recommended the Long Beach City Council amend certain
19 sections of the Long Beach Municipal Code to establish regulations for large-scale
20 retailers; and

21 WHEREAS, the Long Beach City Council held a public hearing at a
22 regular meeting on September 19, 2006, for which a public notice was published in
23 accordance with applicable state and local law; and

24 WHEREAS, from the facts and testimony presented at the noticed public
25 hearing held on September 19, 2006, the Long Beach City Council found and
26 determined as follows:

27 1. That the proposed amendments to the Long Beach Municipal Code
28 are consistent with the General Plan; and

1 2. That the proposed amendments to the Long Beach Municipal Code will
2 implement the goals, objectives, and policies of the General Plan; and

3 3. That the proposed amendments are consistent with the purposes of
4 the Zoning Ordinance; and

5 4. That the proposed amendments to the Long Beach Municipal Code
6 are reasonably related to the public interest, and that public necessity, convenience and
7 general welfare require the proposed amendments.

8 NOW, THEREFORE, the City Council of the City of Long Beach ordains
9 as follows:

10 Section 1. The Long Beach Municipal Code is amended by adding
11 Section 21.15.2985 as follows:

12 21.15.2985 Superstore.

13 “Superstore” means a major development retail project that sells
14 from the premises goods and merchandise, primarily for personal or
15 household use, and whose total Sales Floor Area exceeds 100,000
16 square feet and which devote more than 10% of sales floor area to the
17 sale of Non-Taxable Merchandise. This definition excludes wholesale
18 clubs or other establishments selling primarily bulk merchandise and
19 charging membership dues or otherwise restricting merchandise sales to
20 customers paying a periodic assessment fee. This definition also
21 excludes the sale or rental of motor vehicles, except for parts and
22 accessories, and the sale of materials used in construction of buildings or
23 other structures, except for paint, fixtures, and hardware. The above
24 definition shall apply to the cumulative sum of related or successive
25 permits which are part of a larger project, such as piecemeal additions to
26 a building, or multiple buildings on a lot as determined by the Director of
27 Planning and Building.

28 For the purpose of this definition, “Sales Floor Area” means the

interior building space devoted to the sale of merchandise, but excludes restrooms, office space, storage space, automobile service 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.

For the purpose of this definition, "Non-taxable Merchandise" means products, commodities, or items not subject to California state sales tax. 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.

Sec. 2. Section 21.32 of the Long Beach Municipal Code is amended by amending Table 32-1 (Uses in All Other Commercial Zoning Districts) under "Retail Sales" by adding the following use:

Table 32-1

Uses in All Other Commercial Zoning Districts

Use	Neighborhood			Community				Regional	Other	
	CNP	CNA	CNR	CCA	CCP	CCR	CCN	CHW	CS	
Superstores (Retail > 100,000 sf with > 10% Floor Area non-taxable merchandise)	N	N	N	N	N	N	N	N	N	For Superstore definition see 21.15.2985

Robert E. Shannon
City Attorney of Long Beach
333 West Ocean Boulevard
Long Beach, California 90802-4664
Telephone (562) 570-2200


1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

following vote:

Ayes: Councilmembers: B. Lowenthal, S. Lowenthal, O'Donnell,
Schipske, Richardson, Reyes Uranga,
Gabelich.

Noes: Councilmembers: DeLong, Lerch.

Absent: Councilmembers: None.


City Clerk

Approved: 10/6/06


Mayor

MJM:kjm 9/14/06 #06-04186
L:\APPS\CtyLaw32\WPDOCS\ID017\PO05\00093162.WPD