

DATE ISSUED: October 6, 2000.....REPORT NO. 00-205

ATTENTION: Committee on Land Use and Housing  
Agenda of October 11, 2000

SUBJECT: Limitations on Non-Taxable Items Sold at (Big Box) Retail Outlets

### SUMMARY

THIS IS AN INFORMATION ITEM ONLY. NO ACTION IS REQUIRED ON THE PART OF THE COMMITTEE OR THE CITY COUNCIL.

### BACKGROUND

On September 20, 2000, the Committee on Land Use and Housing directed the City Attorney and City Manager to draft an ordinance (Attachment 1) which places a limit of 7.5 percent on the amount of retail floor space which a “big box” retail development (characterized as structures greater than 150,000 square feet in size) can devote to the sale of non-taxable items.

### DISCUSSION

The issue of adding specific regulations to large retail development necessitates a closer look at the economic and land use issues surrounding this policy decision such as:

- Current retail trends
- City-wide fiscal impacts
- Employment opportunities
- Impacts on small businesses
- Community revitalization
- Traffic impacts
- Infrastructure needs
- Impacts on neighborhoods
- Design issues (bulk, scale, pedestrian orientation, landscaping, etc.)

The policy issue of big box retail development has been considered in recent years by the City of San Diego’s Planning Commission. Several issues were discussed at Planning Commission workshops conducted in 1996 including retail trends, economic impacts, and design issues related to big box retail development. However, no definite policy direction on regulating big box development was provided, nor was the issue brought before the City Council or Council committees at that time. In addition, the issue of limiting the sale of non-taxable items was not discussed at that time. Attachments 2 through 4 include the Planning Commission Reports issued on this subject as well as a memorandum issued on the subject of economic impacts of big box retail development. Although the attached documentation was produced over four years ago, it may be worthwhile in providing you with background information on this subject. Attachment 5 provides a background on AB 84, a measure vetoed by Governor Davis which would have created similar restrictions on large retail development which included non-taxable

sales.

The urgency of the docketing for this item allowed staff only enough time to provide background information and the proposed ordinance language. At the discretion of the Committee, a detailed analysis, including feedback from interest groups, can be prepared and rescheduled for a later date.

However, should the Committee determine it wishes to impose a restriction on the sale of non-taxable items implementation of such an ordinance could be accomplished by the addition of a footnote to limit the floor space of non-taxable items in the Retail Sales subcategory in the Use Regulations Tables of Municipal Code Sections 131.0522 and 131.0622. For example, this approach is currently used for limiting the type of retail sales (office furniture, appliances, and equipment establishments) allowed in Commercial-Office zones to 2,500 square feet. The new footnote would apply to the Retail Sales subcategory titled "Consumer Goods, Furniture, Appliances, Equipment" that includes "uses that provide goods, large and small, functional and decorative, for use, entertainment, comfort, or aesthetics." Therefore, proposed big box retail development categorized by this subcategory would be permitted by right in the zones indicated in the Use Regulations Tables if it complied with the regulations contained in the footnote.

Respectfully submitted,

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Tina P. Christiansen, A.I.A.. .....Approved by: George I. Loveland.....  
Planning and Development Review Director.                      Assistant City Manager

HAASE/BAM...

- Attachments: 1.Draft Ordinance for Limitations on Non-Taxable Items Sold at (Big Box) Retail Outlets  
2.Planning Commission Report No. P-96-180, dated July 12, 1996  
3.Planning Commission Report No. P-96-080, dated March 15, 1996  
4.City of San Diego Memorandum dated May 7, 1996  
5.Analysis of Assembly Bill (AB) 84

Draft Ordinance for Limitations on Non-Taxable Items Sold at (Big Box) Retail Outlets

OLD LANGUAGE: ~~Strikeout~~

NEW LANGUAGE: Underlined

... (SO-xxxx-xx)

ORDINANCE NUMBER O-\_\_\_\_\_

ADOPTED ON \_\_\_\_\_

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER 13 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING ARTICLE 1, DIVISION 5, SECTION 131.0522 AND ARTICLE 1, DIVISION 6, SECTION 131.0622 RELATING TO THE LAND DEVELOPMENT CODE.

**SEC. 131.0522..Use Regulations Table of Commercial Zones**

The uses allowed in the commercial zones are shown in Table 131-05B.

**Table 131-05B  
Use Regulations Table for Commercial Zones**

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones										
	1st & 2nd	C N (1 )-	C R -	C O -	CV-	CP-						
	3rd	1-	1-	2 -	1-	1-	1 -					
	4th	1	2	3	1	1	1	2	1	2	1	
<b>Retail Sales</b>												

<b>Consumer Goods, Furniture, Appliances, Equipment</b>	<sup>(11)</sup> P	( P 1 1) 1)	( P 1 1) 1) ) ( 1 1 )	P	-	-														
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<b>Use Categories/Subcategories</b> [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	<b>Zone Designator</b>	Z o n e s																		
	1st & 2nd	C C -																		
	3rd	1 - 2 - 3 - 4 - 5 -																		
	4th	1 2 3 1 2 3 4 5	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5
<b>Retail Sales</b>																				
<b>Consumer Goods, Furniture, Appliances, Equipment</b> <sup>(11)</sup>	P	P P P P																		

Footnotes to Table 131-05B

<sup>(1)</sup> through <sup>(10)</sup> No change.

<sup>(11)</sup> For big box retail development over 150,000 square feet in size the amount of retail floor space devoted to the sale of non-taxable items shall be limited to 7.5 percent of the total gross floor area.

**131.0622 Use Regulations Table for Industrial Zones**

The uses allowed in the industrial zones are shown in Table 131-06B.

**Table 131-06B  
Use Regulations Table of Industrial Zones**

<b>Use Categories/ Subcategories</b> [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	<b>Zone designator</b>	Zon es																		

	1st & 2nd	IP-	IL-	IH-	IS-				
	3rd	1-	2-	1-	2-	3-	1-	2-	1-
	4th	1	1	1	1	1	1	1	1
<b>Retail Sales</b>									
<b>Consumer Goods, Furniture, Appliances, Equipment</b>	-	-	-	( <sup>2</sup> P ,15 )	( <sup>15</sup> P )	-	-	( <sup>3</sup> P ,15 )	

Footnotes for Table 131-06B

(1) through <sup>(14)</sup> No change.

<sup>(15)</sup> For big box retail development over 150,000 square feet in size the amount of retail floor space devoted to the sale of non-taxable items shall be limited to 7.5 percent of the total gross floor area.

ATTACHMENT #2  
PLANNING COMMISSION REPORT NO. P-96-180, DATED JULY 12, 1996

(Hard Copy available for public review at the City Clerk's Office)

ATTACHMENT #3  
PLANNING COMMISSION REPORT NO. P-96-080, DATED MARCH 15, 1996

(Hard Copy available for public review at the City Clerk's Office)

ATTACHMENT #4  
CITY OF SAN DIEGO MEMORANDUM DATED MAY 7, 1996

(Hard Copy available for public review at the City Clerk's Office)



ATTACHMENT #5  
ANALYSIS OF ASSEMBLY BILL (AB) 84

(Hard Copy available for public review at the City Clerk's Office)