

Summary of CEQA Determinations in Other Jurisdictions

Staff contacted six jurisdictions that have passed ordinances regulating large retail establishments to determine what type of environmental review was used. Five of the jurisdictions determined the ordinances to be exempt from environmental review and one jurisdiction performed a negative declaration. Wal-Mart sued two of the jurisdictions, Alameda County and City of Turlock for CEQA violation, among other issues. Alameda County chose to repeal its ordinance and submit it to the Planning Commission for review, re-adoption is likely. In December of 2004, a Stanislaus County Superior Court judge upheld the City of Turlock's ordinance and all of the CEQA exemptions used except for 15061(b)(3).

Alameda County's ordinance employs a size cap and a limit on the percentage of sales floor area dedicated to non-taxable goods. The County used General Rule 15061(b)(3) to exempt the ordinance from CEQA.

Turlock's ordinance prohibits large-scale retail business stores that exceed 100,000 square feet of gross floor area from devoting more than 5% of that floor area to the sale of non-taxable (food/grocery) merchandise. The City used CEQA Guidelines Sections 15378, 15168(2), 15183, 15061(b)(3), and 15305 to exempt the ordinance.

Contra Costa County's ordinance prohibited retail businesses that exceeded 90,000 square feet from devoting more than 5% of floor area to non-taxable items. The County used exemptions 15305 for minor alterations in land use limitations. The ordinance was repealed in a referendum in March of 2004.

City of Los Angeles' ordinance was approved on August 19, 2004. The ordinance became effective in October of 2004. Los Angeles has different CEQA guidelines from other California jurisdictions and in this case a categorical exemption was applied.

Santa Maria's ordinance, passed in 1997, prohibits commercial uses exceeding ninety thousand (90,000) square feet of gross floor area, from devoting more than 8% of the total gross floor area to non-taxable merchandise. The City filed a negative declaration for the ordinance.

The City of Oakland's ordinance prohibits retail stores over 100,000 square feet and from using more than 10% of their sales floor area for non-taxable items in some zones. Our information indicates that General Rule 15061 was used to exempt the ordinance from CEQA process.

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