

DRAFT SKU Ordinance Proposal

Ordinance Number XXX

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO
AMENDING CHAPTER 13 BY AMENDING ARTICLE 1, DIVISION 5, AND BY
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AMENDING ARTICLE 1, DIVISION 5, RELATING TO THE LAND
DEVELOPMENT CODE**

WHEREAS, the City Council finds that development in San Diego of the sort of “superstores” built in other areas of the nation would undermine the existing plans for encouraging small businesses and encouraging pedestrian-oriented development; and

WHEREAS, grocery sales generate more vehicle trips than any other kind of retail use, yet the existing Land Development Code allows such facilities to be built on an unlimited scale, thereby threatening to cause traffic congestion; and,

WHEREAS, the City already has a significant number of retail vacancies, so to allow massive new superstores is likely to cause the deterioration or abandonment of existing stores, especially neighborhood-oriented stores; and,

WHEREAS, the lack of sales tax revenues from grocery sales leaves the City with no assurances that superstore development would generate sufficient City revenues to offset the negative impacts of such stores on the surrounding community; and,

WHEREAS, adoption of the proposed code amendment would not have a significant affect on the environment, as action on the regulatory amendment is categorically exempt from CEQA pursuant to State Guidelines Section 15061(b); now therefore,

BE IT ORDAINED by the Council of the City of San Diego as follows:

Section 1. That Chapter 14, Article 1, Division 5, of the San Diego Municipal Code is amended by adding Section 141.0505, to read as follows:

DRAFT

Sec. 141.0505 Food, Beverage, and Groceries

Food, Beverages and Groceries are permitted as a limited use in the zones indicted with an "L" in the Use Regulation Tables in Chapter 13, Article 1 (Base Zones), subject to the following limitations:

- (a) No Food, Beverage, or Groceries facility shall be established or enlarged if such facility would contain more than 90,000 square feet and more than 30,000 Stockkeeping Units (SKU) and more than 10 (ten) percent of its gross sales revenues would come from non-taxable items.
- (b) The owner of a Food, Beverage, or Groceries facility containing more than 90,000 square feet and 30,000 SKU's approved on or after October 15, 2002 shall annually file a report with the City specifying the percent of gross sales from non-taxable merchandise during the previous year.

Section 2. That Chapter 13, Article 1 (Base Zones) be amended by amending the Use Regulations Table thereof to redesignated Food, Beverage, or Groceries as a limited use ("L") instead of a permitted use ("P").

Section 3. Should any provisions or application of this Ordinance be invalidated by a court of law, it shall be severed and have no impact on the remainder of the ordinance. In the event of any legal challenge to this ordinance the courts are hereby authorized to reform the terms of this Ordinance, including, if necessary, substituting "groceries" for "non-taxable items" in Section 1. To the extent any provisions or application of this Ordinance are deemed inconsistent with any prior provisions of the Code, the latter are hereby amended to eliminate such inconsistencies, and to such end the courts shall have the power to reform the prior provisions.

Section 4. That a full reading of this Ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 5. This Ordinance shall take effect and in force on the thirteenth day from and after its passage.