

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

TO THE HONORABLE CITY CLERK OF THE CITY OF SAN BUENAVENTURA (VENTURA):

We, the undersigned, registered qualified voters of the City of San Buenaventura (“Ventura”), County of Ventura, hereby propose an initiative measure to amend the Ventura Municipal Code. We petition you to submit this initiative measure to the City Council of the City of Ventura for adoption without change, or for submission to the voters of the City at a general election unless signatures equal to or in excess of 15% of the registered voters of the City are submitted, in which case if the City Council does not immediately adopt this initiative measure without change, we petition you to submit this initiative measure to the voters at a special election called according to law.

THE FULL TEXT OF THE INITIATIVE MEASURE IS AS FOLLOWS:

The people of the City of San Buenaventura do hereby ordain as follows:

SECTION I. PURPOSE AND FINDINGS

A. The unique character of the City of San Buenaventura (the “City”) as a quaint beach city is cherished by its residents and sought out by tourists world-wide. Residents of Ventura perceive the City as a community of homes and local businesses where grown children are eager to return to raise their families.

B. As shown in a scholarly study recently published in the Journal of Urban Economics, the opening of a specific type of large retail establishment in a community reduces county-level retail employment by about 150 workers and causes decline in county-level retail earnings of about \$1.4 million.

C. Uncontrolled development of large retail establishments would permanently alter the character of the City and threaten the public health, safety, and welfare by causing increased traffic congestion, associated air pollution, noise, local small business closures, financial degradation and blight. These effects would permanently degrade the quality of life experienced by Ventura residents.

D. The reoccupation of existing large retail establishments typically results in the previous use being intensified, expanded and/or extended in some way. This change of use, when it involves the hiring of more employees and/or employees compensated at lower pay scales, can often have a detrimental financial and quality-of-life effect on the community such as demand for affordable housing, increased traffic, and impacts to other businesses.

E. Local businesses within the City and its sphere of influence contribute to the community’s health and welfare by providing unique and profitable employment, shopping, and general commercial opportunities. Local small businesses are dependent on local markets. By limiting the development of large retail establishments that sell non-taxable items, the City would minimize the negative impacts to the City’s small town character, minimize the generation of additional traffic, lessen burdens on local law enforcement, minimize detrimental alteration of existing land use patterns, and minimize the potential blighting effects on neighborhood commercial areas throughout the City.

F. The purpose and intent of this initiative measure is to amend the Ventura Municipal Code by the addition of a new ordinance designed to establish principles for the sale of non-taxable goods in large retail establishments that will preserve, enhance, and maintain the special quality of life valued by this community, including the protection of jobs and local small businesses so that future development within the City will occur in a way that promotes the social and economic well-being of the entire community.

G. The limitations on the total amount of floor area devoted to the sale of non-taxable merchandise for any retail establishment exceeding 90,000 square feet of total area set forth in this initiative measure for the City are reasonable and appropriate. These limitations and regulations relating to growth within the City are intended to provide for appropriate management of City resources.

H. If adopted, this initiative measure will continue to allow sufficient development of commercial square footage consistent with land designations and zoning within the City and its sphere of influence as they currently exist and as they are amended by this measure.

SECTION II. SUBSTANTIVE MUNICIPAL CODE AMENDMENT

To achieve the purpose of this measure, the Ventura Municipal Code is hereby amended by the addition of Chapter 24.402 reading in its entirety as follows:

“Chapter 24.402: Superstore Regulations

Section 24.402.010. Definitions.

1. “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.

2. “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 interests in business operation of such adjacent stores, warehouses, or distribution facilities shall be considered a single business establishment.

3. “Superstore” means a major development retail project that sells from the premises goods and merchandise, primarily for personal or household use, and whose total Sales Floor Area exceeds ninety thousand (90,000) square feet and which devotes more than three percent (3%) 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. 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 Community Development Director.

Section 24.402.020. Superstores prohibited.

Superstores shall not be permitted in any zone within the City’s corporate boundaries or sphere of influence; provided, however, that any Superstore that is open and operating as of January 1, 2008 shall be considered a nonconforming use and shall be permitted to continue operation subject to the provisions of Chapter 24.465.040.

A reuse/re-occupancy of a nonconforming Superstore shall be deemed to be a per se “intensified, expanded or extended” use under Chapter 24.465.040 if there is any evidence that it will, in relation to the prior nonconforming use, result in any of the following: involve the hiring of employees compensated at lower pay scales; increased demand for affordable housing; increased traffic and circulation impacts; and/or increased impacts to other businesses.”

SECTION III. IMPLEMENTATION

A. On the effective date of this initiative measure as provided by California law (the “Effective Date”), all provisions of the foregoing ordinance set forth in Section II of this initiative measure are inserted into and become part of the Ventura Municipal Code.

B. No provision of the Ventura Municipal Code that is inconsistent with this initiative measure shall be enforced after the Effective Date.

C. Except as provided in Section IV below, any amendment to the Ventura Municipal Code adopted after January 1, 2008, that is inconsistent with this initiative measure is hereby repealed and declared null and void as of the Effective Date of this initiative measure.

D. Except as provided in Section IV below, upon the Effective Date, all general plan amendments, re-zonings, specific plans, tentative or final subdivision maps, parcel maps, conditional use permits, building permits or other ministerial or discretionary entitlements for use, shall not be approved or issued unless consistent with the policies and provisions of this initiative measure.

SECTION IV. NO UNCONSTITUTIONAL TAKING

A. This initiative measure is not intended, and shall not be applied or construed to authorize the City to exercise its powers in a manner which will take private property for public use without the payment of just compensation, but shall be interpreted, applied and implemented so as to accomplish its purposes to the maximum constitutionally permissible extent without requiring payment of compensation.

B. If application of this initiative measure to a specific property of record as of the Effective Date would create a taking, then the City Council may, upon application by the landowner, allow additional density or uses on such property, upon findings that the level of additional development permitted is the

minimum necessary to avoid a taking, and no lesser level of development would be sufficient to avoid a taking.

SECTION V. SEVERABILITY

A. In interpreting this initiative measure or resolving any ambiguity thereof, the City Council and all other City entities charged with implementing or enforcing this initiative measure or any part of it, as well as any reviewing court, shall interpret this initiative measure in the manner which most vigorously and effectively accomplishes its purposes and operative provisions.

B. If any portion of this initiative measure is hereafter determined to be invalid by a court of competent jurisdiction, all remaining portions of this initiative measure shall remain in full force and effect. Each section, subsection, sentence, phrase, part or portion of this initiative measure would have been adopted and passed irrespective of the fact that any one or more sections, subsections, sentences, phrases, parts or portions be declared invalid or unconstitutional.

SECTION VI. AMENDMENT AND REPEAL

This initiative measure and all of its provisions may be amended or repealed only by a majority vote of the electorate.