

RESOLUTION NO. 2004-149

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LODI, CALIFORNIA, SETTING PRIORITIES FOR FILING (A) WRITTEN ARGUMENT(S) REGARDING A CITY MEASURE AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS

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WHEREAS, a General Municipal Election is to be held in the City of Lodi, California, on Tuesday, November 2, 2004, at which there will be submitted to the voters the Large-Scale Retail Initiative (text of the proposed ordinance attached as Exhibit A).

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LODI, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. That the City Council authorizes all members of the City Council to file (a) written argument(s) In Favor of or Against City measure, accompanied by the printed name(s) and signature(s) of the person(s) submitting it, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California and to change the argument until and including the date fixed by the City Clerk, after which no arguments for or against the City measure may be submitted to the City Clerk.

SECTION 2. That the City Council directs the City Clerk to transmit a copy of the measure to the City Attorney who shall prepare an impartial analysis of the measure showing the effect of the measure on the existing law and the operation of the measure. The impartial analysis shall be filed by the date set by the City Clerk for the filing of primary arguments.

SECTION 3. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

Dated: July 21, 2004

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I hereby certify that Resolution No. 2004-149 was passed and adopted by the City Council of the City of Lodi in a regular meeting held July 21, 2004, by the following vote:

AYES: COUNCIL MEMBERS – Beckman, Hitchcock, Land, and  
Mayor Hansen

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – Howard

ABSTAIN: COUNCIL MEMBERS – None

  
SUSAN J. BLACKSTON  
City Clerk

# EXHIBIT A

## LARGE-SCALE RETAIL INITIATIVE (Text of Proposed Ordinance)

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### SECTION 1. Purpose and Findings.

A. **Purpose.** The purpose of this Initiative is to protect and preserve the existing community character and fabric, and promote the continuation of neighborhood/community commercial centers and the downtown commercial center. Also, the purpose of this Initiative is to ensure that the purposes and principles set forth in the City of Lodi's General Plan are fully considered by establishing sensibly scaled retail development and maintenance of the City of Lodi's unique character. This action recognizes that large-scaled retail stores affecting the city shall be subject to approval by the City Council and a public vote.

B. **Findings.** The people of the City of Lodi find that regulating size and bulk of retail stores, through this Initiative, promotes the welfare, economy, and quality of life of the residents of Lodi, based upon the following:

1. **Regulating Scale of Retail Stores Protects the Unique Character and Quality of Life in Lodi.**

An important component of the City of Lodi is maintaining its unique character. Lodi's small-town and rural qualities are a valuable trait of the town. Large-scale retail stores detract from the community's character and aesthetics. Large retail stores are usually located some distance away from residential neighborhoods because they require large sites, which are usually found only in zones outside of the downtown area. Large-scale retail often consists of long, plain facades, a sea of parking, and sparse landscaping.

The unique character of the City of Lodi and the quality of life enjoyed by City residents and visitors depend on the protection of the small-town and rural qualities. The protection of such attributes aids the continued viability of the city and brings mental and physical benefits from the broad protection of Lodi residents' quality of life.

2. **Strengthening Lodi's Economy.**

It is important to have sensibly scaled retail stores in order to continue to strengthen and sensibly develop Lodi's existing economy. Lodi has a number of shopping centers providing the community with merchandise and services. Large-scale retail stores affect existing shopping centers by causing the existing stores to go out of business, thus destabilizing the shopping centers, and leaving empty, boarded-up buildings, which increase crime and blight. The surrounding area loses the merchandise and services offered by the existing businesses. Sometimes a large-scale retail company will close down an existing store, and replace it with a superstore, which also results in a large, empty store.

3. **Ensuring Adequate Public Services for the City.**

There are negative impacts to not having sensibly scaled retail stores, including safety. Large-scale retail stores require significantly higher commitment of police, fire, and public safety resources compared to smaller neighborhood stores.

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Usually large-scale stores fail to provide provisions for the pedestrians entering the store. It is often dangerous even to walk from the parking lot to the entrance of the store, with cars driving and maneuvering in the very large parking area. The larger stores usually involve longer trips and generate more traffic in a concentrated area, and thus require improved street capacity in their immediate neighborhoods. The elderly, handicapped, and poor, who may not have access to larger retail stores because they are located at greater distances away from their neighborhoods due to the large land acquisition requirements of the larger retail stores.

C. **Effect of Initiative.** To achieve the above-stated purposes, this Initiative would amend the City of Lodi's Ordinance and General Plan to establish a limit on large-scale retail stores that exceed 125,000 square feet of gross floor area. Also, it would require that any large-scale retail project proposal containing commercial retail structures that exceed 125,000 square feet of gross floor area be subject to approval by the City Council and a public vote in the next general election.

Exhibits. This Initiative does not have any exhibits attached, but relies upon the design standards for large-scale stores recently adopted by the City.

## SECTION 2. Zoning Ordinance and General Plan Amendments

WHEREAS, the Lodi General Plan establishes a policy framework that forms the City of Lodi's strategy for retail; and

WHEREAS, the Lodi General Plan and Zoning Ordinance recognize distinct types of shopping centers such as neighborhood/community commercial; general commercial; commercial shopping center; and downtown commercial; and

WHEREAS, the Lodi General Plan establishes policies encouraging promoting downtown Lodi as the City's social and cultural center and an economically viable retail and professional office district, it promotes locating future commercial retail in downtown Lodi and preserving the existing small-town scale and character of Lodi; and

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, 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, the Lodi Zoning Ordinance (Title 17 of the Lodi 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, an emerging national trend exists toward increasing the size of retail stores and the diversity of products offered at such large-scale retail stores; and

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WHEREAS, the establishment of large-scale retail stores in Lodi is likely to negatively impact the vitality and economic viability of the city's neighborhood community commercial and downtown commercial centers by drawing sales away from traditional retail stores located in these centers; and

WHEREAS, large-scale retail stores adversely affect the viability of small-scale, pedestrian-friendly neighborhood commercial areas, contributing to blight in these areas; and

WHEREAS, given the city's current population of 60,000, there are currently adequate retail stores to support the market for large-scale retail; and

WHEREAS, the proposed amendments to the Zoning Ordinance and General Plan are intended to preserve the city's existing neighborhood-serving shopping centers that are centrally located within the community; and

WHEREAS, this distribution of shopping and employment creates a land use pattern that reduces the need for vehicle trips and encourages walking and biking for shopping, services, and employment; and

WHEREAS, significant concern with large-scale retail stores is that they combine neighborhood-serving retail in a more remote, regional-serving retail center, which would result in the decline of neighborhood-serving retail stores by consolidating their activity in a single, outlying location; and

WHEREAS, the remote location of large-scale retail stores means that local residents are forced to drive further for basic services such as groceries, and are forced to take longer and more frequent traffic trips to the regional commercial center to satisfy basic everyday needs, increasing overall traffic and overburdening streets that were not designed to accommodate such traffic; and

WHEREAS, the proposed amendments to Lodi's Zoning Ordinance and General Plan, by limiting large-scale retail stores, will prevent the negative transportation and related air quality impacts that establishment of such stores is likely to have; and

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

WHEREAS, California jurisdictions that have recently enacted such regulations to help sustain the vitality of small-scale, more pedestrian-oriented neighborhood shopping districts include the cities of Turlock, Santa Maria, San Luis Obispo, Arroyo Grande, Oakland, and Martinez; and

WHEREAS, a potential discount superstore would directly contravene the approach the city's General Plan established for retail; and

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

WHEREAS, the adoption of these regulations does not approve any development project nor does it disturb the physical environment either directly or indirectly as the regulations modify the limitations of land use by limiting large-scale retail stores that exceed 125,000 square feet of gross floor area and require such projects be approved by the City Council and the citizens' votes in the next general election; and

WHEREAS, requiring voter approval of land use development of large-scale retail stores that exceed 125,000 square feet of gross floor area will ensure opportunities for full public participation in decisions affecting future land use, quality of life, and character of the City of Lodi.

NOW, THEREFORE, the City of Lodi hereby ordains that: The Lodi Zoning Ordinance (Title 17 of the Lodi Municipal Code, Districts and Map) is amended by the addition of 17.06.050(D), which shall read as follows:

Retail structures in any district established by this title shall not exceed 125,000 square feet in gross floor area unless approved by the City Council and the voters in the next general election. The City shall not submit any application for a retail structure in excess of 125,000 square feet in gross floor area to the voters if the application has not first been approved by the City Council, unless otherwise required by law. If, after compliance with the California Environmental Quality Act and any other applicable laws, the City Council approves and certifies the environmental impact report for a retail structure in excess of 125,000 square feet in gross floor area in any district established by this title, the project shall not become effective until approval by public vote in the next general election. For the purposes of this subsection, the term "gross floor area" shall include outside retail areas.

The Lodi Zoning Ordinance (Title 17 of the Lodi Municipal Code) is further amended by the addition of the following Sections 17.36.035, 17.36.036, 17.39.035, 17.39.036, 17.30.045, 17.30.046, which include but shall not be limited to these applicable districts.

The Lodi Zoning Ordinance (Title 17 of the Lodi Municipal Code) is further amended by the addition of Section 17.36.035, which shall read as follows:

Retail structures in the C-1 district shall not exceed 125,000 square feet in gross floor area unless approved by the City Council and the voters in the next general election. The City shall not submit any application for a retail structure in excess of 125,000 square feet in gross floor area to the voters if the application has not first been approved by the City Council, unless otherwise required by law. If, after compliance with the California Environmental Quality Act and any other applicable laws, the City Council approves and certifies the environmental impact report for a retail structure in excess of 125,000 square feet in gross floor area in any district established by this title, the project shall not become effective until approval by public vote in the next general election. For the purposes of this subsection, the term "gross floor area" shall include outside retail areas.

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The Lodi Zoning Ordinance (Title 17 of the Lodi Municipal Code) is further amended by the addition of Section 17.39.035, which shall read as follows:

Retail structures in the C-2 district shall not exceed 125,000 square feet in gross floor area unless approved by the City Council and the voters in the next general election. The City shall not submit any application for a retail structure in excess of 125,000 square feet in gross floor area to the voters if the application has not first been approved by the City Council, unless otherwise required by law. If, after compliance with the California Environmental Quality Act and any other applicable laws, the City Council approves and certifies the environmental impact report for a retail structure in excess of 125,000 square feet in gross floor area in any district established by this title, the project shall not become effective until approval by public vote in the next general election. For the purposes of this subsection, the term "gross floor area" shall include outside retail areas.

The Lodi Zoning Ordinance (Title 17 of the Lodi Municipal Code) is further amended by the addition of Section 17.30.045, which shall read as follows:

Retail structures in the C-S district shall not exceed 125,000 square feet in gross floor area unless approved by the City Council and the voters in the next general election. The City shall not submit any application for a retail structure in excess of 125,000 square feet in gross floor area to the voters if the application has not first been approved by the City Council, unless otherwise required by law. If, after compliance with the California Environmental Quality Act and any other applicable laws, the City Council approves and certifies the environmental impact report for a retail structure in excess of 125,000 square feet in gross floor area in any district established by this title, the project shall not become effective until approval by public vote in the next general election. For the purposes of this subsection, the term "gross floor area" shall include outside retail areas.

The Lodi Zoning Ordinance (Title 17 of the Lodi Municipal Code) is further amended by the addition of Sections 17.36.036, 17.39.036, 17.30.046, and 17.06.051, which shall read as follows:

Nothing in this Chapter shall give the City Council the authority to grant a variance from the provisions of 17.36.035, 17.39.035, 17.30.045, and 17.06.050(D) relating to the maximum size of retail structures in any district established by this title, including but not limited to the C-1, C-2, and C-S Districts.

The Lodi General Plan is amended by the addition of Policy 7 to Goal A, which shall read as follows:

The City shall promote preservation of Lodi's small-town and rural qualities by ensuring that retail structures in excess of 125,000 square feet in gross floor area in any land use designation are approved by the City Council and a public vote in the next general election.

The Lodi General Plan is further amended by the addition of Policy 6 to Goal D, which shall read as follows:

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The City shall promote and support Lodi's downtown development by ensuring that retail structures in excess of 125,000 square feet in gross floor area in any land use designation are approved by the City Council and a public vote in the next general election.

The Lodi General Plan is further amended by the addition of Policy 7 to Goal E, which shall read as follows:

The City shall support commercial use development to provide goods and services to Lodi residents and market area by ensuring that retail structures in excess of 125,000 square feet in gross floor area in any land use designation are approved by the City Council and a public vote in the next general election.

The City of Lodi's General Plan is hereby amended to add the following implementing Policy, Policy 17, to read as follows:

The City shall prepare and implement the requirement for City Council and public voter approval of retail structures in excess of 125,000 square feet in gross floor area in any district established by Lodi's General Plan and Zoning Ordinance.

## SECTION 3. Implementation.

A. **Effective Date.** As provided in Elections Code section 9217, this Initiative shall take effect ten days after the date on which the election results are declared by the City Council. Upon the effective date of this Initiative, the provisions of Section 2 of this Initiative are hereby inserted into the City of Lodi's Planning and Zoning Code and General Plan as an amendment thereof.

B. **Interim Amendments.** The City of Lodi's Zoning Code in effect at the time the Notice of Intent to circulate this Initiative was submitted to the City of Lodi Elections Official on April 16, 2004 ("Submittal Date"), and the ordinances as amended by this Initiative, comprise an integrated, internally consistent, and compatible statement of policies for the City of Lodi. In order to ensure that the City of Lodi's Planning and Zoning remains an integrated, internally consistent, and compatible statement of policies for the City as required by state law and to ensure that the actions of the voter in enacting this Initiative are given effect, any provision of the Planning and Zoning Code that is adopted between the Submittal Date and the date that the Planning and Zoning Code is amended by this measure shall, to the extent that such interim-enacted provision is inconsistent with the Planning and Zoning Code provisions adopted by Section 2 of this Initiative, be amended as soon as possible and in the manner and time required by state law to ensure consistency between the provisions adopted by this Initiative and other elements of the City's Planning and Zoning Code.

C. **Other City Ordinances and Policies.** The City of Lodi is hereby authorized to amend the Planning and Zoning Code, other ordinances, the General Plan, and policies affected by this Initiative as soon as possible and in the manner and time required by any applicable state law to ensure consistency between goals, objectives, and policies adopted in Section 2 of this Initiative and other elements of the City's Planning and Zoning Code, General Plan, all community and specific plans, and other City ordinances and policies.

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## SECTION 4. Exemptions for Certain Projects.

This Initiative shall not apply to any of the following: (1) any project that has obtained as of the effective date of the Initiative a vested right pursuant to state or local law; (2) any land that, under state or federal law, is beyond the power of the local voters to affect by the initiative power reserved to the people via the California Constitution.

## SECTION 5. Elections.

Except for the renewal or repeal of this Article, any direct or indirect costs to the City of Lodi caused by the elections mandated by this Article shall be borne by the applicants for the large-scale development project in excess of 125,000 square feet, unless otherwise prohibited by state law.

Elections mandated by this Article shall be consolidated with other elections, whenever feasible. Different proposals may appear on the same ballot at the same election provided that each separate proposal affecting a discrete property or development project shall be submitted to the voters as a separate measure.

## SECTION 6. Severability and Interpretation.

This Initiative shall be interpreted so as to be consistent with all federal and state laws, rules, and regulations. If any section, sub-section, sentence, clause, phrase, part, or portion of this Initiative is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Initiative. The voters hereby declare that this Initiative, and each section, sub-section, sentence, clause, phrase, part, or portion thereof would have been adopted or passed even if one or more sections, sub-sections, sentences, clauses, phrases, parts, or portions are declared invalid or unconstitutional. If any provision of this Initiative is held invalid as applied to any person or circumstance, such invalidity shall not affect any application of this Initiative that can be given effect without the invalid application. This Initiative shall be broadly construed in order to achieve the purpose stated in this Initiative.

## SECTION 7. Amendment or Repeal.

Except as otherwise provided herein, this Initiative may be amended or repealed only by the voters of the City of Lodi.