

ORDINANCE NO. \_\_ NS

AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES  
AMENDING THE ZONING CODE  
WITH REGARDS TO COMMERCIAL LAND USES  
(APPLICANT - CITY INITIATED)  
ZONING CODE AMENDMENT 98-009

WHEREAS, On September 15 and October 6, 1998 the City Council considered whether or not to direct staff to initiate a General Plan Amendment and Zoning Code Amendment regarding regulation of non-taxable sales in stores exceeding 90,000 square feet of floor area; and

WHEREAS, At the conclusion of discussions, the City Council did direct staff to initiate amendments to consider adoption of provisions similar to those approved by the City of Santa Maria, but with explicit language that the restrictions would not apply to "wholesale membership stores such as Costco and Sam's Club"; and

WHEREAS, in order to carry out the direction of the City Council, it would be necessary and appropriate to supplement the definitions portion of the Zoning Code, along with providing an amendment to the permitted and conditionally permitted use listing contained in Table 21.16; and

WHEREAS, the Planning Commission conducted a noticed public hearing on January 26, 1999, to consider making a recommendation with regards to the proposed Zoning Code Amendments and took the following actions regarding this ordinance:

- a. Considered the facts and analysis, as presented in the staff report prepared for this project;
- b. Conducted a public hearing to obtain public testimony on the proposed ordinance;
- c. In accordance with the California Environmental Quality Act, considered a proposed Negative Declaration of Environmental Impact, and made a recommendation that the City Council approve a Resolution adopting said document; and
- d. Recommended that the City Council approve a Resolution Amending the City's General Plan along with an Ordinance amending the Zoning Code; and

WHEREAS, at its meeting February 16, 1999 the City Council held a public hearing on this subject, and the City Council took the following actions regarding this ordinance:

- a. Considered the facts and analysis, as presented in the staff reports prepared for this project;
- b. Conducted a public hearing to obtain public testimony on the proposed ordinance;

- c. Based on the scope and nature of the proposed change to the General Plan and Zoning Code, found that the proposed Negative Declaration of Environmental Impact Report was adequate in terms of its description of the project and anticipated environmental impacts and approved the Negative Declaration as being in accordance with the California Environmental Quality Act; and
- d. Considered the Commission's recommendation from the Planning Commission's January 26, 1999 public meeting; and
- e. Introduced said ordinance for first reading, and

WHEREAS, on March 2, 1999 the City Council held second reading of said ordinance.

NOW, THEREFORE, the City Council of the City of El Paso de Robles does ordain as follows:

Section 21.08 of the Zoning Code is amended to add the following definitions:

**21.08.179.5 Floor area, gross.** "Gross floor area", for the purposes of determining total gross building area and calculating parking requirements, means the sum of the gross horizontal areas of all floors, mezzanines and lofts of the building. Horizontal dimensions shall be taken from the exterior faces of the exterior walls of the building and shall include all enclosed and conditioned areas except stairways and elevators.

**21.08.312 Non-taxable merchandise floor area.** "Non-taxable merchandise floor area" means floor area devoted to merchandise, including but not limited to food products, commodities and / or goods, where said items are not subject to California state sales tax. This includes areas for meat and produce processing, packaging, storage, display and merchandising.

**21.08.357 Retail floor area.** "Retail floor area", for the purposes of determining gross floor area, means the sum of the gross horizontal areas of all enclosed floors, mezzanines, and lofts of the building devoted to retail sales of merchandise, including floor areas used for display, merchandise, access isles, storage, warehousing and distribution.

**21.08.358 Retail sales.** "Retail sales" means the sale of merchandise for which California state sales tax is required by the State Franchise Tax Board and applicable state law(s).

Table 21.16.200, Item F. 8. is amended to read as follows:

General merchandise (includes department stores, drug stores, discount stores, specialized retail, artisans, manufacturing incidental to retail use, etc.). Note: For commercial buildings with greater than 90,000 square feet of gross floor area, non-taxable merchandise floor area shall not exceed eight (8) percent of the total gross floor area of

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the building, except that this limitation shall not apply to wholesale membership stores such as Costco and Sam's Club.

**Section 1. Publication.** The City Clerk shall cause this ordinance to be published once within fifteen (15) days after its passage in a newspaper of general circulation, printed, published and circulated in the City in accordance with Section 36933 of the Government Code.

**Section 2. Effective Date.** This ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the 31st day after its passage.

**Section 3. Inconsistency.** To the extent that the terms or provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinance(s), motion, resolution, rule, or regulation governing the same subject matter thereof, such inconsistent and conflicting provisions of prior ordinance, motions, resolutions, rules and regulations are hereby repealed.

**Section 4. Severability.** If any section, subsection, sentence, clause, or phrase of the Ordinance is, for any reason, found to be invalid or unconstitutional, such finding shall not affect the remaining portions of this Ordinance.

The City Council hereby declares that it would have passed this Ordinance by section, subsection, sentence, clause, or phrase irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases are declared invalid or unconstitutional.

Introduced at a regular meeting of the City Council held on February 16, 1999, and passed and adopted by the City Council of El Paso de Robles on the 2<sup>nd</sup> day of March, 1999, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

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DUANE J. PICANCO, MAYOR  
City of El Paso de Robles

ATTEST:

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MADELYN PAASCH, CITY CLERK

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