



ORDINANCE NO: 13-05

RELATING TO ZONING: AMENDING THE CITY OF SOUTH TUCSON ZONING CODE CHAPTER 24, 24-528 OF THE SOUTH TUCSON CITY CODE, AMENDING THE LARGE RETAIL ESTABLISHMENT DESIGN CRITERIA BY REMOVING REQUIREMENT "M" AND DECLARING AN EMERGENCY TO EXIST

WHEREAS, the City of South Tucson is authorized by statute, city code, ordinance and resolution(s) to engage in comprehensive land use planning and regulation through the adoption of a general plan, specific plans, and a comprehensive zoning code; and

WHEREAS, Large Retail Establishments and Shopping Centers as defined hereinafter, have documented secondary effects on a community which include increased traffic impacts, noise impacts during and after business hours, light impacts during and after business hours, and increased trash therefore decreasing nearby property values thereby contributing to the deterioration of nearby commercial and residential land uses; and

WHEREAS, Large Retail Establishments and Shopping Centers that develop without design regulations diminish the character of the community by creating out of context and scale developments; and

WHEREAS, the Mayor and Council have determined that it is in the best interests of the City of South Tucson and general public to regulate Large Retail Establishments and Shopping Centers in order to protect existing character of the community, and/or guard against future negative land use impacts associated with Large Retail Establishments and Shopping Centers; and

NOW, THEREFORE BE IT ORDAINED by the Mayor and Council of the City of South Tucson, Arizona, as follows:

SECTION 1. Chapter 24, of the City of South Tucson Code hereby is amended by adding to said Chapter 24 amendments to Article I Sec. 24-1. Definitions to read as follows:

Definition of Large Retail Establishment and Shopping Center Use Groups

Large Retail Establishment. Same as Retail Establishment, Large

Retail Establishment, Large. A retail establishment (General Merchandise Sales), a retail grocery establishment (Food and Beverage Sales), or an establishment with a combination of both uses, comprised of more than one hundred thousand (100,000) square feet of floor area which includes gross floor area, outdoor storage areas and any outside area which provides associated services to the public, such as, but not limited to, outdoor merchandise display, snack bars, etc. The floor area does not include motor vehicle parking or loading areas

For purposes of determining the applicability of the 100,000 square foot of floor area maximum, the aggregate square footage of all adjacent stores which share check stands, management, a controlling ownership interest and storage areas, shall be considered one establishment, e.g., a plant nursery associated with a general merchandise store such as a home improvement store.

Shopping Center. A mixed use development composed of an integrated group of establishments (stores) planned, constructed, and managed as a unit, utilizing common or shared facilities, such as buildings, parking, and vehicular and pedestrian access, where at least fifty (50) percent of the use is retail. The establishments may be owned by a single entity or by separate entities.

SECTION 2. The Mayor and Council find and determine that the adoption of this Ordinance complies with the requirements of A.R.S. § 9-462.01 (Zoning regulations; public hearing; definitions).

SECTION 3. The South Tucson Code, Chapter 24, Article IV, Division 11, "SB-1" Retail Local District, Section 24-352(d), local business uses is hereby amended by allowing the following land use subject to conditions:

Sec. 24-352(d) Local Business Uses.

Large Retail Establishment and Shopping Center uses are allowed subject to the requirements of South Tucson Code, Chapter 24, Article V, Division 2, "Restrictions or Requirements For Specific Uses", Section 24-528.

SECTION 4. The South Tucson Code, Chapter 24, Article IV, Division 12, “SB-2A” Local Retail Center District, Section 24-372(e), General business uses is hereby amended by allowing the following land use subject to conditions:

Sec. 24-372(e) General Business Uses.

Large Retail Establishment and Shopping Center uses are allowed subject to the requirements of South Tucson Code, Chapter 24, Article V, Division 2, “Restrictions or Requirements For Specific Uses”, Section 24-528.

SECTION 5. The South Tucson Code, Chapter 24, Article IV, Division 13, “SB-2” Business District, Section 24-387(e), General Business Uses is hereby amended by allowing the following land use subject to conditions:

Sec. 24-387(e) General Business Uses.

Large Retail Establishment and Shopping Center uses are allowed subject to the requirements of South Tucson Code, Chapter 24, Article V, Division 2, “Restrictions or Requirements For Specific Uses”, Section 24-528.

SECTION 6. The South Tucson Code, Chapter 24, Article IV, Division 17, “I-1” Light Industrial District, Section 24-473(d), General Business Uses, is hereby amended by allowing the following land use subject to conditions:

Sec. 24-473(d) General Business Uses.

Large Retail Establishment and Shopping Center uses are allowed subject to the requirements of South Tucson Code, Chapter 24, Article V, Division 2, “Restrictions or Requirements For Specific Uses”, Section 24-528.

SECTION 7. The South Tucson Code, Chapter 24, Article V, Division 2, “Restrictions or Requirements for Specific Uses’ is hereby amended by adding a new section 24-528 to read as follows:

1. Purpose.

The purpose of this section is to provide for the uniform regulation of Large Retail Establishment and Shopping Center Use Group ensuring that this use group is developed and conducts business in a way that such Large Retail Establishment and Shopping Center causes minimal stress on existing infrastructure, existing commercial and existing residential land uses The regulations below ensure that such uses are cohesive with existing development and aid in maintaining property values, and preserving the retail trade and the character, integrity and quality of life in residential neighborhoods, houses of religious worship, schools, public playgrounds and parks.

2. Zoning Compliance Certificates Required.

Except as otherwise provided by the South Tucson Zoning Code, no Large Retail Establishment and Shopping Center will be established, moved, expanded,

enlarged or relocated except upon the issuance of a zoning compliance certificate in accordance with the restrictions of this section.

3. Notice of approval or denial.

The zoning administrator will grant or deny Large Retail Establishment and Shopping Center Use Group applications within seven (7) working days. If the zoning administrator finds the request is in accordance with this regulation, the zoning administrator will issue a Zoning Compliance Certificate for the location within seven (7) working days. If the zoning administrator finds the request is not in accordance with this regulation, the zoning administrator will provide the applicant and/or the applicant's attorney written notification explaining the grounds for denial within seven (7) working days.

4. Accessory Structures,

The maximum height of a wall or fence within a perimeter yard is six (6) feet; however, the wall or fence may be higher than six (6) feet, but no higher than then (10) feet, if

- A. Part of, or located on top of, a retaining wall no higher than ten (10) feet measured from design grade and no higher than six (6) feet measured from the top of the retaining portion of the wall, or
- B. A greater height is required in the rezoning process.

5. Performance Criteria

A. Retail Trade Use Group

Food and Beverage Sales,

A retail establishment (store) is limited to a maximum of one hundred thousand (100,000) square feet of floor area. The one hundred thousand (100,000) square feet of floor area includes gross floor area, outdoor storage areas, and any outside area which provides associated services to the public, such as, but not limited to, outdoor merchandise display, snack bars, etc. The floor area does not include motor vehicle parking or loading areas.

For the purposes of determining the applicability of the 100,000 square foot of floor area maximum, the aggregate square footage of all adjacent stores which share check stands, management, a controlling ownership interest, and storage areas, shall be considered one establishment, e.g., a plant nursery associated with a general merchandise store such as a home improvement store.

Establishments greater than one hundred thousand (100,000) square feet of floor area (Large Retail Establishments) are considered through the Board of Adjustment process.

B. General Merchandise Sales,

A retail establishment (store) is limited to a maximum of one hundred thousand (100,000) square feet of floor area. The one hundred thousand (100,000) square feet of floor area includes gross floor area, outdoor storage areas, and any

outside area which provides associated services to the public, such as, but not limited to, outdoor merchandise display, snack bars, etc. The floor area does not include motor vehicle parking or loading areas

For the purposes of determining the applicability of the 100,000 square foot of floor area maximum, the aggregate square footage of all adjacent stores which share check stands, management, a controlling ownership interest, and storage areas, shall be considered one establishment, e.g., a plant nursery associated with a general merchandise store such as a home improvement store.

Establishments greater than one hundred thousand (100,000) square feet of floor area (Large Retail Establishments) are considered through the Board of Adjustment process.

C. Large Retail Establishment Design Criteria

Large Retail Establishments are subject to the following performance criteria. Variances from the criteria are not permitted; however, if one or more of the criteria cannot be met, the applicant can request approval through the Board of Adjustment process

1. Site Design and Relationship to Surrounding Community.

A. *Vehicular Access.* The project shall provide safety and protection to adjacent residential uses by having motor vehicle access from a major street as designated by the City.

B. *Buffers.* The project shall provide visual and noise buffers where the site is adjacent to residential use or residentially zoned property. This can be accomplished by providing a minimum building setback of at least two hundred (200) feet from a residential use or residentially zoned property that is adjacent to the site. An eight (8) foot high, or higher, masonry screen wall and at least a twenty (20) foot wide landscape buffer shall be provided adjacent to the site property line where it adjoins a residential use or residentially zoned property. The landscape buffer shall be placed on the inside of the screen wall and shall include, in addition to shrubs and groundcover, canopy trees at twenty (20) to thirty (30) foot intervals depending on the separation needed for the tree canopies to touch at maturity to form a noise, light, and visual screen above the screen wall. No other uses, such as, but not limited to, parking or storage, are permitted within the landscape buffer area.

C. *Outdoor Storage Areas.* The project shall mitigate visual and noise impacts on residential uses, residentially zoned properties and streets that may be adjacent to the site from outdoor storage areas (when

permitted by the zone district requirements). The mitigation can be accomplished by locating these areas on-site and at least two hundred (200) feet from any residential use or residentially zoned property that is adjacent to the site. The areas should be screened or enclosed so that they are not visible from public streets, public sidewalks, internal pedestrian walkways, or adjacent residential properties. The screen shall be at least (8) feet high and of masonry construction to assure the highest level of noise abatement and to confine any loose papers, cartons and other trash. Storage materials should not be visible above the screen wall. It would be preferred that these outdoor storage areas be placed between buildings in a manner which would allow the buildings to act as screens.

- D. *Trash Collection Areas.* The project shall mitigate visual and noise impacts on adjoining residential neighborhoods and streets from trash collection areas by locating these areas onsite and at least two hundred (200) feet from any residential use, residentially zoned property and street that is adjacent to the site. The areas should be screened or enclosed so that they are not visible from public streets, public sidewalks, internal pedestrian walkways, or adjacent residential properties. Screening and landscaping of these areas shall conform to the predominant materials used on the site. The screen shall be at least eight (8) high and of masonry construction to assure the highest level of noise abatement and to confine any loose papers, cartons and other trash. It would be preferred that these trash collection areas be placed between buildings to allow the buildings to at as screens. No trash may be removed between 6:00 p.m. and 6:00 a.m. as part of scheduled trash collection.
- E. *Pedestrian Flows.* The project shall provide pedestrian accessibility, safety, and convenience to reduce traffic impacts and enable the development to project a friendly, inviting image. Sidewalks shall be at least eight (8) feet wide and unobstructed and shall connect the public street, sidewalks, the main entrance to the stores, transit stops on or off-site, and other buildings on the site, in addition to providing convenient access to adjacent residential neighborhoods. Sidewalks shall be provided along the full length of any building where it adjoins a parking lot. Sidewalk shall have an associated three (3) foot wide landscape strip for their entire length except at intersections with Parking Area Access Lanes. The landscaping shall include native drought tolerant canopy trees or other shading devices to shade at least sixty-five (65) to seventy-five (75) percent of the sidewalks during the major part of the day (shadow pattern needs to be taken into consideration).

F. Central Features and Community Spaces. The project is to provide attractive and inviting pedestrian scale features, spaces and amenities. Entrances and parking lot locations shall be functional and inviting with walkways conveniently tied to logical destinations. Bus stops should be considered as integral parts of the configuration whether they are located on-site or along the street. Customer drop-off/pick-up points that may be provided should also be integrated into the design (should not conflict with traffic lanes or pedestrian paths). Pedestrian ways shall be anchored by special design features, such as towers, arcades, porticos, light fixtures, planter walls, seating areas, and other architectural features that define circulation paths and outdoor spaces. Examples are outdoor plazas, patios, courtyards, and window-shopping areas. Each development should have at least two (2) of these.

G. Delivery and Loading Spaces. Delivery and loading operations shall be designed and located to mitigate visual and noise impacts to adjoining residential neighborhoods. There shall be no delivery or loading operations permitted between 10 p.m. and 7 a.m. Delivery and loading spaces shall be set back at least two hundred (200) feet from a residential use or residentially zoned property that is adjacent to the site, unless such operations are located entirely within an enclosed building provided it is no closer than the allowable building setback.

Delivery trucks shall not be parked in close proximity to or within a designated delivery or loading area during non-delivery hours with motors and/or refrigeration/generators running. The delivery and loading areas shall be screened or enclosed so that they are not visible from the public streets, public sidewalks, internal pedestrian walkways, or adjacent property. The screen shall be of masonry construction and at least ten (10) feet high, measured from the loading dock floor elevation, to screen the noise and activity at the loading dock. The masonry screen assures the highest level of noise abatement. It would be preferred that the delivery and loading spaces be enclosed within a building or placed between buildings in a manner, which would allow the building to act as screens.

H. Traffic impacts. The applicant shall have a professional entity perform a Traffic Impact Analysis (TIA) for the development using the Institute of Transportation Engineers' Trip Generation publication as the standard for trip generation calculation. The scope and criteria for the study shall be directed by the Department of Transportation. The TIA shall identify traffic flow impacts on the public streets; recommend mitigation measures to address those conditions that fall allow the standards established by the adopted regional Mobility Management

Plan; and show how the applicant will provide the recommended improvements.

- I. *Outdoor Lighting.* Provide a photometric plan and outdoor lighting report which provides information on how outdoor lighting is addressed to mitigate negative impacts on adjacent residential uses or residentially zoned properties. The report will also address the negative impacts of outdoor lighting between the hours of 10 p.m. and 7 a.m. on adjacent residential properties or zones and how they will be mitigated. Outdoor lighting between 10:00 p.m. and 7:00 a.m. shall be limited to low-pressure sodium lighting.
 - J. *Outdoor Sales Display/Ancillary Uses.* Provide measures to mitigate any negative impacts to a residential use or residentially zoned property that is adjacent to the site from the location of any outdoor activity associated with services to the public, such as, but not limited to, outdoor merchandise display and sales, outdoor storage, and outdoor snack bar and eating areas. The outside activity will be set back at least two hundred fifty (250) feet and oriented to face away from any residential use or residentially zoned property that is adjacent to the site, unless a building is located between the activity and the residential property.
 - K. *Hazardous Materials.* Provide a hazardous Materials Management Plan and Hazardous Materials Inventory Statement as provided in the Fire Code to assure that the building site and design will protect public health and safety from accidental exposure to hazardous materials as provided in the City of South Tucson Fire Code.
 - L. *Noise Abatement.* Provide a noise mitigation plan indicating how the noise initiated by the land use will be mitigated to comply with noise regulations in Chapter 13 of the South Tucson City Code. Trucks shall not be left idling between the hours of 6:00 p.m. and 7:00 a.m.
 - ~~M. *Combination of retail with food and beverage sales.* General Merchandise and retail sales shall not be combined with Food and Beverage Sales except where one of the land use classes consists of less than ten percent (10%) of the gross floor area.~~
2. Aesthetic Character of Buildings.
- A. *Facades and Exterior Walls Including Sides and Back.* The building shall be designed in a way, which will reduce the massive scale and uniform and impersonal appearance and will provide visual interest consistent with the community's identity, character and scale. Long building walls shall be broken up with projections or recessions with

depths of at least three (3) percent of the façade length along all sides of the building. Along any public street frontage, the building design should include windows, arcades, or awnings along at least sixty (60) percent of the building length. Architectural treatment, similar to that provided to the front façade, shall be provided to the sides and rear of the building to mitigate any negative view from adjacent properties and or streets.

- B. *Detail Features.* Provide architectural features that contribute to visual interest at the pedestrian scale and reduce the massive aesthetic effort by breaking up the building wall, front, side, or rear, with color, murals, texture change, wall offsets, reveals, or projecting ribs.
- C. *Roofs.* The roof design shall provide variations in rooflines to add interest to, and reduce the massive scale of, large buildings. Roof features shall complement the architectural and visual character of adjoining neighborhoods. Roofs shall include two (2) or more roof planes. Parapet walls shall be architecturally treated to avoid a plain, monotonous look, unless it is keeping with the architectural style of the building, e.g., Santa Fe style with smooth walls.
- D. *Materials and Color.* The buildings shall have exterior building materials and colors, which are aesthetically pleasing and compatible with materials and colors that are used in the community. This includes the use of high-quality materials and colors that are low reflective, subtle, neutral, or earth tone. Certain types of colors shall be avoided, e.g., fluorescent or metallic. Construction material, such as tilt-up concrete, smooth-faced concrete block, prefabricated steel panels, and other similar materials shall be avoided, unless the exterior surface is covered with an acceptable architectural treatment.
- E. *Entryways.* The building design shall provide elements which give customers orientation on accessibility and which add aesthetically pleasing character to buildings by providing clearly defined, highly-visible customer entrances.
- F. *Screening of Mechanical Equipment.* Roof or ground-mounted mechanical equipment shall be screened to mitigate noise and views in all directions. If roof mounted, the screen shall be designed to conform architecturally with the design of the building, whether it is with varying roof planes or parapet walls. A wood fence or similar treatment is not acceptable.

Ground-mounted mechanical equipment shall be screened. The screen shall be of masonry construction and be of sufficient height to block the view and noise of the equipment.

4. *Planning and Zoning Commission (P&Z)*. All proposed Large Scale Retail establishments shall be reviewed by the P&Z for recommendation to the Planning director who will make a final decision on whether it complies with the performance criteria. The P&Z will base its recommendation on whether or not the project complies with the performance criteria related to compatibility, architecture, and site design, as provided under the Zoning Code Section 24-528 in Large Retail Establishment Criteria where specific requirements are not provided. The applicant is responsible for providing all documentation and information necessary to show compliance, such as, but not limited to, site plan, building elevations, landscaping plans, floor plans, and an outdoor lighting photometry plan

SECTION 8. The regulations adopted herein shall apply to all pending and future applications for building permits except for any application for a building permit in conformance with a development plan that has been approved after September 19, 2005 or shall in the future be approved by the Mayor and Council as a special requirement in conjunction with a rezoning or specific plan process or is approved by the Mayor and Council as a deviation in a previously approved development plan that was required by Mayor and Council in conjunction with a rezoning or specific plan. The Mayor and Council may consider the regulations adopted herein in determining whether to approve a change of condition, which would otherwise be subject to these regulations.

SECTION 9. A report on the impact and effect of this ordinance shall be provided one year after the effective date.

SECTION 10. The various City officers, and employees are authorized and directed to perform all acts necessary or desirable to give effect to this ordinance.

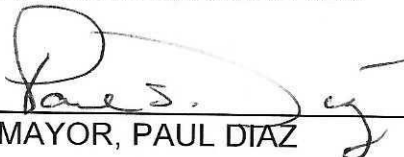
SECTION 11. If any provision of this ordinance or the application to any person or circumstance is invalid, the invalidity shall not affect other provision or applications of this ordinance which can be given effect without the invalid provision or application and to this end the provision of this ordinance are severable.

SECTION 12. This ordinance shall become effective upon completion of Notice, Publication, and Hearing Process and its passage and adoption by the Mayor and Council pursuant to A.R.S. § 9-461 et seq and § § A.R.S. 9-801 TO 9-813.

WHEREAS, it is necessary for the preservation of the peace, health and safety of the City of South Tucson, Arizona, an emergency is declared to exist, and this ordinance shall become immediately operative and in force from and after the date of posting hereof.

PASSED AND ADOPTED by the Mayor and Council of the City of South Tucson, Arizona, this 30th day of October, 2013.


APPROVED/EXECUTED


MAYOR, PAUL DIAZ

ATTEST:

APPROVED AS TO FORM:


City Clerk, Veronica B. Moreno


City Attorney, Andrea L. de Castillo, Esq.