APPROVED
BY ORANGE COUNTY BOARD
OF COUNTY COMMISSIONERS
MAR 2 0 2007 JN/RW

EFFECTIVE DATE
MAR 2 8 2007

ORDINANCE NO. 2007- 01

AN ORDINANCE AFFECTING THE USE OF LAND IN UNINCORPORATED ORANGE COUNTY BY AMENDING THE ORANGE COUNTY CODE TO ADDRESS "BIG BOX DEVELOPMENTS"; AMENDING CHAPTER 9 ("BUILDING AND CONSTRUCTION REGULATIONS") BY AMENDING SECTION 9-558 ("FACADE TREATMENTS"), BY CREATING SECTION 9-563 ("SHOPPING CART RETENTION"), AND BY AMENDING SECTION 9-649 ("EXTERIOR LIGHTING"); AMENDING CHAPTER 24 ("LANDSCAPING") BY AMENDING SECTION 24-4 ("GENERAL DESIGN AND DEVELOPMENT STANDARDS"), SECTION 24-29 ("OPEN SPACE REQUIREMENTS"), AND SECTION 24-30 ("OPEN SPACE DESIGN GUIDELINES); AMENDING CHAPTER 31.5 ("SIGNAGE"), BY AMENDING SECTION 31.5-67 ("GROUND SIGNS") AND 31.5-68 ("POLE SIGNS"); AMENDING CHAPTER 38 ("ZONING") BY AMENDING SECTION 38-1 ("DEFINITIONS"), SECTION 38-77 ("USE TABLE"), SECTION 38-79 ("CONDITIONS FOR PERMITTED USES AND SPECIAL EXCEPTIONS"), SECTION 38-1202 ("USES PERMITTED"), SECTION 38-1203 ("APPROVAL PROCEDURE"), SECTION 38-1234 ("OPEN SPACE"), AND SECTION 38-1476 ("QUANTITY OF OFF-STREET PARKING"); AND PROVIDING AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY, FLORIDA:

Section 1. ***Purpose and intent.*** The purpose of this "Big Box Ordinance" is to provide requirements for approval of big box developments (defined in Section 38-1, Orange County Code) in Orange County. The intent of the requirements is to integrate big box developments with their surroundings; to minimize adverse impacts on adjacent properties; and to promote and facilitate a safe and comfortable pedestrian-scaled environment.

Section 2. ***Applicability.*** In addition to compliance with all other requirements of the Orange County Code, after the effective date of this Ordinance, construction of new big box developments (defined in Section 38-1, Orange County Code) shall comply with the standards and requirements established by this Ordinance.

Section 3. ***Amendments; In General.*** Chapter 9, Chapter 24, Chapter 31.5, and Chapter 38 of the Orange County Code are amended as set forth in Section 4 through Section 19 of this Ordinance.

Section 4. ***Amendment to Section 9-558 ("Façade treatments").*** Section 9-558(d) is hereby created to read as follows:

Sec. 9-558. Façade treatments.

* * *

(d) By encouraging the visual appearance of numerous smaller storefronts – in lieu of one large big box storefront – this subsection is intended to reduce the large visual mass and monotonous exterior appearance typically associated with big box development (defined in Section 38-1 of this Code).

The standards in this subsection call for individually-peaked, forward-projecting, and vertically-oriented exterior architectural forms and features on street-facing facades and rooflines. Such forms will assist owners in architecturally expressing – on the exterior of their stores – the individual components (e.g., garden, grocery, pharmacy) within their stores. As such, the vertically-oriented, forward-projecting, and peaked components shall incorporate vertical components which serve to interrupt the pronounced horizontal roofline of big box structures and to reinforce the appearance of smaller, individual storefronts.

Building entry finish materials – Owners shall maximize the amount of pedestrian-scaled windows (avoiding extensive opaque surfaces) along the street-facing facade which contains the primary customer entrance. Furthermore, owners shall utilize smaller-scaled, and darker colored, exterior finish materials (e.g.,

individual bricks or stone veneer in lieu of light-colored stucco on masonry or pre-cast concrete panels) on the lower portions (the "water table") of big box exterior walls which are adjacent to customer entrance(s), and which flank the exterior pedestrian sidewalk system on street-facing facades. Such darker, smaller-scaled finish materials shall be featured from the sidewalk grade, to no less than four (4) feet above sidewalk grade.

Required transparent windows. Such primary customer entrance facades shall incorporate a minimum of twenty-five percent (25%) transparency (windows). The transparency calculation may include the glass surfaces of the customer entrance window system itself. The area of required transparency shall be calculated by multiplying the structure's linear frontage by a height (above adjacent finished pavement grade) of twelve (12) feet. In addition, street-facing primary customer entrance façades shall incorporate an overhead projecting portico, arcade, or colonnade, as described below. Such customer entrance overhead forms shall, at a minimum, extend over the same 25% transparency area.

Transparency alternative; architectural projections – As an alternative to meeting the twenty-five percent (25%) transparency and entranceway overhead form requirements, street-facing facades containing the primary customer entrance shall include covered porticos, arcades, colonnades, or a combination thereof, along a minimum of sixty percent (60%) of the horizontal length of the subject façade.

The roof plane of such porticos, arcades, or colonnades shall not extend horizontally for more than fifty (50) linear feet without the substantially and proportionately-sized, interrupting vertical architectural forms referenced above. The face (fascia) of such vertical forms shall project upward a minimum of fifteen (15) feet above the horizontal fascia of the portico, arcade, or colonnade lying below. The highest point of the fascia, or gable, of such vertical projections shall extend upward to a point at least as high as the horizontal roof line (parapet edge) of the big box development's principal structure. Furthermore, such vertical forms shall be no less than twenty (20) feet wide, as measured at the face (fascia) or base of the gable.

The covered porticos, arcades, or colonnades shall incorporate the customer sidewalk below with a minimum pedestrian clearance (clear width), between the structure and the

supporting columns, of twelve (12) feet. Such porticos, arcades, or colonnades, and twelve (12) foot-wide sidewalk, shall not replace any required building foundation area landscape planter requirements for primary and secondary facades.

Facades which face an adjacent street – but which do not possess the primary customer entrance (i.e., a side street façade) – shall provide the above-referenced porticos, arcades, or colonnades, and associated individual roofline vertical projections, along at least forty percent (40%) of the street-facing [side] façade. Such 40% requirement shall only apply to any segment of a side façade which does not incorporate a garden center decorative perimeter wall system as described in this subsection.

Garden center walls – When a garden center is placed along a street-facing façade, a garden center decorative perimeter wall system may be substituted for the porticos, colonnades, arcades, and vertical form required above. Such garden center decorative wall systems shall be constructed of columns (posts) at least thirty-six (36) inches wide (or 36" diameter), and spaced no more than twenty-five (25) feet on-center along the perimeter of the garden center.

The columns shall be horizontally interconnected across each of their top portions with a substantial cross member. The columns or column cap component may extend above the horizontal cross members up to twenty-four (24) inches. Such upper horizontal cross member shall feature colors, finish, dimensions, proportions, and trim details which are architecturally consistent with the adjacent supporting columns and with the big box principal structure. The upper cross members shall be the highest visual component of the wall system, and no other fencing materials (or store merchandise) may protrude above the horizontal cross members. Disproportionate, undersized, or otherwise architecturally incompatible columns or horizontal cross member designs are prohibited. Alternative designs for garden center decorative perimeter wall systems may be approved by Orange County on a case by case basis.

Chain link fencing material (including vinyl-clad or other coated fencing) is prohibited on such garden center walls. Instead, garden center decorative walls systems may infill the gaps between the columns and the upper horizontal connecting cross members,

with decorative metal fencing materials (e.g., wrought iron-styled aluminum fencing).

In addition, black fabric mesh, or similarly opaque and approved materials, shall be installed on the interior side of the decorative metal fencing in order to visually-screen any materials which may be stacked or stored on the inside of the garden center decorative wall system.

Garden center wall exterior foundations shall adhere to primary and secondary building façade landscaping requirements.

In all other respects, Section 9-558 shall remain unchanged.

Section 5. Creation of Section 9-563 ("Shopping cart retention"). Section 9-563 is hereby created to read as follows:

Sec. 9-563. Shopping cart retention.

Big box developments (defined in Section 38-1 of this Code) utilizing shopping carts or similar devices shall install and maintain a system to retain all shopping carts within the real property boundaries of the business location, subject to the following:

(a) A shopping cart is defined to be a basket mounted on wheels, or a similar device, which is generally used in a retail or wholesale establishment by a customer, or by an employee of such establishment, for the purpose of transporting goods of any kind;

(b) The establishment shall provide signage in a conspicuous location notifying shopping cart users of the retention system in place and of how such system operates;

(c) Location, type of device, and other pertinent information shall be shown on the approved site plan for the big box development;

(d) Permitted methods of retention shall include any one of the following methods:

(1) A toll-free shopping cart recovery service system;

(2) Shopping carts equipped with a protruding arm or similar device preventing the carts from being removed from the interior of the business;

(3) A system, which may be mechanical in nature, requiring a refundable deposit to use a shopping cart; such deposit should be of a reasonable amount that would not deter the use of the cart, but would encourage the return of the cart;

(4) Shopping carts equipped with a wheel locking mechanism and anti-tilting bar that is used in conjunction with an electronic barrier along the perimeter of the area where shopping carts are allowed. The wheel locking mechanism shall activate when the shopping cart crosses the electronic barrier;

(5) Any other mechanism or system submitted to, and approved by, Orange County.

(e) Any big box development failing to install or to properly maintain an approved on-site shopping cart retention system is in violation of this section of the Code. Any person, firm, or corporation violating the provisions of this subsection shall, upon conviction, be subject to the penalties provided in Section 1-9 of this Code, to the extent not inconsistent with Florida law. Each separate day of violation constitutes a separate offense.

(f) Home improvement centers (defined in Section 38-1, Orange County Code) shall be exempt from this section.

Section 6. Amendment to Section 9-649 ("Exterior lighting"). Section 9-649(b)(8) is hereby created to read as follows:

Sec. 9-649. Exterior lighting.

* * *

(b) *Specific standards.*

* * *

(8) *Big box developments.* Acorn-style light fixtures shall be prohibited within the limits of all big box developments (defined in Section 38-1 of this Code.) Furthermore, parking area

and building-mounted light fixtures shall be installed no more than twenty-five (25) feet above the parking lot finished grade.

In all other respects, Section 9-649 shall remain unchanged.

Section 7. Amendment to Section 24-4 ("General design and development standards"). Section 24-4(k) is hereby created to read as follows:

Sec. 24-4. General design and development standards.

* * *

(k) *Big box developments.* Big box developments (defined in Section 38-1 of this Code) shall adhere to the following requirements:

(1) Earth berming shall be required within all perimeter edge buffers located between parking areas and adjacent street rights-of-ways. Such berming shall achieve a minimum finished-grade height of twenty-four (24) inches above the finished grade of either:

a. the top of the adjacent planter curb, or

b. the adjacent sidewalk, whichever is higher.

However, in no case may the slopes of any berms exceed a 3:1 slope.

Such bermed perimeter planting buffer strips shall incorporate a continuous line of shrubs, at least two (2) rows deep. Groundcover plantings shall be incorporated within the planting design. Curvilinear shrub and groundcover planting patterns (in lieu of straight-line planting patterns) which meander within the planting strip, and across the top of berms, shall be encouraged.

(2) Eight (8) foot high masonry or pre-cast concrete walls shall be required along all perimeter edge buffers which are adjacent to residentially-zoned properties. Such eight (8) foot high walls shall include columns which project a minimum of six (6) inches from the face of the adjacent wall segments. The columns shall be spaced no more than fifty (50) feet on-center; shall extend a minimum of eight (8) inches above the height of the adjacent

wall segments; and shall incorporate a flared finial or cap component. Furthermore, the wall segments between columns shall incorporate a continuous, flared cap block (or widened top edge for pre-cast) feature along the entire wall segment. The masonry wall cap block shall project from the wall face a minimum of three (3) inches. Pre-formed and decorative patterns and indentations shall be incorporated on any pre-cast concrete wall segments. Such pre-cast pattern(s) shall coincide with the architectural trim and finish of the principal structure.

When site conditions preclude the perimeter edge buffer berming otherwise required between parking areas and adjacent rights-of-ways, as outlined above, a masonry or pre-cast knee wall (36 inches to 48 inches high) shall be constructed within a minimum ten (10) foot wide planter strip between parking areas and adjacent street rights-of-ways. Precast knee walls shall incorporate a brick or stone veneer surface which is architecturally compatible with the surface materials used on the principal structure. Precast knee walls which feature only a smooth or stucco finish shall be prohibited. Such knee walls shall incorporate the above-referenced columns. However, spacing between knee wall columns shall be no greater than forty (40) feet on-center. The columns shall project a minimum of six (6) inches from the face of the adjacent wall segments and shall extend above the adjacent wall segments between six (6) and eighteen (18) inches.

Furthermore, the wall segments between columns shall incorporate a continuous, flared, cap block component along the entire wall (or widened top edge for pre-cast walls). The cap block shall project from the wall face a minimum of three (3) inches. Decorative metal railings, or other trim components installed along the top of such knee walls, shall be encouraged.

(3) Dumpsters, loading docks, compactors, and the like shall be screened so as not to be visible from adjacent rights-of-ways and/or adjacent residentially-zoned properties. To the greatest extent possible, steps shall also be taken to noise-buffer such store service areas from adjacent residentially-zoned parcels, and shall comply with all existing noise pollution performance standards.

(4) Whenever available, reclaimed water shall be used for irrigation in accordance with Orange County's Reclaimed Water Ordinance No. 94-21, as may be amended from time to time.

In all other respects, Section 24-4 shall remain unchanged.

Section 8. Amendment to Section 24-29 ("Open space requirements"). Section 24-29 (c) is hereby amended by creating a category for the term "big box development" to read as follows:

Sec. 24-29. Open space requirements.

* * *

(c) In the nonresidential zoning districts, open space shall be provided as follows:

Office – Twenty-five (25) percent

Commercial – Twenty (20) percent

Industrial – Fifteen (15) percent

Institutional – Thirty-five (35) percent

<u>Big box development:</u>

- <u>one story and 200,000 square feet or greater – Thirty (30) percent</u>
- <u>one story and less than 200,000 square feet – Twenty-five (25) percent</u>
- <u>two stories, provided that the second story is forty percent (40%) or more of the gross floor area that is open to customers – Twenty (20) percent</u>
- <u>two stories with multi-level structured parking, provided that the second story is forty percent (40%) or more of the gross floor area that is open to customers – Fifteen (15) percent</u>

* * *

In all other respects, Section 24-29 shall remain unchanged.

Section 9. Amendment to Section 24-30 ("Open space design guidelines"). Section 24-30 (g)(5) is hereby created to read as follows:

Sec. 24-30. Open space design guidelines.

* * *

(g) *Open space credits. . . .*

* * *

(5) *Big box development open space.* All of the uses listed below may be credited towards meeting the minimum open space requirements if the performance standards are met, but shall not account for more than fifty percent (50%) of the total open space required:

a. All retention ponds, fenced or non-fenced, which are meant to fulfill a portion of the open space requirements, shall be designed as a project landscaping amenity. As such, they shall have curvilinear water edges which incorporate substantial curve off-sets along the water perimeter. Furthermore, all ponds shall incorporate a continuous row of drought-tolerant shrubs and understory trees along their top edge. Understory trees shall be planted at a rate of one (1) per twenty-five (25) feet of perimeter edge. Clustering of understory trees is acceptable.

1. Non-fenced ponds may fulfill up to fifty percent (50%) of the project's open space requirement, provided they meet the curvilinear requirements above.

Decoratively-fenced ponds may fulfill up to fifty percent (50%) of the project's open space requirements. However, the decorative fencing shall be constructed with black wrought iron - styled post and railing system, and incorporate landscaping along the exterior of the fencing. The post and railing system, while including a gated access system for pond maintenance purposes, shall incorporate masonry columns, minimum twenty-four (24) inches diameter, spaced at a maximum of fifty (50) feet on-center. The columns shall incorporate a decorative cap feature, and the surface (or veneer) and trim of the columns shall replicate those of the principal structure. Furthermore, the decoratively-fenced

ponds shall incorporate the required shrubs and understory trees mentioned above along the exterior base of the fence.

2. Ponds which are fenced with chain link, or with any other system which fails to meet the decorative fence description above, shall not fulfill any of the required project open space.

In all other respects, Section 24-30 shall remain unchanged.

Section 10. Amendment to Section 31.5-67 ("Ground signs"). Section 31.5-67(k) is hereby created to read as follows:

Sec. 31.5-67. Ground signs.

* * *

(k) Big box development (defined in Section 38-1, Orange County Code) shall be allowed to display ground signs measuring no larger than one hundred (100) square feet, with a maximum height of twelve (12) feet.

In all other respects, Section 31.5-67 shall remain unchanged.

Section 11. Amendment to Section 31.5-68 ("Pole signs"). Section 31.5-68(k) is hereby created to read as follows:

Sec. 31.5-68. Pole signs.

* * *

(k) Pole signs shall be prohibited in big box developments (defined in Section 38-1, Orange County Code.)

In all other respects, Section 31.5-68 shall remain unchanged.

Section 12. Amendment to Section 38-1 ("Definitions"). Section 38-1 is hereby amended by creating definitions for the terms "big box development," "home improvement center," and "membership warehouse club," to respectively read as follows:

Sec. 38-1. Definitions.

* * *

Big box development shall mean an individual retail and/or wholesale commercial establishment (store) with more than seventy-five thousand (75,000) square feet of gross floor area, which may include a home improvement center or a membership warehouse club. The "gross floor area" of such a store includes outdoor storage areas and any outdoor area providing services, such as, but not limited to, outdoor merchandise display, garden supplies, plant display, snack bars, etc. "Gross floor area," however, does not include loading areas. For the purpose of determining the applicability of the 75,000 square foot threshold, the aggregate square footage of all adjacent stores which may share either a series of checkout stands, management areas, storage areas, common entrances, or a controlling ownership interest, shall be considered a single commercial establishment (for example, a plant nursery associated with a general merchandise store or home improvement store, or a discount department store associated with a grocery store). The term "big box development" does not include an individual commercial establishment integrated within an indoor mall regional shopping facility.

* * *

Home improvement center shall mean a retail commercial establishment whose merchandise consists primarily of construction materials, hardware, and other home improvement items.

* * *

Membership warehouse club shall mean a commercial establishment which sells products in large quantities, or in bulk, on a wholesale and/or retail basis to business and individual members, and which charges membership dues, or otherwise restricts merchandise sales to customers or members who pay a periodic access fee.

* * *

In all other respects, Section 38-1 shall remain unchanged.

Section 13. Amendment to Section 38-77 ("Use table"). Section 38-77 is amended to allow big box development as a special exception in the C-1 zoned district and as a permitted use in the C-2 and C-3 zoned districts, with such special exception and permitted uses being subject to Section 38-79(153), as shown on **Appendix "A,"** attached hereto and incorporated herein by this reference.

In all other respects, Section 38-77 shall remain unchanged.

Section 14. Amendment to Section 38-79 ("Conditions for permitted uses and special exceptions"). Section 38-79 (153) is hereby created as follows:

> **Sec. 38-79. Conditions for permitted uses and special exceptions.**
>
> * * *
>
> (153) Big box development may be permitted subject to the following conditions:
>
> a. Prior to filing an application for a special exception for a big box development in the C-1 zoned district, the applicant shall submit a site plan to the DRC for review, and the DRC shall approve the site plan, with or without recommendations. Thereafter, before a public hearing is held at the board of zoning adjustment regarding the special exception request, a community meeting shall be held with public notice issued to the owners of record of properties located within a two thousand (2,000) foot radius of the proposed development site. In establishing the limits of public notification, all addresses within an entire neighborhood, any part of which falls within the 2,000 foot notification radius, shall be noticed. In addition, the applicant shall be responsible for prominently and conspicuously posting notice of the community meeting directly on the property.
>
> b. Big box developments shall have a maximum .23 FAR. Any proposed development which does not adhere to these criteria must submit justification in the form of a plan which is not in conflict with the purpose and intent of this ordinance, and which is acceptable to Orange County.

c. Proposed big box development applicants shall conduct a detailed traffic study addressing:

1. traffic impacts of the project;

2. all traffic concurrency requirements of the County; and

3. specific recommendations for safe and adequate ingress and egress to and from the site.

Applicants shall meet with Orange County staff prior to commencing the study, and shall implement the agreed-upon methodology in conducting their study. Orange County staff shall use best efforts to obtain data from municipalities and other local governments located in close proximity to the project. The owner of a development shall conduct a follow-up review and update of the aforementioned items b.1, b.2, and b.3 no later than five (5) years after the date of issuance of a Certificate of Occupancy for the development. The results of such review and update shall be submitted to Orange County for use in evaluating traffic impacts of similar future big box developments.

d. In order to ensure pedestrian safety and adequate traffic circulation, a big box development proposing to locate within one thousand (1,000) feet from the nearest property line of any public school shall submit a traffic and pedestrian safety plan for Orange County's review and approval, unless a physical barrier, such as a waterbody, wetland, or limited access highway, separates the public school from the big box development, thereby preventing pedestrian access to the big box development from the public school.

Such plan shall identify pedestrian safety conflicts and deficiencies, especially those related to walking routes to schools, and other pedestrian generators, such as parks or trails used by children and by children with disabilities. Specific measures shall be identified in the pedestrian safety plan to mitigate each conflict, and the big box applicant shall be solely responsible for implementing the identified measures no later than at the time of issuance by Orange County of a certificate of occupancy.

e. Big box developments shall designate at least two (2) vehicle parking spaces for local law enforcement adjacent to the principal structure.

f. Overnight / long-term [more than eight (8) consecutive hours] parking, RV parking, temporary / portable storage containers, and tractor-trailer/semi-truck parking, other than active customer and/or employee parking, are prohibited in big box development parking lots. Signs must be conspicuously displayed which state: "No overnight or long-term parking allowed. Violators subject to fines, towing, or both."

g. The off-street parking serving the project shall be subdivided into multiple 'sub-lots' with uninterrupted (except at crosswalks) landscaped pedestrian sidewalk pathways. Said pedestrian pathways shall connect the sidewalks along the big box structure's foundation, to the perimeter rights-of-way sidewalks, transit stops, and all outparcel sidewalks. Continuance of the pedestrian sidewalk portion of the pathway across parking lot drive aisles (e.g. crosswalks) shall be highlighted and made visually prominent. As such, the drive aisle crosswalks for pedestrian pathways shall be constructed with an alternative paving material other than asphalt (e.g. stained and stamped concrete, or pavers).

Such parking lot pedestrian pathways shall only be required between those head-to-head parking stalls which feature a 90 degree configuration (not angled). Such pathways shall be installed, at a minimum, between the head-to-head stalls of each fourth (4th) row of parking (e.g., may be separated by up to two (2) rows of parking stalls) lacking a pedestrian pathway. Furthermore, the pattern of parking lot pathways shall be arranged so that at least one pathway aligns with, and provides a direct connection from, the project's rights-of-way perimeter sidewalk and the main pedestrian entrance of the big box structure.

The pedestrian pathways shall incorporate a minimum six (6) foot wide sidewalk. A landscape planter strip, minimum seven (7) feet wide, shall be installed on at least one side of the sidewalk along its full length (except at drive aisle crosswalks). One-third (1/3) of the pathway landscape planter strip shall be planted with shrubs, and one-third (1/3) with groundcover plantings.

Intermittent overhead pedestrian shade shall be provided along the length of the pedestrian pathway by planting approved canopy trees at a maximum of thirty (30) feet on-center along the full length of the pathway. Such canopy trees shall not substitute for canopy trees otherwise required within parking lot planter islands. Alternatively, shade structures (pergolas or gazebos) with seating, may substitute for segments of the required pathway canopy tree plantings.

h. The owner/developer shall be responsible for determining, and indicating on the plans, any existing or planned LYNX public transit routes along the adjacent rights-of-way. If an adjacent transit route is currently in place, or in the planning stages, the owner/developer shall be responsible for dedicating an area, and constructing a LYNX bus shelter along the project's perimeter, adjacent to the public rights-of-way. Such bus shelter shall measure a minimum of ten (10) feet wide by twenty (20) feet long, and shall be designed and installed according to all approvals and specifications required by LYNX.

i. In order to maximize efficient traffic circulation and minimize "stacking" at the main vehicular entrance, big box developments shall allow a minimum of two hundred (200) feet off the roadway before the first turn within the parking lot; except that a minimum of one hundred (100) feet is allowed if there is a right-hand deceleration lane. A minimum of one hundred (100) feet shall be required for all secondary entrances.

j. At any big box development that is open for business between the hours of 11:00 p.m. and 6:00 a.m., or any portion of such period of time, parking lot security shall be provided, with a minimum of one (1) guard on duty, at all times that the establishment is open for business; except, however, that a home improvement center or wholesale membership club open for business for any period of time between the hours of 11:00 p.m. and 6:00 a.m. shall be required to provide security only during that period of time.

k. In addition to the perimeter wall requirements of Section 24-4(k)(2), no pavement or portion of any vertical structure associated with the rear or sides of a big box development shall be located closer than two hundred (200) feet from the nearest property line of any adjacent single-family residentially-zoned property. For purposes of this subsection, the

term "adjacent" shall mean abutting or immediately next to the property line, even where a street or road separates the big box development from the single-family residentially-zoned property. Such distance buffer shall be measured outward from the most remote edge (from the principal structure) of the aforementioned paved surface or vertical structure associated with a big box development.

The two hundred (200) foot distance buffer shall be composed of two (2) distinct landscape separation buffer tiers shielding any adjacent single-family residentially-zoned properties from any paving or structures associated with a big box development:

The first one hundred fifty (150) feet of the landscape separation buffer, located nearest to the big box development, may incorporate storm water retention ponds associated with the big box development. Any areas within this 150' buffer tier which are not dedicated to actual storm water retention shall also incorporate approved shade tree species planted at a rate of no less than one (1) tree per two thousand (2,000) square feet, and with spacing at no greater than forty-five (45) feet on-center.

The remaining fifty (50) feet of the 200' buffer shall only include a continuous uninterrupted opaque landscape buffer using approved shade tree species planted at forty (40) feet on-center. This standard shall not supplant any other required perimeter tree planting requirements stated elsewhere in Chapter 24. No storm water retention or other uses may occur within this 50' buffer tier.

The retention facilities, trees, and any other landscape materials within the 200' foot landscaping/ drainage separation buffer zone shall be serviced and maintained by the big box development owner in accordance with Orange County standards. Such 200' buffer area, provided all stormwater drainage facilities within its limits are designed in accordance with the open space full-credit standards described herein (e.g. decorative fencing and landscaping), may account for no more than fifty percent (50%) of the project's total open space requirements. The remaining required open space shall be provided elsewhere within the project's limits.

l. In order to avoid the perceived economic impacts of prolonged vacant projects and buildings, and to mitigate the visual blight created by vacant big box structures (e.g., abandoned and chain link-fenced parking lots, poorly-maintained landscaping, darkened stores, unlit "ghost" signage, boarded windows, etc.), a written strategy for maintenance and reuse of vacant properties shall be submitted to the County at the time of commercial site plan review. The written reuse strategy shall, at a minimum, address the following issues:

1. Removal or adaptive reuse of the structure;

2. Parking lot, perimeter, and storm water area landscaping;

3. Securing of the property;

4. Partial lighting of vacant parking lots;

5. Partial lighting of vacant store interiors;

6. Sign removal and subsequent painting of the vacant wall surface; and

7. Display of a professionally-designed sign, not to exceed thirty-two (32) square feet, placed at the project entrance, offering lease and/or sale and contact information.

m. Outdoor storage, non-seasonal outdoor sales, and temporary sales of motorized vehicles, boats, recreational vehicles, motorcycles, and the like shall be prohibited.

n. For facade treatment requirements, refer to Section 9-558(d).

o. For shopping cart retention requirements, refer to Section 9-563.

p. For exterior lighting requirements, refer to Section 9-649(b)(8).

q. For general design and development standards and requirements, refer to Section 24-4(k).

r. For open space requirements and design guidelines, refer to Sections 24-29(c) and 24-30(g)(5), respectively.

s. For ground signage requirements, refer to Section 31.5-67(k).

t. For pole signage requirements, refer to Section 31.5-68(k).

u. For off-street parking requirements, refer to Section 38-1476.

v. At least one side or the front of a big box development shall abut a four-lane or greater capacity roadway, and at least one access point for vehicular ingress and egress to and from the big box development shall be located on the abutting four-lane or greater capacity roadway.

w. Big box developments are encouraged to maximize energy and water efficiency; protect air and water quality; and reduce solid waste, utilizing best energy management practices as outlined by the U.S. Green Building Council (USGBC), or ENERGY STAR (joint program of the U.S. Environmental Protection Agency and the U.S. Department of Energy).

In all other respects, Section 38-79 shall remain unchanged.

Section 15. Amendment to Section 38-1202 ("Uses permitted"). Section 38-1202(6) is hereby created to read as follows:

Sec. 38-1202. Uses permitted.

* * *

(6) *Big box developments (defined in Sec. 38-1, Orange County Code.)*

Complementary and compatible residential, office, and industrial uses may be incorporated if they are compatibly designed into the total big box development within a planned development.

In all other respects, Section 38-1202 shall remain unchanged.

Section 16. Amendments to Section 38-1203 ("Approval procedure"). Section 38-1203 is amended to read as follows:

Sec. 38-1203. Approval procedure.

The procedure for obtaining approval of a planned development shall be as follows:

* * *

(2) *Land use plan. . . .*

* * *

c. In addition to complying with all approval procedures contained in this section 38-1203, a big box development shall comply with all the standards and requirements outlined or referenced in Section 38-79(153). Any big box development applicant seeking a waiver from any such standard or requirement shall, concurrently with and as a part of the land use plan submittal, include such waiver request, stating and explaining, in detail, the exceptional circumstances which the applicant believes justify a waiver. Orange County shall review such request, and may either deny or grant the waiver. Furthermore, before any public hearing is held regarding a big box development land use plan, a community meeting shall be held with public notice issued to the owners of record of properties located within a two thousand (2,000) foot radius of the proposed development site. In establishing the limits of public notification, all addresses within an entire neighborhood, any part of which falls within the 2,000 foot notification radius, shall be noticed. In addition, the applicant shall be responsible for prominently and conspicuously posting notice of the community meeting directly on the property.

(3) *Development plan.* . . .

* * *

c. The DRC shall review the development plan and shall evaluate it for consistency with the land use plan and all applicable ordinances, regulations, and policies. The DRC shall either approve the development plan (which may include technical conditions consistent with applicable county ordinances, regulations, and policies) or deny the development plan based upon specific findings which shall be stated.

~~d. The DRC shall review the development plan and shall evaluate it for consistency with the land use plan and all applicable ordinances, regulations, and policies. The DRC shall either approve the development plan (which may include technical conditions consistent with applicable county ordinances, regulations, and policies) or deny the development plan based upon specific findings which shall be stated.~~

d. The decision of the DRC may be appealed to the board of county commissioners by an aggrieved party. Any party choosing to appeal the DRC decision shall file a notice of appeal within fifteen (15) days of the rendition of the DRC decision. If the developer or applicant proposes to create a subdivision, a preliminary subdivision plan should be processed concurrently with the development plan and shall be subject to approval by the board of county commissioners. The DRC decision shall be rendered within ten (10) working days of the final DRC meeting date.

e. In addition to complying with all approval procedures contained in this section 38-1203, a big box development plan shall comply with the land use plan and with all the standards and requirements outlined or referenced in Section 38-79(153), except that any PD approved for commercial uses prior to April 3, 2006, shall not be subject to the 200 foot buffer requirement adjacent to single-family residentially-zoned property only to the extent that it can be demonstrated that the property is physically constrained from meeting that requirement. Any big box development applicant seeking a waiver from any standard or requirement governing big box development shall, concurrently with and as a part of the development plan submittal, include such waiver request, stating and explaining, in detail, the exceptional

circumstances which the applicant believes justify the waiver. Such a request shall be deemed a substantial change to the land use plan, and shall require a public hearing before the board of county commissioners. The board may approve or deny the waiver request.

In all other respects, Section 38-1203 shall remain unchanged.

Section 17. Amendment to Section 38-1234 ("Open space"). Section 38-1234(3) is hereby amended by creating a category for the term "big box development" to read as follows:

Sec. 38-1234. Open space.

* * *

(3) Open space shall be provided within the planned development based on the following ratios:

* * *

f. Big box development:

- one story and 200,000 square feet or greater 30%
- one story and less than 200,000 square feet 25%
- two stories, provided that the second story is forty percent (40%) or more of the gross floor area that is open to customers 20%
- two stories with multi-level structured parking, provided that the second story is forty percent (40%) or more of the gross floor area that is open to customers 15%

In all other respects, Section 38-1234 shall remain unchanged by this section.

Section 18. Second amendment to Section 38-1234 ("Open space"). Section 38-1234(9) is hereby created to read as follows:

Sec. 38-1234. Open space.

* * *

(9) Big box development open space. All of the uses listed below may be credited towards meeting the minimum open space requirements if the performance standards are met, but shall not account for more than fifty percent (50%) of the total open space required:

a. All retention ponds, fenced or non-fenced, which are meant to fulfill a portion of the open space requirements shall be designed as a project landscaping amenity. As such, they shall have curvilinear water edges which incorporate substantial curve off-sets along the water perimeter. Furthermore, all ponds shall incorporate a continuous row of drought-tolerant shrubs and understory trees along their top edge. Understory trees shall be planted at a rate of one (1) per twenty-five (25) feet of perimeter edge. Clustering of understory trees is acceptable.

1. Non-fenced ponds may fulfill up to fifty percent (50%) of the project's open space requirement, provided they meet the curvilinear requirements above.

2. Decoratively - fenced ponds may fulfill up to fifty percent (50%) of the project's open space requirements. However, the decorative fencing shall be constructed with black wrought iron - styled post and railing system, and shall incorporate landscaping along the exterior of the fencing. The post and railing system, while including a gated access system for pond maintenance purposes, shall incorporate masonry columns, minimum twenty-four (24) inches diameter, space at a maximum of fifty (50) feet on-center. The columns shall incorporate a decorative cap feature, and the surface (or veneer) and trim of the columns shall replicate those of the principal structure. Furthermore, the decoratively-fenced ponds shall incorporate the required shrubs and understory trees mentioned above along the exterior base of the fence.

3. Ponds which are fenced with chain link, or with any other system which fails to meet the decorative fence description above, shall not fulfill any of the required project open space.

In all other respects, Section 38-1234 shall remain unchanged by this section.

Section 19. Amendment to Section 38-1476 ("Quantity of off-street parking"). Section 38-1476(a) is hereby amended by creating a category for the term "big box development," to read as follows:

Sec. 38-1476. Quantity of off-street parking.

* * *

Big box development	4 spaces for each 1,000 square feet of gross floor area, but not to exceed 5 spaces for each 1,000 square feet

* * *

In all other respects, Section 38-1476 shall remain unchanged.

Section 20. Effective date. This ordinance shall become effective pursuant to general law.

ADOPTED THIS 20th DAY OF MARCH, 2007.

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: _____
Richard T. Crotty
Orange County Mayor

ATTEST: Martha O. Haynie, County Comptroller
As Clerk of the Board of County Commissioners
By: _____
Deputy Clerk

Appendix "A"

Uses Per Zoning Code	*SIC up*	*Land Use*	*A-1*	*A-2*	*A-R*	*RCE-5*	*RCE-2*	*RCE*	*R-1AAAA*	*R-1AAA*	*R-1AA*	*R-1A*	*R-1*	*R-2*	*R-3*	*Clust r*	*RT*	*RT-1*	*RT-2*	*P-O*	*C-1*	*C-2*	*C-3*	*I-1A*	*I-1, I-5*	*I-2, I-3*	*I-4*	*U-V (s e 29)*	*R-L-D*	*UR-3*	*NC*	*NAC*	*NR*	*Conditions*
													*	*	*																			
	53	GENERAL MERCHANDISE STORES																			P	P	P					56 P						*
Shopping centers (see definition in section 38-1, O.C. Code)	5311	Department stores (shopping centers)																			P	P	P					56 P			P	P		*
Big box developments (see definition in section 38-1, O.C. Code)		Big box developments																			153 S	153 P	153 P											*

S:\RAlfonso\Big Box\Big Box Ord 03-20-07- APPENDIX A.rtf