



# CITY COUNCIL AGENDA REPORT

MEETING DATE: JANUARY 19, 2010

ITEM NUMBER:

**SUBJECT:** SECOND READING OF ORDINANCE 10-1 ADOPTING CODE AMENDMENT CO-09-07  
RELATED TO ALCOHOLIC BEVERAGE SALES

**DATE:** JANUARY 7, 2010

**FROM:** DEVELOPMENT SERVICES DEPARTMENT

**PRESENTATION BY:** MINOO ASHABI, SENIOR PLANNER  
KIMBERLY BRANDT, ACTING DEVELOPMENT SVS. DIRECTOR

**FOR FURTHER INFORMATION CONTACT:** MINOO ASHABI, (714) 754-5610

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## RECOMMENDATION:

Give second reading to Ordinance 10-1 that amends Zoning Code (Title 13) to establish new regulations related to the off-sale of alcoholic beverages in conjunction with liquor stores, convenience stores, and mini-markets.

## ANALYSIS:

On January 5, 2010, City Council gave first reading to Ordinance 10-1 by a 5-0 vote for applicability of the new standards. Staff has no further information on this item.

MINOO ASHABI, AIA  
Senior Planner

KIMBERLY BRANDT, AICP  
Acting Development Svs. Director

**DISTRIBUTION:** City Manager  
Asst. City Manager  
City Attorney  
Asst. Dev. Svs. Director  
Public Services Director  
City Clerk (2)  
Staff (4)  
Planning Staff (8)  
File (2)

**ATTACHMENT:** Ordinance 10-1

ORDINANCE NO. 10-1

AN ORDINANCE OF THE CITY COUNCIL OF COSTA MESA, CALIFORNIA ADOPTING ZONING CODE AMENDMENT CO-09-07 TO AMEND TITLE 13, CHAPTER IX, ARTICLE 16, OF THE COSTA MESA MUNICIPAL CODE REGARDING LIQUOR STORES, CONVENIENCE STORES, AND MINI-MARKETS

THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY ORDAIN AS FOLLOWS:

**SECTION 1: TITLE 13.** Title 13, Chapter IX, Article 16, Liquor Stores, Convenience Stores, and Mini-Markets, of the Costa Mesa Municipal Code is hereby amended as follows:

- a. Amend Sections 13-200.71 through 13-200.73 as follows:

**"Sec. 13-200.71 CONDITIONAL USE PERMIT REQUIRED**

A new liquor store, convenience store, or mini-market shall be subject to the approval of a conditional use permit, whether or not the business engages in retail sales of alcoholic beverages through a State of California Department of Alcoholic Beverage Control (ABC) off-sale license. An existing liquor store, convenience store, or mini-market shall also be subject to the approval of a conditional use permit for the following actions:

1. Issuance of a new off-sale ABC license;
2. Any change in the type of off-sale ABC license;
3. Any type of premise to premise transfer of an existing off-sale ABC license;
4. A cumulative expansion of 100 square feet or more of the gross floor area; or,
5. Any suspension or revocation of the off-sale ABC license for 5 days or more by the state in a cumulative 5-year period by the state. The licensee of the establishment shall file and have approved a conditional use permit before the off-sale ABC license can be reestablished.

**Sec. 13-200.72 DEVELOPMENT AND OPERATIONAL STANDARDS FOR LIQUOR STORES, CONVENIENCE STORES, AND MINI MARKETS**

The City Council may adopt Development and Operational Standards for Liquor Stores, Convenience Stores, and Mini-Markets that may be applied on a case-by-case basis as conditions of approval by the review authority. The final review authority may use the following standards in review of new conditional

use permits to impose conditions of approval on the use to ensure compliance with the findings contained in Chapter III, Planning Applications:

1. Alcoholic beverage sales from drive through or walk-up service windows shall be prohibited.
2. Wine, beer and other distilled spirit shall be sold in the factory manufactured packages for retail sales. Factory multiple-packed bottles or cans shall not be unpackaged to be sold individually. This restriction is not intended to prohibit the sale of beverages in a single container packaged by the manufacturer for individual sale.
3. Beer or wine shall not be displayed or sold from an ice tub or any other type of portable refrigerated unit.
4. The business shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The business shall institute whatever security measures are necessary to comply with this requirement.

### **Sec. 13-200.73 MODIFICATION OR REVOCATION**

(a) **Public Nuisance.** If it is determined that certain characteristics of the liquor store, convenience market, or mini-market are detrimental to the public health, welfare, and safety and contrary to public interest, City Council may declare the liquor store, convenience store, or mini-market as a public nuisance, as defined by California Civil Code Section 3479 and 3480, and abate said nuisance pursuant to the procedures set forth in Section 13-17 of the Zoning Code.

(b) **Findings.** In addition, the final review authority may modify or revoke a conditional use permit for a liquor store, convenience store, or mini-market based upon the findings in Section 13-29(o), or upon making one or more of the following findings:

1. That the approval was obtained through fraudulent, erroneous, or misleading information;
2. The use is being operated in an illegal or disorderly manner;
3. The terms or conditions of approval of the conditional use permit have been violated.
4. The use creates an adverse impact on the health, safety, or welfare of surrounding properties and uses; or
5. The use is operated in violation of ABC rules and regulations."

**SECTION 2: ENVIRONMENTAL DETERMINATION.** The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA guidelines, and the City's environmental procedures, and has been found to be exempt pursuant to Section 15061 (b) (3) (general rule) of the CEQA Guidelines, in that the City Council hereby finds that it can be seen with certainty that there is

no possibility that the passage of this ordinance amending the Zoning Code will have a significant effect on the environment.

**SECTION 3: INCONSISTENCIES.** Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of this ordinance, to the extent of such inconsistencies and or further, is hereby repealed or modified to the extent necessary to affect the provisions of this ordinance.

**SECTION 4: APPLICABILITY.** The provisions of this ordinance shall be applicable to new and existing off-sale license establishments as applicable.

**SECTION 5: SEVERABILITY.** If any provision or clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this ordinance which can be implemented without the invalid provision, clause or application; and to this end, the provisions of this ordinance are declared to be severable.

**SECTION 6: PUBLICATION.** This Ordinance shall take effect and be in full force thirty (30) days from and after the passage thereof, and prior to the expiration of fifteen (15) days from its passage shall be published once in the ORANGE COAST DAILY PILOT, a newspaper of general circulation, printed and published in the City of Costa Mesa or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the office of the City Clerk five (5) days prior to the date of adoption of this Ordinance, and within fifteen (15) days after adoption, the City Clerk shall cause to be published the aforementioned summary and shall post in the office of the City Clerk a certified copy of this Ordinance together with the names and member of the City Council voting for and against the same.

**PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_  
2010.**

\_\_\_\_\_  
ALLAN R. MANSOOR  
Mayor of the City of Costa Mesa

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
City Clerk of the City of Costa Mesa

\_\_\_\_\_  
City Attorney

