



COUNCIL AGENDA: 02-07-06  
ITEM: 2.9

# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Joseph Horwedel

**SUBJECT:** SEE BELOW

**DATE:** January 18, 2006

Approved

*Kay Winer*

Date

*1/23/06*

**COUNCIL DISTRICT:** Citywide

**SUBJECT: ADOPTION OF A RESOLUTION ESTABLISHING THE FEES  
ASSOCIATED WITH THE OFF-SALE OF ALCOHOLIC BEVERAGE  
ESTABLISHMENTS INSPECTION PROGRAM**

## RECOMMENDATION

Staff recommends the adoption of a resolution establishing the fees associated with the *Off-Sale of Alcoholic Beverage Establishments Inspection Program*. The annual fee for this program is \$287.00. If applicable, a reinspection fee of \$70.52 will also be assessed on the third and subsequent inspections.

## BACKGROUND

On December 6, 2005, the City Council adopted amendments to Title 6 and Title 20 of the San Jose Municipal Code to regulate the off-sale of alcoholic beverage establishments. These amendments also established the *Off-Sale of Alcoholic Beverage Establishments Inspection Program*, which is similar to the Residential Occupancy Permit Program administered by the Code Enforcement Division.

## ANALYSIS

The program will begin after the City Council adopts a resolution establishing the fee to recover the costs for administering the program. Code Enforcement Division staff estimates that there are approximately 500 business establishments currently engaged in the off-sale of alcoholic beverages. These businesses include gasoline service stations, mini-markets, and grocery stores. In addition, staff estimates that in 2006, 30-50 additional gasoline service stations will seek permits from the City's Planning Division and licenses from the State Bureau of Alcohol Beverage Control.

HONORABLE MAYOR AND CITY COUNCIL

January 18, 2006

**Subject: Adoption of a Resolution Establishing the Fees Associated with the Off-sale of Alcoholic Beverage Establishments Inspection Program**

Page 2 of 2

Staff completed a time task analysis in an effort to calculate staffing needs and the annual fee. The fee will fund 1.0 FTE Code Enforcement Inspector position and associated non-personnel costs to perform annual inspections of these business establishments. The fee allows the City to recover 100% of program costs.

In an effort to conduct a comprehensive and thorough inspection, staff will review permits for each business prior to scheduling the annual inspection. If a violation is observed, whether as a result of the annual inspection or due to receipt of a complaint, a warning notice and/or a compliance order will be issued to the property owner and/or business owner. In addition, the Inspector will attend administrative hearings for the appeal of administrative citations as well as preparing and presenting cases for the San Jose Appeals Hearing Board.

The goal of the annual inspection program is to ensure that businesses currently engaged in the off-sale of alcoholic beverages comply with the Property Maintenance and Performance Standards as set forth in Title 6 of the San Jose Municipal Code, and that staff can respond to citizen complaints within 72 hours.

### **PUBLIC OUTREACH**

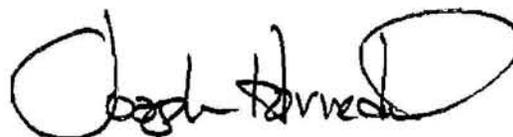
On November 28, 2005, an informational letter, describing the *Off-Sale of Alcoholic Beverage Establishments Inspection Program*, was mailed to all current holders of Alcohol Beverage Control licenses. The letter advised businesses of the Property Maintenance and Performance Standards. Staff received eight responses from business owners seeking clarification regarding the new requirements. Only one business owner objected to the proposed fee, citing the various governmental fees and permits that these businesses already maintain for the privilege of selling alcoholic beverages.

### **COORDINATION**

This memorandum was coordinated with the City Attorney's Office.

### **CEQA**

Not a project.



JOSEPH HORWEDEL, Acting Director  
Planning, Building and Code Enforcement