

ORDINANCE NO. 2026-xx

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ADDING ARTICLE 7 TO CHAPTER II OF TITLE 9 OF THE COSTA MESA MUNICIPAL CODE RELATING TO GROCERY AND DRUG STORE STAFFING STANDARDS FOR SELF-SERVICE CHECKOUT STATIONS

THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA DOES HEREBY FIND AND DECLARE AS FOLLOWS:

WHEREAS, the City of Costa Mesa, pursuant to its police power, may enact regulations for the public peace, morals, and welfare of the City; and

WHEREAS, on November 4, 2025, the City Council directed staff to return with a draft ordinance to establish staffing requirements for self-service checkout stations; and

WHEREAS, the City Council desires to establish staffing standards for self-service checkout stations located in retail grocery and/or drug stores.

Now, therefore, THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Article 7 is hereby added to Chapter II of Title 9 of the Costa Mesa Municipal Code to read as follows:

GROCERY AND DRUG STORE STAFFING STANDARDS FOR SELF-SERVICE CHECKOUT STATIONS

9-170 Purpose.

It is in the public's interest to require grocery and drug stores to adopt effective preventative measures that will address the impacts on public health and safety that retail theft creates within the context of self-service checkout operations where theft commonly occurs but remains largely unchecked and underreported. Regulating the staffing of self-service checkout operations will address the hostile and unsafe working conditions for employees, and unsafe shopping environments for customers.

9-171 Short Title.

This ordinance shall be known as the "Self-Service Checkout Staffing Requirements."

9-172 Definitions.

For the purpose of this Ordinance:

“City” means the City of Costa Mesa.

“Customer” means an individual who buys consumer goods from a Drug Retail Establishment or Food Retail Establishment.

“Drug Retail Establishment” means a retail store that sells a variety of prescription and nonprescription medicines and miscellaneous items, including drugs, pharmaceuticals, sundries, fresh produce, meats, poultry, fish, deli products, dairy products, canned foods, dry foods, beverages, prepared foods, and other merchandise.

“Employee” means a worker employed directly by a hiring entity at a Drug Retail Establishment or Food Retail Establishment. Employee does not include managers, supervisors or confidential employees.

“Food Retail Establishment” means a retail store that is either: (1) over fifteen thousand (15,000) square feet in size and sells primarily household foodstuff for offsite consumption, including fresh produce, meats, poultry, fish, deli products, dairy products, canned foods, dry foods, beverages, baked foods and/or prepared foods (other household supplies or products are secondary to the primary purpose of food sales); or (2) over eighty-five thousand (85,000) square feet and with ten percent (10%) of their sales floor area dedicated to the sale of non-taxable merchandise including the sale of fresh produce, meats, poultry, fish, deli products, dairy products, canned foods, dry foods, beverages, baked foods and/or prepared foods.

“Non-Self-Service Checkout station” means a station that is not a Self-Service Checkout and at which an employee provides human assistance to a customer for scanning, bagging, and/or accepting payment for the customer’s purchases.

“Self-Service Checkout” means the automated processes that enable customers to scan, bag, and pay for their purchases without human assistance, including but not limited to fixed self-checkout, scan-and-go self-checkout, or mobile self-checkout.

“Self-Service Checkout station” means a station at a fixed location within a Drug Retail Establishment and/or Food Retail Establishment at which a customer can engage in a Self-Service Checkout for the customer’s purchases.

9-173 Self-Service Checkout requirement.

A. Drug Retail Establishments and Food Retail Establishments that provide Self-Service Checkout options shall provide at least one Non-Self-Service Checkout station staffed by an Employee that is available during the times that a Self-Service Checkout option is available to customers, and Drug Retail Establishments and Food Retail Establishments shall establish, implement, and advertise limits to Self-Service Checkout to purchases of no more than fifteen (15) items.

B. Drug Retail Establishments and Food Retail Establishments shall have an established workforce policy that prohibits customers from using a Self-Service Checkout station to purchase either of the following:

1. Items that require customers to provide a form of identification, including, but not limited to, alcohol and tobacco products.
2. Items subject to special theft-deterrent measures that are affixed to the item, including, but not limited to, electronic article surveillance, ink, or other tags, or items placed in locked cabinets, that require the intervention of an Employee to remove them before purchase.

C. Drug Retail Establishments and Food Retail Establishments shall notify the public of this Ordinance by prominently posting signage in a location accessible to customers, which includes either a link or QR code to the City of Costa Mesa website regarding this Ordinance, a summary of the public's rights under this Ordinance, a physical and/or email address to which notifications of violations of this Ordinance may be delivered, and the enforcement options available to the public pursuant to this Article. Failure to have and/or maintain an address pursuant to this section shall waive a Drug and/or Food Retail Establishment's ability to assert lack of notice in any civil action brought pursuant to this Ordinance.

D. Self-Service Checkout stations shall be located to enable observation and surveillance from both employees of Drug Retail Establishments and Food Retail Establishments and local law enforcement.

9-174 Self-Service Checkout staffing requirements.

A. Drug Retail Establishments and Food Retail Establishments that provide Self-Service Checkout options shall assign at least one (1) Employee to supervise the Self-

Service Checkout operation at all times that Self-Service Checkout is in operation during business hours. The assigned Employee shall have no other work responsibilities that would interfere with their ability to maintain direct visual inspection and surveillance of the Self-Service Checkout operations.

B. In the event a Drug Retail Establishment or Food Retail Establishment operates two (2) or more Self-Service Checkout stations, the Drug Retail Establishment or Food Retail Establishment shall maintain a staffing ratio of at least one (1) Employee for every three (3) Self-Service Checkout Stations (1:3 ratio). The manner in which this standard is implemented may take into account operational and logistical feasibility.

9-175 Enforcement.

A. A Customer or Employee must notify on-site management verbally or in writing and notify a Drug Retail Establishment or Food Retail Establishment in writing at the address established pursuant to section 9-173(c) of a violation, after which the establishment shall have seven calendar days from the date of notification to cure the violation. If the violation is not cured, a Customer or Employee of a Drug Retail Establishment or Food Retail Establishment may bring a private right of action in the Superior Court of the State of California against a Drug Retail Establishment or Food Retail Establishment for violating this Article and, upon prevailing, may be awarded:

1. A civil penalty for each violation of this Article of one hundred dollars (\$100) for each employee of the Drug Retail Establishment or Food Retail Establishment. Each day the violation is not cured, the penalty shall increase an additional one hundred dollars (\$100) per employee per day up to a limit of one thousand dollars (\$1,000) per employee per day for each day in which the violation remains uncured.

2. Attorneys' fees and costs.

9-176 Retaliatory action prohibited.

No Drug Retail Establishment or Food Retail Establishment shall terminate, reduce in compensation, or otherwise discriminate against any Employee for seeking to enforce their rights under this Article by any lawful means, for participating in proceedings related to this Article, for opposing any practice proscribed by this Article, or for otherwise asserting rights under this Article.

9-177 Alternative Compliance

~~As an alternative means of compliance, a Drug Retail Establishment or Food Retail Establishment shall implement all the following security measures:~~

~~A. Self-Service Checkout Stations are separated from Non-Self Service Checkout stations by railing or other barriers.~~

~~A. At least one Non-Self Service Checkout station is in operation and located between the public exit and the Self-Service Checkout Stations allowing employees to monitor customers exiting.~~

~~B. At least one staff person is dedicated to the self-checkout area during all hours of self-checkout operation.~~

Section 2. 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 no further, is hereby repealed or modified to that extent necessary to affect the provisions of this Ordinance.

Section 3. Severability. If any chapter, article, section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Ordinance or its application to other persons. The City Council hereby declares that it would have adopted this Ordinance and each chapter, article, section, subsection, subdivision, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, phrases, or portions of the application thereof to any person, be declared invalid or unconstitutional. No portion of this Ordinance shall supersede any local, State, or Federal law, regulation, or codes dealing with life safety factors.

Section 4. Effective Date. This Ordinance shall take effect thirty (30) days after its final passage.

Section 5. Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted in the manner required by law.

PASSED AND ADOPTED this ____ day of _____, 2026.

John Stephens, Mayor

ATTEST:

APPROVED AS TO FORM:

Brenda Green, City Clerk

Kimberly Hall Barlow, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, BRENDA GREEN, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that the above and foregoing Ordinance No. 2026-xx was duly introduced for first reading at a regular meeting of the City Council held on the ____ day of _____ 2026, and that thereafter, said Ordinance was duly passed and adopted at a regular meeting of the City Council held on the ____ day of _____, 2026, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this ____ day of _____, 2026.

Brenda Green, City Clerk