

ORDINANCE NO. 10199 (N.S.)

**AN ORDINANCE AMENDING THE
SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES
RELATING TO REGISTRATION OF COMMERCIAL
WEIGHING AND MEASURING INSTRUMENTS**

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. The Board of Supervisors finds and determines that there are a significant number of persons using weighing and measuring instruments for commercial purposes. The Board further finds that the testing and inspection program for the instruments protects the consumers in the County of San Diego. The Board further finds that currently all annual registrations of commercial measuring instruments pose a problem for all businesses that have paid their registration fees, but have lost, misplaced or have not received the certificate through the mail, and causes the Department of Agriculture, Weights and Measures (AWM) to print and mail thousands of these documents. The Board further finds that a person who has completed a registration on file and have paid the appropriate fee will have a valid registration. The Board further finds that not printing and mailing registrations would allow AWM to provide consistent high-level customer service, as well as save resources by not printing and mailing over 12,000 thousand pieces of paper annually. The Board further finds that it is necessary to clarify other ordinance provisions to specify that it is the responsibility of the business owner/operator to apply for an instrument registration, and to make other clarifications that the ordinance provisions govern the registration, not the use, of the instruments.

SEC. 21.1701. PURPOSE AND AUTHORITY.

Business and Professions Code sections 12210 et seq. provide that the sealer of each county shall inspect and test all weighing and measuring instruments used for commercial purposes within its jurisdiction. Business and Professions Code section 12501.1 requires any weighing or measuring instrument to be tested and sealed before being used for commercial purposes. Business and Professions Code sections 12240 et seq. provide that a sealer may recover the cost of inspecting or testing these weighing and measuring instruments by charging an annual registration fee for each business location at which an instrument used for commercial purposes is located and for each instrument used for commercial purposes at the business location. This chapter establishes a system whereby

the County Sealer of Weights and Measures annually registers a business location that uses weighing or measuring instruments for commercial purposes and all instruments used for commercial purposes at the business location. This chapter also provides a system for the Sealer to recover its costs to inspect and test the instruments and makes it unlawful to fail to register an instrument used for commercial purposes.

Section 2. Section 21.1703 of the San Diego County Code is hereby amended to read as follows:

SEC. 21.1703. REGISTRATION REQUIRED.

- (a) A person that owns or operates a business which contains one or more instruments to be used for commercial purposes shall register each business location and all instruments used commercially with the Sealer. It shall be unlawful for a person to fail to register an instrument with the Sealer before using it for commercial purposes. This registration shall be in addition to any other registration, certificate, license or permit which may be required by the County or any other public entity.
- (b) A registration pursuant to this chapter shall not be transferable from one person to another person or from one location to another business location.

Section 3. Section 21.1704 of the San Diego County Code is hereby amended to read as follows:

SEC. 21.1704. APPLICATION FOR REGISTRATION.

An application for an initial or renewal registration shall be submitted to the Sealer on a form prescribed by the Sealer. The registration shall be deemed granted and become effective upon the Sealer's receipt of a completed application and the fee prescribed by this chapter or upon receipt of just the fee when no application is required.

Section 4. Section 21.1705 of the San Diego County Code is hereby amended to read as follows:

SEC. 21.1705. TERM OF REGISTRATION.

A registration shall expire in accordance with the following provisions:

- (a) With the possible exception of the initial registration, a registration shall be valid for one calendar year beginning on the first day of the month that the registration

is effective. The initial registration may be valid for a prorated period of less than one year, as determined by the Sealer, to stagger the annual renewal dates for all registered instruments.

- (b) A registration shall be renewed annually if the instrument(s) for which the registration was granted will continue to be used for commercial purposes.
- (c) The business owner/operator is responsible for renewing the registration on an annual basis.

Section 5. Section 21.1706 of the San Diego County Code is hereby amended to read as follows:

SEC. 21.1706. REGISTRATION FEE AND LATE PENALTIES.

(a) The registration fee for a business with one or more instruments at the business location to be used for commercial purposes shall be as prescribed in County Administrative Code section 364.3 (referred to in this chapter as "section 364.3") and is due on the first day of the applicable registration period.

(b) Any person who fails to register within 30 days of owning or operating a business which contains one or more instruments to be used for commercial purposes shall be in violation of this chapter and subject to a late penalty of 50% of the registration fee. An additional late penalty of 50% of the registration fee shall be levied for each 30 days thereafter that the registration is delinquent, up to a maximum late penalty of 200%.

(c) Any person who fails to renew the registration within 30 days of the expiration of the current registration shall be in violation of this chapter and subject to a late penalty of 50% of the registration fee. An additional late penalty of 50% of the registration fee shall be levied for each 30 days thereafter that the registration is not renewed, up to a maximum late penalty of 200%.

(d) Nothing in this section limits the County's right to prosecute and/or pursue civil penalties against an owner or operator who uses an unregistered instrument for commercial purposes in violation of this chapter.

Section 6. Section 21.1707, 21.1708, and 21.1709 of the San Diego County Code is hereby amended to read as follows:

SEC. 21.1707. Repealed

SEC. 21.1708. Repealed

SEC. 21.1709. Repealed

Section 7. Section 21.1713 of the San Diego County Code is hereby amended to read as follows:

SEC. 21.1713. LABELING AN INSTRUMENT NOT REGISTERED WITH THE COUNTY SEALER

(a) If the Sealer finds that a business location has an instrument used for commercial purposes that does not have a current registration ~~certificate~~, the Sealer may label the instrument "Not Registered with the County Sealer For Commercial Use" until the instrument is registered and sealed by the Sealer.

(b) It shall be unlawful for any person other than the Sealer to remove, conceal, alter or tamper with a label placed by the Sealer on any instrument.

Section 8. This ordinance shall take effect and be in force and effect 30 days after its passage, and before the expiration of 15 days after its passage, a summary hereof shall be published once with the names of the members of the Board voting for and against it in the San Diego Commerce, a newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of San Diego this 14th day of March, 2012.