

ORDINANCE NO. 10605 (N.S.)

AN ORDINANCE AMENDING CHAPTER 17 OF DIVISION 1  
OF TITLE 2 OF THE SAN DIEGO COUNTY CODE OF  
REGULATORY ORDINANCES, RELATING TO  
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 is a significant number of weighing and measuring instruments registered for commercial use in the County. The Board further finds that it is necessary to amend the ordinance to specify the Sealer, pursuant to Business and Professions Code Section 12210.3(b), shall, upon written request, inspect, test, and certify to the accuracy of, commercial water submeters intended to be placed into service in a different county, or according to a schedule different from the inspection frequency established by regulations, or not intended to be placed into service in San Diego County within six months from the date of certification of accuracy and that the person requesting this service shall pay the fee provided by San Diego County Code of Administrative Ordinances, Article XX Fees and Charges, Section 364.3. The Board finds and determines that a revision is needed to clarify the title of Sec. 21.1712 by revising it to read "Testing of Commercial Instruments". The Board further finds and determines the need to add "San Diego County Code of Administrative Ordinances, Article XX Fees and Charges, Section 364.3" wherever "Section 364.3" was previously referenced in this article. The amendments made by this ordinance are intended to improve the efficiency and effectiveness of the Department's Device Program.

Section 2. Chapter 17, Division 1 of Title 2 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

**CHAPTER 17. REGISTRATION OF COMMERCIAL WEIGHING AND MEASURING 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

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to recover its costs to inspect and test the instruments and makes it unlawful to fail to register an instrument used for commercial purposes.

(Amended by Ord. No. 8036 (N.S.), effective 4-2-92; amended by Ord. No. 9514 (N.S.), effective 12-13-02; amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10156 (N.S.), effective 7-29-11; amended by Ord. No. 10199 (N.S.), effective 4-13-12)

**State law reference(s)**--Instrument inspection and testing, Business and Professions Code, § 12210; authority for article, Business and Professions Code, §§ 12210 et seq., 12240.

#### **SEC. 21.1702. DEFINITIONS.**

The following definitions shall apply to this chapter:

(a) "Business location" has the same meaning as the term "business location" in Business and Professions Code Section 12240(u).

(b) "Commercial purposes" has the same meaning as the term "commercial purposes" in Business and Professions Code Section 12500(e).

(c) "Instrument" means a "weighing instrument" as defined in Business and Professions Code Section 12500(a) or a "measuring instrument" as defined in Business and Professions Code Section 12500(b).

(d) "Sealer" means the County Sealer of Weights and Measures, a Deputy Sealer or an inspector employed by the County Department of Agriculture, Weights and Measures for the purpose of enforcing this chapter.

(e) "Weighmaster" has the same meaning as the term "weighmaster" in Business and Professions Code Sections 12700-12702.

(Amended by Ord. No. 6708 (N.S.), effective 2-2-84; amended by Ord. No. 8036 (N.S.), effective 4-2-92; amended by Ord. No. 8316 (N.S.), effective 11-25-93; amended by Ord. No. 9514 (N.S.), effective 12-13-02; amended by Ord. No. 9889 (N.S.), effective 10-26-07)

**Cross reference(s)**--Definitions, § 12.101 et seq.

#### **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.

(Amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10156 (N.S.), effective 7-29-11; amended by Ord. No. 10199 (N.S.), effective 4-13-12)

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**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.

(Amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10156 (N.S.), effective 7-29-11; amended by Ord. No. 10199 (N.S.), effective 4-13-12)

**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.

(Amended by Ord. No. 7309 (N.S.), effective 7-2-87; amended by Ord. No. 9514 (N.S.), effective 12-13-02; amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10156 (N.S.), effective 7-29-11; amended by Ord. No. 10199 (N.S.), effective 4-13-12)

**SEC. 21.1706. REGISTRATION FEE AND DELINQUENT FEE.**

(a) The registration fee for a business with one or more instruments at the business location to be used for commercial purposes shall be assessed at the maximum amount authorized in Section 12240 of the Business and Professions Code and is due on the first day of the applicable registration period.

(b) Any person who fails to register a business with one or more instruments used for commercial purposes shall be in violation of this chapter. If the registration fee is not received by the department within 30 days of the due date, any person required to register under this chapter shall be subject to a delinquent fee of 50% of the registration fee.

(c) 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.

(d) The delinquent fee may be waived by the Sealer if an error is made by the Department of Agriculture, Weights and Measures staff.

(Amended by Ord. No. 7309 (N.S.), effective 7-2-87; amended by Ord. No. 9514 (N.S.), effective 2-13-02; amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10199 (N.S.), effective 4-13-12)

**State law reference(s)--Fees, Business and Professions Code, § 12240.**

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**SEC. 21.1707. [RESERVED.]**

(Amended by Ord. No. 9889 (N.S.), effective 10-26-07; repealed by Ord. No. 10199 (N.S.), effective 4-13-12)

**SEC. 21.1708. [RESERVED.]**

(Amended by Ord. No. 9889 (N.S.), effective 10-26-07; repealed by Ord. No. 10199 (N.S.), effective 4-13-12)

**SEC. 21.1709. [RESERVED.]**

(Amended by Ord. No. 9889 (N.S.), effective 10-26-07; repealed by Ord. No. 10199 (N.S.), effective 4-13-12)

**SEC. 21.1710. INSTRUMENTS USED BY WEIGHMASTERS.**

No person shall act as a weighmaster unless currently licensed by the Secretary of Food and Agriculture pursuant to Business and Professions Code Sections 12704 et seq. No weighmaster shall issue a weighmaster certificate pursuant to Business and Professions Code Section 12711 et seq. based upon an instrument unless it has been tested and bears a current seal placed by the Sealer. If an instrument a weighmaster intends to use to issue weighmaster certificates does not pass a Sealer's inspection, a weighmaster shall be subject to a re-inspection fee prescribed by San Diego County Code of Administrative Ordinances, Article XX Fees and Charges, Section 364.3 for each re-inspection of the instrument the Sealer performs.

(Added by Ord. No. 8036 (N.S.), effective 4-2-92; amended by Ord. No. 9889 (N.S.), effective 10-26-07)

**State law reference(s)**--Reinspection, Business and Professions Code, §§ 12210.5, 12717.

**SEC. 21.1711. INSPECTION APPOINTMENT.**

The Sealer may schedule an appointment, to inspect and test an instrument at a time mutually agreed upon by the Sealer and a business owner or operator. The business owner or operator shall give the Sealer at least 24-hour notice to cancel the appointment or pay the reschedule fee provided by San Diego County Code of Administrative Ordinances, Article XX Fees and Charges, Section 364.3 before a new appointment shall be scheduled.

(Added by Ord. No. 8036 (N.S.), effective 4-2-92; amended by Ord. No. 9889 (N.S.), effective 10-26-07)

**SEC. 21.1712. REQUESTS FOR TESTING OF NON-COMMERCIAL INSTRUMENTS.**

The Sealer, pursuant to Business and Professions Code Section 12210(b), shall upon written request, calibrate, test, weigh, measure and certify the accuracy of non-commercial weights and measures and instruments, tools and accessories. The person requesting this service shall pay the fee provided by San Diego County Code of Administrative Ordinances, Article XX Fees and Charges, Section 364.3.

(Amended by Ord. No. 9889 (N.S.), effective 10-26-07)

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**SEC. 21.1712.1. REQUESTS FOR TESTING OF COMMERCIAL WATER SUBMETERS.**

The Sealer, pursuant to Business and Professions Code Section 12210.3(b), shall, upon written request, inspect, test, and certify to the accuracy of, commercial water submeters intended to be placed into service in a different county, or according to a schedule different from the inspection frequency established by regulations, or not intended to be placed into service in San Diego County within six months from the date of certification of accuracy. The person requesting this service shall pay the fee provided by San Diego County Code of Administrative Ordinances, Article XX Fees and Charges, Section 364.3.

**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, 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.

(Amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10156 (N.S.), effective 7-29-11; amended by Ord. No. 10199 (N.S.), effective 4-13-12)

**SEC. 21.1714. STANDBY FEES.**

The Sealer may charge a standby fee as provided in San Diego County Code of Administrative Ordinances, Article XX Fees and Charges, Section\_364.3 to an owner or operator of an instrument who requests that the Sealer stand by during the time the owner or operator needs to put an instrument into the proper condition to be inspected or tested. The fee shall cover the Sealer's costs to stand by.

(Added by Ord. No. 8036 (N.S.), effective 4-2-92; amended by Ord. No. 8316 (N.S., effective 11-25-93; amended by Ord. No. 9889 (N.S.), effective 10-26-07)

**SEC. 21.1715 NOTICE OF CHANGE IN BUSINESS CONTACT.**

(a) The registrant shall, in case of any change in mailing address or business telephone number, notify the Sealer in writing.


Section 3. This ordinance shall take effect and be in force 30 days after its passage, and before the expiration of fifteen days after its passage, a summary shall be published once with the names of the members voting for and against the same in the Daily Transcript, a newspaper of general circulation published in the County of San Diego.

Section 4. Operative Date: This Ordinance shall be operative on July 1, 2019.

APPROVED AS TO FORM AND LEGALITY  
COUNTY COUNSEL  
BY: Justin Crumley, Senior Deputy County Counsel

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PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of San Diego this 1<sup>st</sup> day of May, 2019.

  
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DIANNE JACOB  
Chairwoman, Board of Supervisors  
County of San Diego, State of California

The above Ordinance was adopted by the following vote:

AYES: Cox, Jacob, Gaspar, Fletcher, Desmond

ATTEST my hand and the seal of the Board of Supervisors this 1<sup>st</sup> day of May, 2019.

ANDREW POTTER  
Clerk of the Board of Supervisors

By   
\_\_\_\_\_  
Joana Santiago, Deputy



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