

ORDINANCE NO. 9514 (NEW SERIES)

AN ORDINANCE AMENDING THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES RELATING TO REGISTERING WEIGHING AND MEASURING INSTRUMENTS AND FEES FOR RELATED INSPECTIONS AND PERMITS FOR AUTOMATED POINT-OF-SALE STATIONS

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

Section 1. The Board of Supervisors finds that calibration of weighing and measuring instruments is a new service provided by the Department of Agriculture, Weights and Measures. The Board also finds and determines that various sections relating to weighing and measuring devices should be clarified. The Board further finds that the Sealer is required by State law to utilize a schedule of fees for commercially used devices that is set by the Secretary of Food and Agriculture. The Board further finds and determines that changing the current annual permit period for point-of-sale stations (scanners) to four annual permit periods and allowing the Sealer flexibility in establishing the schedule of billings for permit renewals will improve the Department's operating efficiency and provide cost savings to new permittees. Accordingly, the Board of Supervisors finds and determines that amendments are necessary to improve the efficiency and effectiveness of device and point-of-sale (scanner) programs in the Department of Agriculture, Weights and Measures.

Section 2. Section 21.1701 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 21.1701. PURPOSE AND AUTHORITY.

The purpose of this Article is to establish a system for registering weighing and measuring instruments and to recover the costs of inspecting, testing, and/or calibrating weighing and measuring instruments pursuant to Section 12210 of the Business and Professions Code. The authority for this Article is Article 2 (commencing with Section 12210 and 12210.5) and Article 2.1 (commencing with Section 12240) of Chapter 2 of Division 5 of the Business and Professions Code.

Section 3. Section 21.1702 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 21.1702. DEFINITIONS.

For the purpose of this Article, unless the context otherwise requires:

- (a) The term "Weighing and Measuring Instruments" shall mean "Weighing Instruments" and "Measuring Instruments" as defined by Section 12500 and Section 12241 of the California Business and Professions Code.
- (b) The term "commercial purposes" shall have the meaning assigned to it by Section 12500 of the Business and Professions Code.
- (c) The term "Weights and Measures Division" shall mean the Weights and Measures Division of the San Diego County, Department of Agriculture-Weights and Measures.
- (d) The term "person" shall have the meaning assigned to it by Section 10 of this Code and Section 12011 of the Business and Professions Code.
- (e) The term "Sealer" means the Sealer of Weights and Measures and duly authorized agents.
- (f) The term "location" means the room enclosure, building, space or area where one or more weighing or measuring devices are located or operated.
- (g) The term "Commercial Instruments" shall have the meaning assigned to it by Section 12500 of the Business and Profession Code.
- (h) The term "Non-commercial Instruments" shall mean any Weighing or Measuring Instruments other than Weighing and Measuring Instruments being used for commercial purposes as defined by Section 12500 of the Business and Professions Code.
- (i) The term "Stand-by Time" shall mean the amount of time in which the Sealer of Weights and Measures cannot engage in the inspection of Weighing and Measuring because at the time and place specified by the owner, distributor, or repairperson of such instruments, the instruments are not in a fit and proper condition to be inspected or tested because the instruments are not completely assembled or defective in some manner, requiring additional work and labor to put them in a fit and proper condition for inspection and testing
- (j) The term "Scheduled Inspection Appointment" shall mean the specified day and time of day scheduled by the Sealer of Weights and Measures to conduct an inspection or testing of Weighing or Measuring Instruments.
- (k) The term "Weighmaster" shall have the meaning assigned to it by Section 12700 of the Business and Professions Code.
- (l) The term "Inspection" shall mean the initial testing and examination of Commercial and Non-commercial Instruments.

- (m) The term "Reinspection" shall mean the retesting and reexamination of Commercial or Non-commercial Instruments after marking the Commercial or Non-commercial Instruments as being incorrect or deficient in some manner on the initial inspection as stated in Section 12210 of the Business and Professions Code.
- (n) The term "Incorrect" shall have the meaning assigned to it by Section 12500 of the Business and Professions Code.

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

SEC. 21.1 705. TERM OF REGISTRATION CERTIFICATE.

A registration certificate shall be valid for the year or fraction thereof and may be renewed each year upon payment of the applicable fee prescribed by Sec. 21.1706(a).

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

SEC. 21.1706. FEES AND PENALTIES.

- (a) FEES. The annual fee for instruments to be used commercially throughout the term of the certificate shall be as prescribed in Section 12240 of the Business and Professions Code.
- (b) PENALTIES. Any registration certificate for which the fees have not been paid within thirty (30) days from the date such payment is due will be subject to a one hundred (100%) penalty, with a like amount accruing each. thirty (30) days which elapse without payment received. Penalties only to reflect additional costs.

Section 6. Section 21.1714 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 21.1714. INSPECTION AND TESTING FEES.

For the purpose of defraying the expenses involved in connection with the testing, inspection, and/or calibration of commercial and non-commercial weighing and measuring instruments at the request of the owner/user of those devices, the Sealer of Weights and Measures in conjunction with the Auditor-Controller, is authorized to establish from time to time a schedule of fees to cover the cost, including mileage, of employing such services.

Section 7. Section 21.2005 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 21.2005. DURATION AND TRANSFERABILITY OF PERMIT.

- (a) All permits issued pursuant to this Chapter prior to January 4, 2003 shall be valid for one year or fraction thereof, for the period beginning September 1, 2002.. Fees for the renewal of any permit beginning September 1, 2002 through January 4, 2003 shall be paid by February 1, 2003.

Effective January 4, 2003 and thereafter, there shall be four annual permitting periods as follows: January through December, April through March, July through June, and October through September. Permits issued within the first quarter of any period shall expire on the last day of the period. Fees for the renewal of any permit beginning January 4, 2003, and thereafter, shall be paid by the first day of the new permit period.

- (b) Renewal of a permit is the responsibility of the permittee and shall be made in a manner similar to the issuance of the original permit.
- (c) Permits shall not be transferable between persons or establishment locations.
- (d) Permittees shall not lease, sublet, subcontract, or in any manner permit any person or entity to engage in activities regulated under the permit, except as an employee of the permittee.

Section 8. Section 21.2006 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 21.2006. FEES AND PENALTIES.

- (a) A re-inspection fee, the permit fee and all applicable penalties for any person utilizing a point-of-sale station shall be established, from time to time, by the Board of Supervisors, in accordance with applicable provisions of law, in amounts not to exceed the costs incurred by the County in performing the inspection, re-inspection, testing and permitting functions to which the fees relate. The fees and penalties shall be reviewed not less than every five (5) years.
- (b) Any registration certificate for which the fees have not been paid within thirty (30) days, from the date such payment is due, is subject to a penalty accruing each thirty (30) days which elapse without payment received, up to a maximum one-hundred percent (100%) of the original amount due.
- (c) The Sealer shall set a collection schedule and collect the permit fee annually.

Section 9. Section 68.1112 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 68.1112. ENFORCEMENT OF HAZARDOUS MATERIALS RESPONSE PLAN AND INVENTORY REQUIREMENTS AT AGRICULTURAL BUSINESSES.

Every business which is required, pursuant to California Health and Safety Code, to provide information regarding inventories or hazardous materials to the Agricultural Commissioner shall pay a maximum yearly fee in accordance with the ordinance for such fee. Such fee shall pay the expenses of the Agricultural Commissioner in collecting annual inventories and conducting at least triennial storage inspections of agricultural businesses to ensure proper compliance with hazardous materials response plan and inventory requirements.

Section 10. This ordinance shall take effect and be in force thirty days after its passage, and before the expiration of fifteen days after its passage, a summary hereof shall be published once with the names of the members of this 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 this 13th day of November 2002