

**ORDINANCE NO. 9597 (N.S.)**

**AN ORDINANCE REPEALING SECTIONS  
21.2010 THROUGH 21.2015 AND ADDING  
SECTIONS 21.2010 THROUGH 21.2017 OF THE  
SAN DIEGO COUNTY CODE OF  
REGULATORY ORDINANCES RELATING  
TO 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 it is in the public interest to post information in stores to inform consumers about the need to check the accuracy of prices registered by price scanners, where to file a complaint about price scanner inaccuracy and stores that have failed scanner price accuracy inspections. Accordingly, the Board of Supervisors finds and determines that it is necessary to revise the point-of-sale program to require stores to post notices to consumers regarding price accuracy and failed scanner inspections and to allow stores to post notices regarding successful scanner inspections. The Board also finds that section 21.2016, Re-inspection Fee, is not a new fee. This fee was in section 21.2013, which is being repealed and readopted verbatim as section 21.2016.

**Section 2.** Sections 21.2010 through 21.2015 of the San Diego County Code are hereby repealed.

**Section 3.** Section 21.2010 is hereby added to the San Diego County Code to read as follows:

**SEC. 21.2010. POSTING OF NOTICE TO CONSUMERS.**

(a) Every person who uses a point-of-sale station for commercial purposes shall post the following Notice to Consumers at each point-of-sale station:

“NOTICE TO CONSUMERS:

PRICE ACCURACY IS IMPORTANT

Check your receipt and notify store management immediately of any overcharge.

Consumers are entitled to pay no more than the posted, advertised, or quoted price for any commodity purchased at a retail store.

For information or to file a complaint, contact:

County of San Diego

Department of Agriculture, Weights and Measures at: ”

The end of the Notice to Consumers shall list the phone number and website address provided by the Department.

(b) Each Notice to Consumers shall be posted so that it is clearly visible, conspicuous and easily read from a typical and reasonable customer position at each point-of-sale station.

(c) Copies of the Notice to Consumers shall be provided by the Department upon request by any person who has obtained a permit to operate a point-of-sale station for commercial purposes. Alternatively, any person may design his or her own Notice provided that it contains the wording required in subsection (a) above and is printed in English in letters that are no less than one-sixteenth inch high, are clearly legible and are in a color that contrasts with the background color of the Notice.

**Section 4.** Section 21. 2011 is hereby added to the San Diego County Code to read as follows:

**SEC. 21.2011. POSTING OF NOTICE OF PENALTY FOR FAILED INSPECTION.**

(a) A Notice of Penalty for Failed Inspection shall be posted at each business location at which a violation of section 12024.2 of the Business and Professions Code is found to have occurred in the course of an inspection by the Department, and which resulted in a criminal conviction, a civil penalty, or an administrative civil penalty, and which involved either of the following during any single inspection visit:

- (1) The overcharge on any single item exceeded \$1.00; or
- (2) Overcharges of any value occurred for more than one item.

(b) The Notice of Penalty for Failed Inspection shall be prepared by the Department and shall:

- (1) Be 8 ½ inches by 11 inches in dimension. Design, color, font, and font size shall be at the discretion of the Department;
- (2) Be in English;
- (3) State the store name and street address, including city and zip code;
- (4) State the date of inspection when the violation occurred;
- (5) State, as applicable, the case number and court or the administrative case number, as well as the fine or penalty paid by the operator of the business.

(c) The Notice of Penalty for Failed Inspection shall meet the following posting requirements:

- (1) The Notice shall be posted facing outward for viewing from outside the store and shall be posted in the front window within five feet of the store entrance or on the entrance door.
- (2) The Notice shall be posted in a location that is clearly visible and conspicuous to customers entering the store. The Notice shall be moved as directed by the

Department if the Department concludes that the Notice, as posted, is not clearly visible and conspicuous to customers entering the store.

(3) Businesses with multiple customer entrances shall post an identical notice at each entrance in compliance with subsections (c)(1) and (c)(2).

(d) The Notice of Penalty for Failed Inspection shall be posted within 24 hours of receipt by the store manager or the store employee in charge at the time of receipt. The notice shall remain posted for at least 10 days from the time of initial posting.

(e) The Notice of Penalty for Failed Inspection shall not be removed, defaced, marred, camouflaged, or hidden from view in any manner during the posting period specified in subsection (d).

**Section 5.** Section 21. 2012 is here added to the San Diego County Code to read as follows:

**SEC. 21.2012. POSTING OF NOTICE OF PASSING INSPECTION.**

(a) Upon completion of a price accuracy inspection by the Department in which no pricing error is found, the Department representative shall offer to provide a Notice of Passing Inspection which may be posted for public display at the discretion of the business operator. The term “error,” for purposes of this section, shall include the charging of any value greater or less than the price advertised, posted, or quoted when the inspection was performed. The Notice of Passing Inspection may be posted for no more than 10 days from the time of issuance.

(b) If a business decides to post a Notice of Passing Inspection, the business shall post only the Notice provided by the Department.

**Section 6.** Section 21.2013 is hereby added to the San Diego County Code to read as follows:

**SEC. 21.2013. VIOLATIONS.**

It shall be unlawful for any person or permittee, employee or agent thereof to do any of the following:

- (a) Use a point-of-sale station without a current permit.
- (b) Fail to post the current permit as required.
- (c) Fail to post a Notice to Consumers as specified in Section 21.2010.
- (d) Fail to post a Notice of Penalty for Failed Inspection as specified in Section 21.2011.
- (e) Fail to remove a Notice of Passing Inspection at the conclusion of the permitted posting period specified in section 21.2012(a).

**Section 7.** Section 21.2014 is hereby added to the San Diego County Code to read as follows:

**SEC. 21.2014. HEARING ON REVOCATION OR SUSPENSION.**

Prior to the refusal to grant or renew any such permit, and prior to revocation or suspension of such permit, the applicant or permittee shall be entitled to a hearing in accordance with Business and Professions Code section 12015.3.

**Section 8.** Section 21.2015 of the San Diego County Code is hereby added to read as follows:

**SEC. 21.2015. RESTORATION OF SUSPENDED/REVOKED PERMIT.**

A suspended or revoked permit shall be restored or reissued by the Department when the applicant or permittee has corrected all violations to the satisfaction of the Department and is in full compliance with applicable State law and with this Chapter.

**Section 9.** Section 21.2016 of the San Diego County Code is hereby added to read as follows:

**SEC. 21.2016. RE-INSPECTION FEE.**

For the purpose of defraying additional inspection costs incurred by the Department when a point-of-sale station used by a person fails an inspection, the department may charge a re-inspection fee to the person upon return to verify that corrective actions have been taken and no additional violations are occurring. The re-inspection fee shall include, but is not limited to, inspector costs, mileage, etc.

**Section 10.** Section 21.2017 of the San Diego County Code is hereby added to read as follows:

**SEC. 21.2017. VIOLATION - INFRACTION - MISDEMEANOR.**

(a) Except as provided in subsection (b), any person violating any provision of this Chapter shall be deemed guilty of an infraction.

(b) A person convicted of a second or subsequent violation of this Chapter within two years from the date of the first conviction shall be guilty of a misdemeanor punishable by a fine not to exceed five-hundred (\$500) dollars or by imprisonment for a period of not more than six (6) months in the County jail or by both such fine and imprisonment.

(c) Each day or portion thereof a violation exists or continues shall be a new and separate offense.

(d) Payment of any imposed fine or service of a jail sentence shall not relieve a person from the responsibility of correcting the condition resulting from the violation.

(e) In addition to the above fines, the court may order that the guilty party shall reimburse the County for all costs incurred in the investigation, and prosecution of the enforcement action against the guilty party. The court shall fix the amount of such reimbursement upon the submission of proof of such costs by the County.

**Section 11.** 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 thereof shall be published once with the names of the members of this Board voting for and against it in a newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED AND ADOPTED this 17<sup>th</sup> day of September, 2003.