

ORDINANCE NO. .
BOARD OF SUPERVISORS, COUNTY OF SAN MATEO,
STATE OF CALIFORNIA

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**AN ORDINANCE REPEALING AND REPLACING CHAPTER 5.144 OF TITLE 5 OF
THE SAN MATEO COUNTY ORDINANCE CODE RELATING TO FEES FOR
INSPECTION AND PERMITTING OF POINT OF SALE SYSTEMS**

The Board of Supervisors of the County of San Mateo, State of California,
ORDAINS as follows:

SECTION 1. Chapter 5.144 of the San Mateo County Ordinance Code is hereby repealed and replaced to read as follows:

SECTION 5.144.010. DEFINITIONS

- (a) “Advertise” means to give a notice to attract public attention.
- (b) “Commercial purpose” means and includes any sale of a commodity by a person to a consumer.
- (c) “Commodity” means any article of commerce or anything that is bought or sold.
- (d) “Initial standard inspection” shall mean an inspection made at the customary time interval used by the San Mateo County Agricultural Commissioner/Sealer of Weights and Measures
- (e) “Location” shall mean a premise on which a retail establishment or a single business operates a “point-of-sale” system.
- (f) “Person” means any person, firm, corporation, business or association.

- (g) “Point-of-sale checkout register” means individual and separate checkout registers with equipment capable of retrieving electronically stored price information used for determining the price of the item being purchased by a consumer.
- (h) “Point-of-sale system” means any system used by a retail establishment such as, but not limited to, Universal Product Code scanners, price look-up codes, or an electronic price look up system as a means for determining the price of the item being purchased by the consumer.
- (i) “Sell” means and includes bartering, exchanging, trading, keeping for sale, offering for sale, or exposing for sale a commodity.
- (j) “Reinspection” means the re-testing or re-examination of a point-of-sale system after the San Mateo County Agricultural Commissioner/Sealer of Weights and Measures has determined that a retail establishment failed an initial standard inspection.
- (k) “Clearly visible” means positioned that it may be accurately read from any reasonable consumer position.

SECTION 5.144.020. REGISTRATION AND PERMITTING OF POINT OF SALE SYSTEMS

- (a) Any person who intends to use a Point of Sale System must first obtain an annual Point-of-Sale System Registration Permit from the San Mateo County Agricultural Commissioner/Sealer of Weights and Measures
- (b) Point-of-Sale System Registration Permits shall be effective for up to one calendar year and shall expire on December 31st of each year.

- (c) Point-of-Sale System Registration Permits must be renewed by March 1st of each year.
- (d) Applications for Point-of-Sale System Registration Permits shall be filed with the San Mateo County Agricultural Commissioner/Sealer of Weights and Measures using the form provided.

SECTION 5.144.030. AVAILABILITY OF POINT-OF-SALE SYSTEM REGISTRATION PERMIT

At each location, the permit holder shall make available to any official of the San Mateo County Agricultural Commissioner/Sealer of Weights and Measures the applicable Point-of-Sale System Registration Permit.

SECTION 5.144.040. FEES

- (a) Applicants for a Point-of-Sale System Registration Permit shall pay to the San Mateo County Agricultural Commissioner/Sealer of Weights and Measures an annual registration fee.
- (b) The amount of the annual Point-of-Sale System Registration Permit fee shall be:
 - (1) Two hundred twenty (\$220) for each location that has between one to three Point-of-Sale Checkout Registers.
 - (2) Three hundred ninety (\$390) for each location that has four to nine Point-of-Sale Checkout Registers.
 - (3) Four hundred ninety (\$490) for each location that has ten or more Point-of-Sale Checkout Registers.

- (c) A late fee in the amount of 50% of the prescribed registration fee shall be added to the fee if payment of the registration fee is paid more than 60 days after it is invoiced by the Sealer.
- (d) A reinspection fee of one hundred fifty (\$150) shall be charged. The reinspection fee shall be paid by the retail establishment within 60 days after the date billed by the San Mateo County Agricultural Commissioner/Sealer of Weights and Measures.
- (e) All fees collected shall be placed in the general fund of the County and used solely to recover the costs of inspection of point-of-sale systems and the consumer notification program.

SECTION 5.144.050 NOTICE TO CONSUMER

Every person who uses a point-of-sale system for commercial purposes shall post a notice which will be provided by the San Mateo County Agricultural Commissioner/Sealer of Weights and Measures and includes the following information so as to be clearly visible to the general public and to consumers at each point-of-sale checkout register:

“Attention Consumer: You are entitled to the lowest advertised price offered by this store. For information or complaints, you may call the County of San Mateo Sealer of Weights and Measures at a phone number provided by the San Mateo County Agricultural Commissioner/Sealer of Weights and Measures.”

SECTION 5.144.060. VIOLATIONS

It shall be unlawful for any person, or any Point-of-Sale System Registration Permit holder, employee or agent thereof to violate the provisions of this chapter, and specifically it shall be unlawful to:

- (a) Use a point-of-sale system without a current Point-of-Sale System Registration Permit.
- (b) Fail to make available the Point-of-Sale System Registration Permit as required per section 5.144.030 of this chapter.
- (c) Fail to post the notice for consumers as specified in section 5.144.050 of this chapter.

SECTION 5.144.070. PENALTIES

- (a) Unless otherwise provided, any person failing to comply with the provisions of this chapter, and specifically the violations as defined in Section 5.144.060, shall be guilty of an infraction or misdemeanor as hereinafter specified.
- (b) Any person so convicted shall be:
 - 1. Guilty of an infraction offense, punishable by a fine not exceeding one hundred dollars (\$100) and not less than fifty dollars (\$50) for a first offense.
 - 2. Guilty of an infraction offense, punishable by a fine not exceeding two hundred dollars (\$200) and not less than one hundred dollars (\$100) for a second offense.
 - 3. Guilty of a misdemeanor for the third and any additional offenses and punished by a fine not exceeding one thousand dollars (\$1,000) and not less than five hundred dollars (\$500) or any other penalty imposed by a court, or both.

- (c) Pursuant to Government Code section 25132, a first or second offense may be charged and prosecuted as a misdemeanor.
- (d) Payment of any fine or other penalty imposed by a court shall not relieve a person from the responsibility of obtaining a registration certificate for a point-of-sale system and/or the requirements of Section 5.144.050.
- (e) In addition to all other remedies provided by this chapter or state law, in the event of continuing violation of the provisions of this chapter, the San Mateo County Agricultural Commissioner/Sealer of Weights and Measures may seek injunctive relief to restrain further violations.

SECTION 2. This Ordinance shall be effective thirty (30) days from the passage date thereof.