

ORDINANCE NO. _____

**ORDINANCE OF THE MARIN COUNTY BOARD OF SUPERVISORS
ADDING CHAPTER 5.45 TO THE MARIN COUNTY CODE RELATING TO POINT OF SALE
STATION REGISTRATION**

THE BOARD OF SUPERVISORS OF THE COUNTY OF MARIN does hereby ordain as follows:

SECTION I.

The Marin county Code is hereby amended by addition Chapter 5.45 to read as follows:

CHAPTER 5.45

POINT OF SALE REGISTRATION

Sections:

- 5.45.010 Purpose and authority
- 5.45.020 Definitions
- 5.45.030 Registration permit requirement/Exemptions.
- 5.45.040 Duration and transferability of registration permit
- 5.45.050 Fees and penalties
- 5.45.060 Persons to whom registration permit is issued
- 5.45.070 Lost permit
- 5.45.080 Availability of registration permit
- 5.45.090 Violations.
- 5.45.100 Hearing on revocation nor suspension
- 5.45.110 Restoration of Suspended/revoked registration permit.
- 5.45.120 Violation, infraction, misdemeanor.

5.45.010 Purpose and authority.

A. it is unlawful to charge at the time of sale a price that is more than the price that is advertised or posed. Pursuant to California Business and Professions Code sections 12103.5, 12024.2, and 12024.6, the purpose of this Chapter is to endure that the advertised or posted price of a commodity is the price charged for that commodity.

B. this chapter establishes a system to identify register and inspect point of sale stations in retail commodity sales. In addition this chapter authorizes cost recovery for the testing and inspection of these point of sale stations, penalties for failure to register for late registration, and failure to make available a current registration permit.

5.45.020 Definitions

For the purpose of this chapter, unless the context otherwise requires the following words and phrases are defined and shall be construed as having the following meaning:

Commercial purpose – any sale of a commodity or thing by a person to a consumer

Commodity – any article of commerce or anything that is bought or sold

Department – shall mean the Marin County Department of Weights and Measures.

Location – any room, enclosure, building, vehicle, space or area that contains a point-of-sale station.

Person – the same meaning assigned in Business and Professions Code Section 12009

Point-of-Sale-System (POS) each individual separate device over which consumers are charged for the purchase of commodities by using equipment that is capable of recovering electronically stored price information by reading a par code printed on the product or on a label. The shall include but is not limited to equipment that uses Universal Product Code Scanners, Price look-up codes, or any other system that relies on the retrieval of electronically stored information to complete a transaction of commerce between a retailer and customer.

Re-inspection – the retesting or re-examination of a point-of-sale system after the department has determined that a violation of this Chapter, and applicable State law existed and ordered the system to be corrected.

Registrant – the person who uses a point-of-sale station for commercial purposes and obtains a registration permit from the County Weights and Measures department.

Sell – shall have the same meaning assigned to it as by Business and Professions Code 12009

includes barter, exchange, trade, keep for sale, offer for sale or expose for sale, barter, exchange, trade in any manner under any conditions.

5.45.030 Registration permit requirements / Exemptions.

(a) It shall be unlawful for a person to use a point-of-sale station for commercial purposes without first obtaining registration permit in accordance with the provisions of this chapter. A separate registration shall be required for each establishment location.

5.45.040 Duration and transferability of permit.

(a) All registration permits issued pursuant to this chapter shall be valid for one calendar year or fraction thereof, and shall expire on December 31st of the current calendar year.

(b) Renewal of registration permits is the responsibility of the registration and shall be made in a manner similar to the issuance of the original registration.

(c) Registration permits shall not be transferable between persons or establishment locations.

(d) Registrants shall not lease, sublet, subcontract, or in any manner permit any person or entity to engage in activities regulated under the registration permit, except as an employee of the registrant.

5.45.050 Fees

(a) The registration fee and all applicable penalties for the calendar year, or any part thereof, for any person utilizing a point of sale station shall be established by ordinance of the County Board of Supervisors, in accordance with Business and Professions Code section 13350.

5.45.060 Persons to whom registration permit issued.

A registration permit may be issued to a corporation or association duly authorized to transact business in the state, or to a person operating under a fictitious name who has complied with all of the provision of Chapter 5 (commencing with Section 17900) of Part 3 of Division 7 of the Business and Professions Code. Otherwise all such permits shall be issued in the true name of the applicant. Except as provided above, no business,

occupation or activity for which this chapter requires registration may be conducted under any false or fictitious name. A registration permit issued to a corporation shall designate such corporation by the exact name as it appears in the Article of Incorporation of such corporation.

5.45.070 Lost permit.

If a current permit has been lost, the person to whom it was issued may obtain a replacement permit from the department upon request.

5.45.080 Availability of registration permit

At each establishment location, the applicable registration permit shall be available to any official of the department.

5.45.090 Violations

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

- (a) Use a point-of-sale station without a current registration permit.
- (b) Fail to make the registration permit available to any official of the Department upon request.

5.45.100 Hearing on revocation or suspension

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

5.45.110 Restoration of suspended or revoked permit.

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

5.45.120 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 punishable by a fine not to exceed one hundred dollars (\$100.00).
- (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) 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.

SECTION II. This ordinance shall be liberally construed to achieve its purposes and preserve its validity. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the

fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION III. Effective Date. This ordinance shall be and is hereby declared to be in full force and effect as of thirty (30) days from and after the date of its passage and shall be published once before the expiration of fifteen (15) days after its passage, with the names of the supervisors voting for and against the same in the MARIN INDEPENDENT JOURNAL, a newspaper of general circulation published in the County of Marin.

SECTION IV. Special Hearing Requirement. The fee hearing for this ordinance shall be in accordance with the requirements of Business and Professions Code section 12243 with hearing notice provided pursuant to Govt. Code section 6062a.

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin held on this ____th day of _____ 2006 by the following vote:

AYES: SUPERVISORS

NOES:

ABSENT:

PRESIDENT, BOARD OF SUPERVISORS

ATTEST:

CLERK

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