

## **Article 2.5: Consumer Commodities Price Marking**

### **Division 1: Consumer Commodities Price Marking** *(Editors note: Division 1 added 3-2-1989 for clarity.)*

#### **§52.5.0101 Purpose and Intent**

It is the purpose and intent of this Article to provide within the City of San Diego a requirement for visible pricing on packaged consumer commodities to alleviate (a) consumer concern for potential computer error, inadvertent or otherwise, and (b) difficulties presented to consumers who would otherwise have no visible price on the product to refer to for shopping and budgetary purposes.

*(“Purpose and Intent” added 4-7-1980 by O-15235 N.S.)*

#### **§52.5.0102 Definitions**

For the purposes of this article, the following definitions shall apply:

- (a) “Automatic checkout system” means an electronic system employing a scanning device combined with a computer and a register to read a universal product code or similar code on packaging to determine and display and total the cost of items purchased.
- (b) “Consumer commodity” includes:
  - (1) Food, including all material whether solid, liquid, or mixed, and whether simple or compound, which is used or intended for consumption by human beings or domestic animals normally kept as household pets, and all substances or ingredients added to any such material for any purpose. This definition shall not apply to individual packages or cigarettes or individual cigars.
  - (2) Paper and plastic products, such as, but not limited to, napkins, facial tissues, toilet tissues, foil wrapping, plastic wrapping, paper toweling, and disposable plates and cups.
  - (3) Detergents, soaps and other cleaning agents.
  - (4) Pharmaceuticals, including nonprescription drugs, bandages, female hygiene products and toiletries.

- (c) “Grocery department” means an area within a general retail merchandise store which is engaged primarily in the retail sale of packaged food, rather than food prepared for immediate consumption on or off the premises.
- (d) “Grocery store” means a store engaged primarily in the retail sale of packaged food, rather than food prepared for consumption on the premises. (e) “Grocery chain” means a part or all of a company consisting of three or more individual grocery stores or merchandise stores containing grocery departments.
- (f) “Sale item or special” means any consumer commodity offered in good faith for a period of seven days or less, on sale at a price below the normal price that item is usually sold for in that store.  
*(“Definitions” added 4-7-1980 by O-15235 N.S.)*

### **§52.5.0103 Consumer Commodity Item Pricing**

- (a) Every retail grocery store or grocery department within a general retail merchandise store which uses an automatic checkout system shall cause to have a clearly readable price indicated on each packaged consumer commodity offered for sale.
- (b) The provisions of this section shall not apply to any of the following:
  - (1) Any unpackaged fresh food produce, or to consumer commodities which are under three cubic inches in size, weigh less than three ounces, and are priced under thirty cents (\$0.30).
  - (2) Any consumer commodity offered as a sale item or as a special.
  - (3) Any business which has as its only regular employees the owner thereof, or the parent, spouse, or child of such owner, or, in addition thereto, not more than two other regular employees.
  - (4) Identical items within a multi-item package.
  - (5) Items sold through a vending machine.
  - (6) Any consumer commodity which was not generally item-priced on June 30, 1975, as determined by the California Department of Consumer Affairs (Appendix A).

*(“Consumer Commodity Item Pricing” added 4-7-1980 by O-15235 N.S.)*

**§52.5.0104 Violations; Civil Fines; Injunctions**

- (a) The intentional violation of Section 52.5.0103 is punishable as an infraction and upon conviction thereof, by a fine of not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500).
- (b) Failure to have a clearly readable price indicated on 12 units of the same item of the same commodity shall constitute a presumption of intent to violate Section 52.5.0103.
- (c) Every additional 12 units of the same item that fail to have a price indicated on them shall constitute a presumption of intent to violate Section 52.5.0103.
- (d) Each day that a violation continues shall also constitute a separate violation after notification thereof to the manager or assistant manager of the retail grocery store or the grocery department of the general retail merchandise store and shall constitute a presumption of intent to violate Section 52.5.0103.
- (e) Any person may bring an action to enjoin a violation of Section 52.5.0103.  
*(“Violations; Civil Fines; Injunctions” added 4-7-1980 by O-15235 N.S.)*

**§52.5.0105 Liability for Losses and Expenses; Additional Penalty; Applicability to Single Plaintiff; Inapplicability to Multiple Plaintiff or Class Actions**

Any person, firm, corporation, or association who violates Sections 52.5.0103 and 52.5.0104 shall be liable to any person injured for any losses and expenses thereby incurred, and for the sum of fifty dollars (\$50) in addition thereto. The remedy set forth herein is applicable only to actions brought in the name of, and on behalf of, a single plaintiff and shall not be applicable in multiple plaintiff or class actions.

*(“Liability for Losses and Expenses; Additional Penalty; Applicability to Single Plaintiff; Inapplicability to Multiple Plaintiff or Class Actions” added 4-7-1980 by O-15235 N.S.)*

**§52.5.0106 Unintentional Error; No Violation**

Improper pricing on the shelf or on the item due to unintentional error shall not constitute a violation of this chapter.

*(“Unintentional Error; No Violation” added 4-7-1980 by O-15235 N.S.)*

**§52.5.0107    Exclusive Remedies**

The remedies set forth in Sections 52.5.0104 and 52.5.0105 are the exclusive remedies available to any person.

*(“Exclusive Remedies” added 4-7-1980 by O-15235 N.S.)*

**§52.5.0108    Severability**

If any part or provision of this Article, or the application thereof to any person or circumstance, is held invalid, such decision shall not affect the validity of the remaining portions of this Article. The City Council hereby declares that it would have passed each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

*(“Severability” added 4-7-1980 by O-15235 N.S.)*

**§52.5.0109    Termination of Article**

The provisions of this Article shall terminate and be of no further force and effect after two years from the effective date of implementation unless the City Council acts affirmatively thereupon to extend its provisions.

*(Amended 4-6-1981 by O-15479 N.S.)*