


ORDINANCE NO. 1913

AN ORDINANCE OF THE CITY OF CHULA VISTA AMENDING TITLE 5  
OF THE CHULA VISTA MUNICIPAL CODE BY ADDING THERETO A NEW  
CHAPTER 5.64 ENTITLED "CONSUMER COMMODITIES PRICE MARKING"

On July 8, 1980 the City Council, by a vote of 3-2 (Councilman Scott and Councilman Gillow voting "no") placed the ordinance on second reading and adoption. It requires visible pricing on packaged consumer commodities to alleviate (a) consumer concern for potential computer error, and (b) difficulties presented to consumers who would otherwise have no visible price on the product to refer to for shopping and budgetary purposes.

Copies of the ordinance are available at the office of the City Clerk, City Hall, 276 Fourth Avenue, Chula Vista.

  
City Clerk

ORDINANCE NO. 1913

AN ORDINANCE OF THE CITY OF CHULA VISTA AMENDING TITLE 5 OF THE CHULA VISTA MUNICIPAL CODE BY ADDING THERETO A NEW CHAPTER 5.64 ENTITLED "CONSUMER COMMODITIES PRICE MARKING"

WHEREAS, in 1975 the State legislature first required grocery stores using automated check out systems to have a clearly readable price indicated on each packaged consumer commodity, and

WHEREAS, this statutory requirement expired on January 1 1980, and

WHEREAS, considerable concern has been expressed by many community groups about the problems experienced by consumers who shop in automated stores with no prices visibly marked on products, and

WHEREAS, chief among these concerns are the potential for computer error, difficulty in detecting errors, and the difficulties presented to consumers who have no visible price on the product to reference, and

WHEREAS, studies have shown shelf-pricing to be inadequate in that customers often move merchandise to different shelves when they change their minds, thereby misshelving many products, and

WHEREAS, the elderly and handicapped often have difficulty bending down to read prices on lower shelves, thereby making shelf-pricing further undesirable, and

WHEREAS, item price marking would alleviate significantly these numerous consumer concerns, and

WHEREAS, in response thereto, several cities and counties across the country have already enacted legislation which would require clearly readable prices marked on each consumer item in any grocery department or store which uses an automated check out system.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Chula Vista as follows:

SECTION I: That Title 5 of the Chula Vista Municipal Code is hereby amended by adding thereto a new Chapter 5.64, Sections 5.64.010 through 5.64.080 to read as follows:

CHAPTER 5.64 CONSUMER COMMODITIES PRICE MARKING

Sec. 5.64.010 Purpose and Intent.

It is the purpose and intent of this chapter to provide within the City of Chula Vista 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.

For the purposes of this chapter, 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 costs 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 packed 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.

#### Sec. 5.64.030 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 or 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 generally not item priced on January 1, 1977 as determined by the California Department of Consumer Affairs as follows:

Beer, individual containers

Soft drinks, individual containers

Candy bars, mints

Dry drink, individual packets (Kool-aid type)

Cigarettes and cigars, either individually or in cartons

Baby food (strained and junior jars only)

Eggs

Frozen novelties (ice cream bar, popsicles, etc.)

Ice cream, cartons

Milk, including buttermilk and chocolate drink

Packaged produce

Yogurt

Sec. 5.64.040 Violations; Civil Fines, Injunctions.

(a) The intentional violation of Section 5.64.030 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 5.64.030.

(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 5.64.030.

(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 violation Section 5.64.030.

(e) Any person may bring an action to enjoin a violation of Section 5.64.030.

Sec. 5.64.050 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 5.64.030 and 5.64.040 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.

Sec. 5.64.060 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.

Sec. 5.64.070 Exclusive Remedies.

The remedies set forth in Sections 5.64.040 and 5.64.050 are the exclusive remedies available to any person.

Sec. 5.64.080 Severability.


If any part or provision of this chapter, 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 chapter. 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.

Sec. 5.64.090 Termination.

The provisions of this chapter shall terminate and be of no further force and effect on July 1, 1981 unless the City Council acts affirmatively thereupon to extend its provisions.

SECTION II: This ordinance shall take effect and be in full force on the thirty-first day from and after its adoption.

Presented and Approved as to form by

  
George D. Lindberg, City Attorney

FIRST READ AT A REGULAR MEETING OF THE CITY COUNCIL OF THE  
CITY OF CHULA VISTA, CALIFORNIA, HELD June 24, 19 80, AND  
FINALLY PASSED AND ADOPTED AT A REGULAR MEETING THEREOF HELD July 8,  
19 80, BY THE FOLLOWING VOTE, TO-WIT:

AYES: Councilmen : McCandliss, Hyde, Cox  
NAYES: Councilmen : Scott, Gillow  
ABSTAIN: Councilmen : None  
ABSENT: Councilmen : None

*Will T. Hyde*

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Mayor of the City of Chula Vista

ATTEST *Jane A. Diedrichs*  
Deputy City Clerk

STATE OF CALIFORNIA )  
COUNTY OF SAN DIEGO ) ss.  
CITY OF CHULA VISTA )

I, JANE A. DIEDRICHS, DEPUTY CITY CLERK of the City of Chula Vista,  
California, DO HEREBY CERTIFY that the above and foregoing is a full, true  
and correct copy of ORDINANCE NO. 1913, and  
that the same has not been amended or repealed.

DATED \_\_\_\_\_

\_\_\_\_\_  
Deputy City Clerk

13 (SEAL)