

ORDINANCE NUMBER 1433

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AMENDING PERRIS MUNICIPAL CODE CHAPTER 7.50 – HEALTHY OPTIONS AT CHECKOUT SPECIFICALLY SECTION 7.50.20 - DEFINITIONS, SECTION 7.50.030 - HEALTHY CHECKOUT OPTIONS, SECTION 7.50.040 – ENFORCEMENT, AND SECTION 7.50.060 - EFFECTIVE DATE

WHEREAS, an important goal of the City of Perris (“City”) is to foster an active and healthy lifestyle and implement innovative approaches to social problems; and

WHEREAS, offering healthy food and beverage items at checkout aisles in commercial establishments with groceries will contribute to the overall health and well-being of children and families in Perris; and

WHEREAS, consumers are trying to make healthier purchases. A 2010 report found that 66 percent of shoppers say they are looking for ways to improve their health through the choices they make while grocery shopping, and 74 percent of shoppers say a top health concern is “managing or losing weight”; and

WHEREAS, despite consumers’ desires to select healthier foods, unhealthy foods are increasingly prevalent in checkout areas in a wide variety of retail stores. A recent national study of 8,617 stores – including supermarkets, convenience stores, drug stores, and dollar stores – in 468 communities found that 88 percent display candy at checkout and more than one-third (34%) sell sugar-sweetened beverages. Only 24 percent of the stores sell water at checkout, and only 13 percent sell fresh fruits or vegetables. Almost all supermarkets (91%) display candy at checkout, and 85 percent sell soda and other sugary drinks at checkout; and

WHEREAS, according to a study conducted by the United States Department of Agriculture (“USDA”), over 60 percent of households utilized “large grocery stores or supermarkets” as their primary source for food purchases. According to the USDA, such stores are essential to consumers as they provide a large array of healthy and affordable food options in comparison to smaller or specialty stores; and

WHEREAS, research increasingly shows that our food choices are strongly affected by the environments in which they are made. Therefore, making unhealthy foods and beverages available to consumers while they wait in checkout lines undermines consumers’ efforts to purchase healthier foods. The presence of snacks near the register increases the likelihood that people will purchase those foods. In addition, most of the candy, soda, and chips in checkout aisles are placed at the eye level and within reach of children, providing a particular temptation for them; and

WHEREAS, on February 14, 2023, the City Council adopted Ordinance No. 1423 adding Chapter 7.50 to Title 7 of the Perris Municipal Code (“Chapter 7.50”) to require commercial establishments with groceries larger than 2,500 square feet to offer healthy food and beverage items at checkout aisles, as specified; and

WHEREAS, on March 23, 2023, and May 11, 2023, the City hosted workshops with commercial establishments with groceries larger than 2,500 square feet regarding the new requirements and has received other inquiries related to the food and beverage options required under Chapter 7.50; and

WHEREAS, the City met with local organizations including those that represent local supermarkets to discuss inquiries received by the City in order to address concerns of such organizations while still achieving the City's goals for the Ordinance; and

WHEREAS, the City Council now desires to amend sections of Chapter 7.50 to better address local concerns and clarify the requirements related to food and beverage options to be provided at checkout aisles.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Recitals Incorporated. The City Council hereby adopts the recitals of this Ordinance as true and correct and such recitals are hereby incorporated by reference as though fully set forth in the text of this Ordinance.

Section 2. Amendment to PMC Section 7.50.020 – Definitions. Perris Municipal Code Section 7.50.020 shall be amended to read in its entirety as follows:

“For purposes of this Chapter, the following words and phrases shall have the following meanings:

- A. **Checkout Area.** Any area that is accessible to a customer of a commercial establishment with groceries that is within a six-foot radius of any Register. This may also be referred to as checkout aisle.
- B. **Commercial Establishment with Groceries.** A commercial establishment larger than 2,500 square feet which sells groceries including food products and produce, household items and packaged alcoholic beverages as an incidental commodity to the establishment, but not including small businesses as defined in this Chapter.
- C. **Register.** A cash register or similar device that calculates the sale of goods, holds money, and displays the amount of sales to a customer found in the primary checkout area of a commercial establishment typically located at the front of the commercial establishment.
- D. **Small Business.** An independently owned and operated business that is not dominant in its field of operation with 5 employees or fewer.”

Section 3. Amendment to PMC Section 7.50.030 – Healthy Checkout Options. Perris Municipal Code Section 7.50.030 shall be amended to read in its entirety as follows:

- A. A commercial establishment with groceries that sells beverage items at the checkout aisle shall make the default beverage options the following:

1. Water, including carbonated water with no added caloric sweeteners;
2. Coffee or tea with no added caloric sweeteners (permissible condiments include sugar, sugar substitutes, milk, and creamer products);
3. Fat-free or one percent (1%) low-fat dairy milk or calcium- and vitamin D-fortified soymilk with fewer than two hundred (200) calories per container;
4. One hundred percent (100%) fruit juice or fruit juice combined with water or carbonated water, with no added caloric sweeteners, in a size no greater than twenty (20) fluid ounces;
5. One hundred percent (100%) vegetable juice with no added caloric sweeteners, no more than two hundred (200) milligrams of sodium per container, and in a size no greater than twenty (20) fluid ounces; or
6. Low-calorie beverages that have no more than forty (40) calories per container.

B. A commercial establishment with groceries that sells food items at the checkout aisle shall make the default food items, per package, the following:

1. No more than two hundred (200) calories;
2. No more than thirty-five percent (35%) of calories (or ten grams) from total sugars;
3. No more than two hundred (200) milligrams of sodium; and
4. Meet at least one of the following standards or have the first ingredient on the ingredients list be:
 - i. sugar-free chewing gum or mint; or
 - ii. fruits or vegetables; or
 - iii. nuts, seeds, or legumes; or
 - iv. whole grains; or
 - v. low-fat or fat-free dairy.

The requirements of subsections 1 through 3 of this Section shall not apply to fruits, vegetables, nuts, seeds, and legumes.

Section 4. Amendment to PMC Section 7.50.040 – Enforcement. Perris Municipal Code Section 7.50.040 shall be retitled and amended to read in its entirety as follows:

“Sec. 7.50.040 – Enforcement and Voluntary Compliance.

- A. The City is hereby authorized to issue all rules and regulations consistent with this Chapter, including, but not limited to, fees for re-inspection.
- B. The City may require a commercial establishment with groceries to provide such information as may be necessary to determine the establishment’s compliance with this Chapter.

- C. Any business that is not subject to the requirements of this Chapter may voluntarily comply with the requirements of this Chapter provided that such voluntary compliance shall not be subject to the penalties provided by this Chapter.
- D. This Chapter shall not be enforced where its enforcement is prohibited by applicable law, including, without limitation, applicable federal and State law.”

Section 5. Amendment to PMC Section 7.50.060 – Effective Date. Perris Municipal Code Section 7.50.060 shall be retitled and amended to read in its entirety as follows:

“Sec. 7.50.060 – Operative Date.

This Chapter and the legal requirements set forth herein shall take effect and be in force January 1, 2024.”

Section 6. CEQA. The City Council finds that this Ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines, which states that a project is exempt from CEQA if the activity is covered by the common sense exemption that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. This Ordinance makes policy changes to the City’s rules and regulations pertaining to the display of foods in retail food markets to better protect the public health, safety and welfare.

Section 7. Severability. If any section, subsection, subdivision, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portions thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases or portions thereof be declared invalid or unconstitutional.

Section 8. Effective Date. The Ordinance shall take effect on the thirtieth (30th) day after the day of its adoption.

Section 9. Certification. The City Clerk shall certify as to the passage and adoption of this Ordinance and shall cause the same to be posted at the designated locations in the City of Perris.

ADOPTED, SIGNED and APPROVED this 12th day of September, 2023.

Michael M. Vargas, Mayor

ATTEST:

City Clerk, Nancy Salazar

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) §
CITY OF PERRIS)

I, Nancy Salazar, CITY CLERK OF THE CITY OF PERRIS, DO HEREBY CERTIFY that the foregoing Ordinance Number 1433 was duly introduced by the City Council of the City of Perris at a regular meeting of said Council on the 29th day of August, 2023 and was duly adopted by the City Council of the City of Perris at a regular meeting of said Council on the 12th day of September, 2023, and that it was so adopted by the following vote:

AYES: ROGERS, NAVA, CORONA, RABB, VARGAS
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

City Clerk, Nancy Salazar