

ORDINANCE NUMBER 1423

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ADDING CHAPTER 7.50 TO TITLE 7 OF THE CITY OF PERRIS MUNICIPAL CODE ESTABLISHING HEALTHY CHECKOUT OPTIONS AT COMMERCIAL ESTABLISHMENTS WITH GROCERIES LARGER THAN 2,500 SQUARE FEET

WHEREAS, the City Council desires to promote healthy food options for children and families and contribute to building a healthier community; and

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

WHEREAS, over the past 30 years, the obesity, prediabetes, and diabetes rates in the United States has more than doubled; and

WHEREAS, according to the Centers for Disease Control and Prevention (CDC), two-thirds (68.5%) of American adults are overweight or obese. In 2016, in the City of Perris, in Riverside County, State of California, 53% of adult residents were diagnosed with Pre-diabetes or Diabetes; and

WHEREAS, obese children are at least twice as likely as non-obese children to become obese adults and are at increased risk for serious health problems in adulthood, including heart disease, type 2 diabetes, asthma, and cancer; and

WHEREAS, obesity-related health conditions have serious economic costs. Estimated annual health care costs from obesity are \$190 billion – or 21 percent of total current health care spending – and are expected to rise substantially. Obesity-related annual medical expenditures in California are estimated at \$39.5 billion; and

WHEREAS, in 2010, the U.S. Department of Agriculture reported the top sources of calories for American children. Grain-based desserts ranked number one; soda and other sugar-sweetened beverages ranked number three; potato, corn, and other chips ranked number nine; and candy ranked number thirteen; 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, 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, the City Council believes that 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.

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. New Chapter 7.50. Chapter 7.50, entitled “Healthy Options at Checkout,” is hereby added to Title 7 (Health and Welfare) of the City of Perris Municipal Code to read in its entirety as follows:

“CHAPTER 7.50. HEALTHY OPTIONS AT CHECKOUT

7.50.010 - Findings and Purpose.

7.50.020 - Definitions.

7.50.030 – Healthy Checkout Options.

7.50.040 – Enforcement.

7.50.050 – Violation—Penalty.

7.50.060 – Effective Date.

7.50.010 Findings and Purpose.

According to the Centers for Disease Control and Prevention (CDC), two-thirds (68.5%) of American adults are overweight or obese. In 2016, in the City of Perris, in Riverside County, State of California, 53% of adult residents were diagnosed with Pre-diabetes or Diabetes. The purpose of this Chapter is to support families by offering them healthy food and beverage items at checkout aisles and the choice to avoid high-calorie, low-nutrient food when they do their grocery shopping.

7.50.020 Definitions.

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 six feet of any Register, or an area where a commercial establishment with groceries may direct customers to wait in line to make a purchase. 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.
- 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.
- D. **Small Business.** An independently owned and operated business that is not dominant in its field of operation with 5 employees or fewer.

7.50.030 Healthy Checkout Options

- 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 twelve (12) 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 twelve (12) 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 seven grams) from fat, with the exception of packages that contain one hundred percent (100%) nuts or seeds;
3. No more than ten percent (10%) of calories (or two grams) from saturated fat, with the exception of packages that contain one hundred percent (100%) nuts or seed;
4. Zero grams of trans fat;
5. No more than thirty-five percent (35%) of calories (or ten grams) from total sugars, with the exception of fruits and vegetables that do not contain added sweeteners or fats and yogurts that contain no more than thirty (30) grams of total sugars per eight-ounce container;
6. No more than two hundred (200) milligrams of sodium; and
7. Meet at least one of the following standards:
 - i. Consist of sugar-free chewing gum;
 - ii. Contain a quarter cup of fruit, non-fried vegetables, or fat-free/low-fat dairy;
 - iii. Contain one ounce of nuts or seeds or one tablespoon of nut butter;
 - iv. Contain at least fifty percent (50%) of the grain ingredients from whole grain, determined by the product listing whole grain as the first ingredient; or
 - v. Contain ten percent (10) of the Daily Value (DV) of a naturally occurring nutrient of public health concern in the 2010 Dietary Guidelines for Americans (calcium, potassium, vitamin D, or dietary fiber).

7.50.040 Enforcement.

- A. The City is hereby authorized to issue all rules and regulations consistent with this Ordinance, 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. Commercial establishments with groceries that are larger than 2,500 square feet or smaller may be subject to this Chapter on a voluntary basis.
- D. This Chapter shall not be enforced where its enforcement is prohibited by applicable law, including, without limitation, applicable federal and State law.

7.50.050 Violation—Penalty.

In addition to all other available remedies at law, this Chapter shall be enforceable through the use of the administrative citation procedures set forth in Perris Municipal Code Chapter 1.18.

7.50.060 Effective Date.

This Chapter and the legal requirements set forth herein shall take effect and be in force July 1, 2023.

Section 3. 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 4. 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 5. Effective Date. The Ordinance shall take effect on July 1, 2023.

Section 6. 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 14th day of February, 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 1423 was duly introduced by the City council of the City of Perris at a regular meeting of said Council on the 31st day of January, 2023 and was duly adopted by the City Council of the City of Perris at a regular meeting of said Council on the 14th day of February, 2023, and that it was so adopted by the following vote:

AYES: CORONA, RABB, ROGERS, NAVA, VARGAS

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

City Clerk, Nancy Salazar