



The City of San Diego

Staff Report

DATE ISSUED: 2/11/2025
TO: City Council
FROM: Council District 9
SUBJECT: Grocery Pricing Transparency Ordinance

Primary Contact: Jefferey Nguyen Phone: (619) 236-6699
Secondary Contact: Molly Weber Phone: (619) 236-6699
Council District(s): Citywide

OVERVIEW:

The proposed Grocery Pricing Transparency Ordinance requires retail grocery stores that offer digital discounts or coupons to make corresponding paper coupons and pricing available to consumers of identical value upon request.

PROPOSED ACTIONS:

Adopt the Grocery Pricing Transparency Ordinance.

DISCUSSION OF ITEM:

Many grocery stores offer "digital deals" or coupons through digital means, such as a smartphone application. This becomes problematic when such discounts or coupons are offered *only* through digital means because it disadvantages those in the "digital divide," or those who do not have ready access to or comfort with computers and the internet. This often include seniors, low-income households, and non-native English speakers, and often these populations are most impacted by higher food costs.

In an article titled "Millions of Older Shoppers Shut Out of Digital Coupons," AARP wrote, "with 25 percent of older adults lacking internet connectivity and 39 percent without a mobile phone, according to Pew Research, many older consumers are missing out on these deals. That's made worse in the current high inflationary environment, with prices soaring for everything from food to gasoline."

The proposed City ordinance follows similar proposals in New Jersey, Washington, Illinois, and Massachusetts, and requires retail grocery that offer digital discounts or coupons to make corresponding paper coupons and pricing available to consumers of identical value upon request. It also requires grocery stores to place in a conspicuous location a sign or notice informing customers of their right to printed coupons or clearly readable marked prices if such coupons and prices are offered digitally.

City of San Diego Strategic Plan: This item relates to the Fostering Regional Prosperity Operating priority area.

Fiscal Considerations: N/A

Charter Section 225 Disclosure of Business Interests: N/A; there is no contract associated with this action.

Environmental Impact: This activity is not subject to CEQA pursuant to CEQA Guidelines Section 15060(c)(2), as it will not result in direct or reasonably foreseeable indirect physical changes in the environment.

Climate Action Plan Implementation: N/A

Equal Opportunity Contracting Information (if applicable): N/A

Previous Council and/or Committee Actions: Motion by Committee Member von Wilpert to adopt the Grocery Pricing Transparency Ordinance. Second by Chair Elo-Rivera. Approved 3-0.

Planning Commission Action: N/A

Key Stakeholders and Community Outreach Efforts: Grocery stores and customers in the City of San Diego.

Molly Weber

Chief of Staff

Councilmember Elo-Rivera
Council District Nine

Item S401
Grocery Pricing Transparency Ordinance

Requested action

Adopt the Grocery Pricing Transparency Ordinance.



Policy background

Grocery Pricing Transparency Ordinance

Digital divide and price transparency

- Digital divide
 - 53,000 households in San Diego lack internet access
 - Seniors, lower income, those without college degrees are least likely to have smartphones or possess digital literacy
- Price transparency
 - Inconsistencies in app functionality
 - Lag between “clipping” digital coupon and it applying to a customer’s account

Food costs

- Food index increased 1.1% between Nov 2024-Jan 2025.
- Food index rose 4.7% between Jan 2024-Jan 2025.
- Consumer prices – up 24% since Covid.

Digital divide + food costs

MONEY

Millions of Older Shoppers Shut Out of Digital Coupons

Without a mobile phone or internet access it can be difficult to get a discount on groceries

AP

WORLD U.S. POLITICS SPORTS ENTERTAINMENT BUSINESS SCIENCE FACT CHECK ODDITIES BE WELL NEWSLETTERS ...

Q

Live: Cabinet meeting Michelle Trachtenberg death Slack outage Texas measles outbreak

Consumer groups want grocers to ditch digital-only deals

Digital-only deals __ advertised online or on store shelves __ can offer significant savings, but they generally require customers to electronically clip a coupon in a grocer's app or on its website.

For example, a Kroger in Cincinnati, Ohio, is advertising frozen turkey for 60 cents per pound this week; with a digital coupon, the price drops to 49 cents per pound. And a Stop & Shop in Somerville, Massachusetts, is offering a half pork loin for \$2.99 per pound; with a digital coupon, that drops to \$1.79 per pound.

Digital Deals





Policy proposal

Grocery Pricing Transparency Ordinance

Purpose

The purpose is to ensure equitable access to discount pricing for all consumers, regardless of their access to or familiarity with digital technology.

Definitions

- “Coupon”
- “Digital discount”
- “Retail grocery store”

Digital deals

- If a digital discount for the purchase of goods or packaged food is offered to consumers, paper or physical coupons in the identical value shall also be made available to consumers.
- Digital discounts may also be shown as a clearly readable price where the goods or packaged food is displayed or on each individual item offered for sale.

Noticing

- Retail grocery stores must post a sign or notice at checkout registers in a location conspicuous to consumers stating that any coupons or digital discounts offered through digital or electronic means are available and will be honored even if the consumer has not signed up for the electronic medium.

Noticing

Fair Pricing for All: Your Right to Equal Discounts - Under San

Diego law, all digital discounts must also be available as physical coupons. Violations of this law are subject to San Diego Municipal

Code section 311.0104.

Violations and exceptions

- *Violations* – may be pursued as an act of unfair competition within the meaning of section 17200 of the California Business and Professions Code and subject to remedies and civil penalties set forth in the California Business and Professions Code.
- *Exception* - does not apply to Retail grocery stores that operate exclusively online through the Internet and do not have a physical retail presence in the City.

Summary

- Food costs are up, outpacing the overall rate of inflation.
- Grocery stores are increasingly relying on technology to market sales and discounts.
- Digital divide and literacy leave many San Diegans behind.
- **Goal: To address cost of living by allowing everyone to access the best grocery prices.**

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 3 OF THE
SAN DIEGO MUNICIPAL CODE BY ADDING ARTICLE 11,
DIVISION 1, AND SECTIONS 311.0101, 311.0102, 311.0103,
311.0104 AND 311.0105 ALL RELATING TO GROCERY
PRICING TRANSPARENCY.

RECITALS

The Council of the City of San Diego (Council) adopts this Ordinance based on the following:

A. Many grocery stores offer “digital deals” or coupons through digital means, such as a smartphone application. This practice becomes problematic because such discounts or coupons are offered only through digital means, disadvantaging those in the “digital divide,” or those who do not have ready access to or comfort with computers, smartphones, other digital devices, and the Internet. This often include seniors, low-income households, and nonnative English speakers.

B. It has been estimated that 25 percent of older adults lack Internet connectivity and 39 percent are without a mobile phone. As a result, many older adults are missing out on digital deals and coupons, worsening the current high inflationary environment for these individuals, who along with low-income households and nonnative English speakers are most often impacted by higher food costs.

C. Following similar proposals in New Jersey, Washington, Illinois, and Massachusetts, this Ordinance requires grocery stores in the City of San Diego that offer digital discounts to make physical coupons with identical pricing available to consumers. The Ordinance also requires grocery stores to post a sign or notice in a location visible to consumers

about their right to the physical coupons upon request and requires that the digital discount price be clearly shown where goods are displayed or on each individual item offered for sale.

D. The Office of the City Attorney prepared this Ordinance based on the information provided by City staff, with the understanding that this information is complete and accurate.

ACTION ITEMS

Be it ordained by the Council of the City of San Diego:

Section 1. Chapter 3 of the San Diego Municipal Code is amended by adding Article 11, Division 1, and sections 311.0101, 311.0102, 311.0103, and 311.0104, to read as follows:

Article 11: Grocery Pricing Transparency Ordinance

Division 1: Exclusive Digital Discounts Prohibited

§311.0101 Purpose and Intent

The purpose of this Article is to ensure equitable access to discount pricing for all *consumers*, regardless of their access to or familiarity with digital technology.

Under this Article, any *grocery store* that offers or sells *goods* in the *City of San Diego* and offers *digital discounts*, such as through a mobile or smartphone application, must make physical *coupons* with identical pricing available to *consumers*. The intent of this Division is to prevent discriminatory practices that restrict discounted prices to *consumers* exclusively through the Internet or other electronic methods, and to promote transparency and *consumer* fairness.

§311.0102 Definitions

For purposes of this Division, defined terms appear in italics. The following definitions apply in this Division:

City of San Diego and *City* have the same meaning as in San Diego Municipal Code section 11.0210.

Consumer means a person who buys *goods* from a *grocery store*.

Coupon means a voucher, certificate, document, or similar matter entitling the holder to a discount for a *good*.

Digital discount means a store *coupon*, rebate, or similar instrument that is offered to *consumers* exclusively through the Internet or any other digital or electronic means including websites, mobile or smartphone applications, QR codes, or email promotions.

Goods means groceries and includes foodstuffs and packaged food intended for human consumption or for domestic animals normally kept as household pets, produce, meats, poultry, fish, deli products, dairy products, beverages, baked foods, prepared foods, paper and plastic products, diapers, detergents, soaps, other cleaning agents, pharmaceuticals, nonprescription drugs, bandages, female hygiene products, and toiletries.

Grocery store means a business, supermarket, or warehouse club engaged primarily in the retail sale of *goods*, rather than food prepared solely for consumption on the premises.

§311.0103 Digital Discount Practices

- (a) Any *grocery store* that offers *digital discounts* to *consumers* for the purchase of *goods* must make physical *coupons* for the digital price available to *consumers* upon request.

- (b) The *digital discount* price must be clearly shown where *goods* are displayed or on each individual item offered for sale.
- (c) *Grocery stores* must post a sign or notice in a location visible to *consumers* that states the following:

Fair Pricing for All: Your Right to Equal Discounts - Under San Diego law, all digital discounts must also be available as physical coupons. Violations of this law are subject to San Diego Municipal Code section 311.0104.

§311.0104 Unlawful Pricing Practices

Violations of this Division may be pursued as an act of unfair competition within the meaning of section 17200 of the California Business and Professions Code and subject to the remedies and penalties set forth in Division 7, Part 2, Chapter 5 of the California Business and Professions Code, as may be amended.

§311.0105 Exceptions

This Division does not apply to *grocery stores* that operate exclusively online through the Internet and do not have a physical presence in the *City*.

Section 2. The Council dispenses with a full reading of this Ordinance before its passage because a written copy of this Ordinance was made available to the Council and the public before the date of its passage.

Section 3. This Ordinance will take effect and be in force on the thirtieth day from and after its final passage..

APPROVED: HEATHER FERBERT, City Attorney

By _____
David J. Karlin
Senior Deputy City Attorney

DJK:cm
March 3, 2025
Or.Dept: Council District 9
Doc. No. 3986114_2

I certify that the Council of the City of San Diego adopted this Ordinance at a meeting held on _____.

DIANA J.S. FUENTES
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

CITY ATTORNEY DIGEST

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 3 OF THE
SAN DIEGO MUNICIPAL CODE BY ADDING ARTICLE 11,
DIVISION 1, AND SECTIONS 311.0101, 311.0102, 311.0103,
311.0104, AND 311.0105 ALL RELATING TO GROCERY
PRICING TRANSPARENCY.

This Ordinance requires grocery stores in the City of San Diego that offer digital discounts to make physical coupons with identical pricing available to consumers.

The Ordinance also requires that digital discount prices must be shown where goods are displayed or on each individual item offered for sale.

The Ordinance further requires grocery stores to post a sign or notice in a location visible to consumers informing them about their right to physical coupons that states the following:

***Fair Pricing for All: Your Right to Equal Discounts - Under San
Diego law, all digital discounts must also be available as physical
coupons. Violations of this law are subject to San Diego Municipal
Code section 311.0104.***

This Ordinance contains a notice that a full reading of this Ordinance is dispensed with before its passage, a written copy having been made available to the Council and the public before the day of its passage.

This Ordinance will take effect and be in force on the thirtieth day from and after its final passage.

A complete copy of this Ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 2nd Floor, City Administration Building, 202 C Street, San Diego, CA 92101.

DJK:cm
March 3, 2025
Or.Dept: Council District 9
Doc. No. 3986122_2