



BILL NO. 9

ORDINANCE NO. 2020-009

AN EMERGENCY ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA, ADDING SECTION 2-513 TO THE FRESNO MUNICIPAL CODE RELATING TO PRICE GOUGING AND UNFAIR ADVANTAGE OF CONSUMERS

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 2-513 is added to the Fresno Municipal Code to read:

SECTION 2-513. PRICE GOUGING.

(a) The city hereby finds that during a state of emergency or local emergency, including, but not limited to, an earthquake, flood, fire, riot, storm, drought, plant or animal infestation, disease, or other natural or manmade disaster, some merchants have taken unfair advantage of consumers by greatly increasing prices for essential consumer goods and services. While the pricing of consumer goods and services is generally best left to the marketplace under ordinary conditions, when a declared state of emergency or local emergency results in abnormal disruptions of the market, the public interest requires that excessive and unjustified increases in the prices of essential consumer goods and services be prohibited. It is the intent of the city in enacting this act to protect residents from excessive and unjustified increases in the prices charged during or shortly after a declared state of emergency or local emergency for goods and services that are vital and necessary for the health, safety, and welfare of consumers. Further, it is the intent of the city that this section be liberally construed so that its beneficial purposes may be served.

Date Adopted: 03/16/2020
Date Approved: 03/16/2020
Effective Date: 03/16/2020



(b) Upon the proclamation of a state of emergency declared by the President of the United States or the Governor, or upon the declaration of a local emergency by the city, and for a period of 30 days following that proclamation or declaration, it is unlawful for a person, contractor, business, or other entity to sell or offer to sell any consumer food items or goods, goods or services used for emergency cleanup, emergency supplies, medical supplies, or building materials, for a price of more than 10 percent greater than the price charged by that person for those goods or services immediately prior to the proclamation or declaration of emergency. However, a greater price increase is not unlawful if that person can prove that the increase in price was directly attributable to additional costs imposed on it by the supplier of the goods, or directly attributable to additional costs for labor or materials used to provide the services, during the state of emergency or local emergency, and the price is no more than 10 percent greater than the total of the cost to the seller plus the markup customarily applied by the seller for that good or service in the usual course of business immediately prior to the onset of the state of emergency or local emergency.

(c) The prohibitions of this section may be extended for additional 30-day periods, as needed, by the Council, if deemed necessary to protect the lives, property, or welfare of the residents.

(d) A violation of this section is a misdemeanor punishable by imprisonment in a county jail for a period not exceeding one year, or by a



fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment. Alternatively, an administrative citation may be imposed pursuant to Section 1-308 of this code with an administrative fine of up to \$10,000 per violation.

(e) A violation of this section shall constitute an unlawful business practice and an act of unfair competition within the meaning of Section 17200 of the Business and Professions Code. The remedies and penalties provided by this section are cumulative to each other, the remedies under Section 17200 of the Business and Professions Code, and the remedies or penalties available under all other laws of this state.

(f) For the purposes of this section, the following terms have the following meanings:

(1) "State of emergency" means a natural or manmade emergency resulting from an earthquake, flood, fire, riot, storm, drought, plant or animal infestation, disease, or other natural or manmade disaster for which a state of emergency has been declared by the President of the United States or the Governor.

(2) "Local emergency" means a natural or manmade emergency resulting from an earthquake, flood, fire, riot, storm, drought, plant or animal infestation, disease, or other natural or manmade disaster for which a local emergency has been declared.



(3) "Consumer food item" means any article that is used or intended for use for food, drink, confection, or condiment by a person or animal.

(4) "Emergency supplies" includes, but is not limited to, water, flashlights, radios, batteries, candles, blankets, soaps, diapers, temporary shelters, tape, toiletries, plywood, nails, and hammers.

(5) "Medical supplies" includes, but is not limited to, prescription and nonprescription medications, bandages, gauze, isopropyl alcohol, and antibacterial products.

(6) "Building materials" means lumber, construction tools, windows, and anything else used in the building or rebuilding of property.

(7) "Goods" has the same meaning as defined in subdivision (c) of Section 1689.5 of the Civil Code.

(g) A business offering an item for sale at a reduced price immediately prior to the proclamation or declaration of the emergency may use the price at which it usually sells the item to calculate the price pursuant to subdivision (b).

(h) All businesses selling the goods or services outlined in this Section shall post notices provided by the city at front entrances informing the public of the provisions of this Section. Failure to post such notices shall be subject to administrative citation.

SECTION 2. This Ordinance is necessary for the immediate preservation of the public health, peace, property, and safety. Pursuant to Sections 603 and 610 of the



Charter of the City of Fresno, this Ordinance shall take effect immediately upon passage.

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STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the 16th day of March, 2020.

- AYES : Bredefeld, Caprioglio, Chavez, Esparza, Karbassi, Soria, Arias
- NOES : None
- ABSENT : None
- ABSTAIN : None

YVONNE SPENCE, MMC CRM
City Clerk

APPROVED AS TO FORM:
DOUGLAS T. SLOAN,
City Attorney

BY: 

 Katie Doerr
 Chief Assistant City Attorney

3/16/20
Date

BY:  3/16/2020

 Deputy Date