

URGENCY ORDINANCE NUMBER 1390

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, ENACTING EMERGENCY PRICE-GOUGING AND EVICTION PROTECTIONS RELATED TO THE COVID-19 PANDEMIC

WHEREAS, pursuant to Government Code Section 36937(b), any ordinance “For the immediate preservation of the public peace, health or safety, containing a declaration of the facts constituting the urgency, and is passed by a four-fifths vote of the city council”, shall take effect immediately upon its adoption; and

WHEREAS, in December, 2019, an outbreak of respiratory illness due to a novel coronavirus (COVID-19) was first identified in Wuhan City, Hubei Province, China; and

WHEREAS, the Center for Disease Control and Prevention (CDC) considers COVID-19 to be a very serious public health threat with outcomes ranging from very mild (including some with no reported symptoms) to severe, including illness resulting in death; and

WHEREAS, according to the CDC, there is no vaccine to prevent COVID-19 and there is no specific antiviral treatment recommended for COVID-19 at this time; and

WHEREAS, on January 30, 2020, the World Health Organization declared a Public Health Emergency of International Concern over the global spread of COVID-19; and

WHEREAS, on January 31, 2020, Health and Human Services declared a Public Health Emergency for the United States to aid the nation’s healthcare community in responding to COVID-19; and

WHEREAS, the California Department of Public Health (CDPH) has activated its Medical and Health Coordination Center, and the Office of Emergency Services recently activated the State Operations Center to provide support and guide actions to preserve public health; and

WHEREAS, on March 4, 2020, Governor Gavin Newsom declared a State of Emergency for the State of California; and

WHEREAS, on March 11, 2020, the World Health Organization characterized COVID-19 as a “pandemic”; and

WHEREAS, on March 12, 2020, Governor Newsom issued Executive Order N-25-20 regarding COVID-19; and

WHEREAS, on March 13, 2020, President Trump declared a National State of Emergency in response to increased spread of COVID-19; and

WHEREAS, on March 16, 2020, the Health Officer of the County of Riverside issued an order cancelling all gatherings with an expected attendance of greater than 10 due to COVID-19; and

WHEREAS, on March 16, 2020, Governor Newsom issued Executive Order N-28-20, in response to the COVID-19 pandemic, which permits, but does not require, cities and counties to adopt measures against price-gouging and evictions; and

WHEREAS, on March 19, 2020, in response to the COVID-19 pandemic, the Superior Court of California, County of Riverside has announced temporary closures of courts throughout the county with closures effective through April 3, 2020, except for limited emergency matters to be heard by certain courts; and

WHEREAS, on March 19, 2020, Governor Newsom issued Order N-33-20 requiring all individuals, except those performing essential services as defined by the order, living in California to stay home or at their place of residence in order to combat the COVID-19; and

WHEREAS, on March 23, 2020, the Chief Justice of the Supreme Court of California issued an order generally suspending and continuing all jury trials for a period of 60 days; extending the time period for holding a criminal trial by 60 days from the date of the order; extending the time period for the holding of a civil trial by 60 days; and further allow affected courts to enact rule amendments to address the impacts of COVID-19; and

WHEREAS, one of the many effects of the COVID-19 pandemic is increased demands for consumer good and products that can help people prepare for or protect themselves from the pandemic, including sanitary face masks, medical supplies, hand sanitizer, soap, disinfectants, household products, and groceries. Some unsavory individuals attempt to take advantage of these market demands by offering the in-demand products for sale at outrageous prices, a practice known as price-gouging. By way of example, ABC7news.com reported on March 5, 2020, that some online sellers were offering a two-pack of hand sanitizer for \$84.99 and face masks at a markup of 582%, and KTLA5 news reported on March 13, 2020 that Los Angeles City authorities recently discovered a half-gallon of bleach being sold for over \$100 and two one-liter containers of hand sanitizer being sold online for \$149; and

WHEREAS, price gouging is not limited to household goods, and can also occur in the context of rental housing with respect to increased rents. This can have the effect of precluding tenants from finding available housing and can lead to evictions in the event an existing tenant is faced with a rent increase that he or she cannot afford to pay. This concern is especially pertinent in the context of the instant COVID-19 pandemic, in light of the direction from all levels of government and health authorities regarding maintaining social distancing, avoiding large gatherings, and self-quarantining, much of which is not possible without a home; and

WHEREAS, during an address on March 4, 2020, Governor Newsom expressed a need to curb the abuse of price-gouging during the COVID-19 pandemic, and Attorney General Xavier Becerra issued a price-gouging alert, reminding Californians of laws prohibiting the practice; and

WHEREAS, specifically, California Penal Code Section 396 controls price increases for rental housing, consumer goods, and services related to emergency response and recovery for an initial period of thirty days after a declaration of an emergency by the President, Governor, or local agency, and generally prohibits charging a price that exceeds by more than ten percent of the price of the rental units, goods or services as such existed before the declaration of an emergency event.

Penal Code Section 396 permits a local legislative body to extend the price controls for additional thirty-day periods as needed to protect the lives, property or welfare of its citizens. Nothing in Penal Code Section 396 preempts a city's ability to adopt an ordinance that prohibits the same or similar conduct and allows a city to impose a more severe penalty for the conduct prohibited by Penal Code Section 396. Penal Code Section 396 applies to hotels, motels and any other rental housing with an initial lease term of no longer than one year; and

WHEREAS, price gouging can occur during any emergency situation that causes a spike in demand for certain types of products or services, whether such situation may arise from disease, natural disasters, wildfires, war, or otherwise; and

WHEREAS, based on the foregoing, the City Council seeks and intends to protect the residents and guests of the City of Perris by enacting protections against price gouging during the current declared state of emergency related to the COVID-19 pandemic.

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

SECTION 1. **Recitals.** The foregoing recitals are true and correct and are incorporated herein by reference as findings of fact.

SECTION 2. **Urgency and Emergency Findings.** The City Council finds that there is a current and immediate threat to public health, safety, and welfare posed by COVID-19, and there is an immediate need for the preservation of public peace, health or safety of the residents and community of the City. One of the many effects of the COVID-19 pandemic is increased demands for consumer good and products that can help people prepare for or protect themselves from the pandemic, including sanitary face masks, medical supplies, hand sanitizer, soap, disinfectants, household products, and groceries. Some unsavory individuals attempt to take advantage of these market demands by offering the in-demand products for sale at outrageous prices, a practice known as price-gouging. By way of example, ABC7news.com reported on March 5, 2020, that some online sellers were offering a two-pack of hand sanitizer for \$84.99 and face masks at a markup of 582%, and KTLA5 news reported on March 13, 2020, that Los Angeles City authorities recently discovered a half-gallon of bleach being sold for over \$100 and two one-liter containers of hand sanitizer being sold online for \$149. Price gouging is not limited to household goods and can also occur in the context of rental housing with respect to increased rents. Of particular concern are those who may not be able to earn enough wages to pay for the next few months of rent on their homes. This can have the effect of precluding tenants from finding available housing and can lead to evictions in the event an existing tenant is faced with a rent increase that he or she cannot afford to pay. This concern is especially pertinent in the context of the instant COVID-19 pandemic, in light of the direction from all levels of government and health authorities regarding maintaining social distancing, avoiding large gatherings, and self-quarantining, much of which is not possible without a home.

SECTION 3. **Emergency Price-Gouging and Eviction Protections.**

A. **Definitions.**

“Building materials” means lumber, construction tools, windows, and anything else used in the building or rebuilding of property.

“Consumer food item” means any article that is used or intended for use for food, drink, confection, or condiment by a person or animal.

“Declared Emergency” means a state of emergency or local emergency.

“Emergency Declaration Period” means the longer of the period of time stated in the declaration of a state of emergency, or the declaration of a local emergency or such other period of time established by the City Council by ordinance.

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

“Gasoline” means any fuel used to power any motor vehicle or power tool.

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

“Housing” means any rental housing with an initial lease term of no longer than one year, including, but not limited to, a space rented in a mobile home park or campground.

“Local Emergency” means a natural or manmade emergency resulting from an earthquake, flood, fire, riot, storm, drought, plant or animal infestation or disease, or other natural or manmade disaster for which a local emergency has been declared by the City Council or City official vested with such authority to make such declaration.

“Medical supplies” includes, but is not limited to, prescription and nonprescription medications, bandages, gauze, isopropyl alcohol, and antibacterial products.

“Rental Price” for housing means any of the following:

1. For housing rented within one year prior to the time of the proclamation or declaration of emergency, the actual rental price paid by the tenant. For housing not rented at the time of the declaration or proclamation, but rented, or offered for rent, within one year prior to the proclamation or declaration of emergency, the most recent Rental Price offered before the proclamation or declaration of emergency. For housing rented at the time of the proclamation or declaration of emergency but which becomes vacant while the proclamation or declaration of emergency remains in effect, the actual rental price paid by the previous tenant or the amount specified in subparagraph 2 of this definition, whichever is greater. This amount may be increased by five percent if the housing was previously rented or offered for rent unfurnished, and it is now being offered for rent fully furnished. This amount shall not be adjusted for any other good or service, including, but not limited to, gardening or utilities currently or formerly provided in connection with the lease.

2. For housing not rented and not offered for rent within one year prior to the proclamation or declaration of emergency, one hundred sixty percent of the fair market rent established by the United States Department of Housing and Urban Development. This amount may be increased by five percent if the housing is offered for rent fully furnished. This amount shall not be adjusted for any other good or service, including, but not limited to, gardening or utilities currently or formerly provided in connection with the lease.
3. Housing advertised, offered, or charged, at a daily rate at the time of the declaration or proclamation of emergency, shall be subject to the rental price described in subparagraph 1 of this definition, if the housing continues to be advertised, offered, or charged, at a daily rate. Housing advertised, offered, or charged, on a daily basis at the time of the declaration or proclamation of emergency, shall be subject to the rental price in subparagraph 2 of this definition, if the housing is advertised, offered, or charged, on a periodic lease agreement after the declaration or proclamation of emergency.
4. For mobile home spaces rented to existing tenants at the time of the proclamation or declaration of emergency, the amount authorized under that chapter. For new tenants who enter into a rental agreement for a mobile home space that is subject to rent control, but not rented at the time of the proclamation or declaration of emergency, the amount of rent last charged for a space in the same mobile home park. For mobile home spaces not subject not rented at the time of the proclamation or declaration of emergency, the amount of rent last charged for the space.

"State of Emergency" means a natural or manmade emergency resulting from an earthquake, flood, fire, riot, storm, drought, plant or animal infestation or 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.

"Transportation, freight, and storage services" means any service that is performed by any company that contracts to move, store, or transport personal or business property or that rents equipment for those purposes, including towing services.

B. Prohibitions on Price Gouging.

(1) **Consumer Goods.** 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, home heating oil, building materials, housing, transportation, freight, and storage services, or gasoline or other motor fuels 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 emergency declaration period. 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 emergency declaration period, 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 emergency declaration period.

(2) **Rental Housing.** It is unlawful for any person, business or other entity, during an emergency declaration period, to increase the rental price, as defined by this Chapter, advertised, offered, or charged for housing, to an existing or prospective tenant, by more than ten percent. However, a greater rental price increase is not unlawful if that person can prove that the increase is directly attributable to additional costs for repairs or additions beyond normal maintenance that were amortized over the rental term that caused the rent to be increased greater than ten percent or that an increase was contractually agreed to by the tenant prior to the proclamation or declaration.

(3) **Transient Housing.** It is unlawful for any person, business or other entity during the emergency declaration period to rent or lease a hotel or motel room, or other short-term or long-term rental unit, in the City of Perris, for more than ten percent above the hotel, motel or other short-term or long-term rental's regular rates, as advertised immediately prior to the occurrence of a declared emergency, unless that person, business or other entity can prove that the increase in price is directly attributable to additional costs imposed on it for goods or labor used in the business, to seasonal adjustments in rates that are regularly scheduled, or to previously contracted rates prior to the proclamation or declaration.

C. Restrictions on Evictions.

(1) It is unlawful for any person, business, or other entity to evict any residential tenant of residential housing or commercial tenant of commercial property after 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 Council or other City official vested with authority to make that declaration, and for a period of thirty days following that proclamation or declaration, or any period that the proclamation or declaration is extended by the applicable authority. This prohibition shall only be imposed upon evictions in which all of the following circumstances exist:

(i) The basis of eviction is nonpayment of rent arising out of a substantial decrease in household or business income (including, but not limited to, a substantial decrease in household income caused by layoffs or a reduction in the number of compensable hours of work, or a substantial decrease in business income caused by a reduction in opening hours or consumer demand), or in substantial out-of-pocket medical expenses; and

(ii) The decrease in household or business income or the out-of-pocket medical expenses described in Section 3(C)(1)(i) above was caused by COVID-19, or by any local, state, or federal government response to COVID-19, and is documented.

(2) It shall not be a violation of this section for a person, business, or other entity to continue an eviction process that was lawfully begun prior to the proclamation or declaration of emergency.

D. Penalties for Violations.

(1) Any person violating the provisions of this Ordinance shall be subject to a penalty of \$1,000 for a first-time violation, and thereafter \$1,000 for each additional violation of such provisions.

(2) A violation of this Ordinance is also punishable as a misdemeanor.

SECTION 4. **Adoption.** Pursuant to Government Code Section 36937, this ordinance shall take effective immediately upon approval of the same by a four-fifths (4/5) affirmative vote of the City Council. The City Council finds and determines that the same is necessary to the preservation of the public peace, health or safety, in that adoption of the same will help prevent price gouging during declared states of emergency.

SECTION 5. **Severability.** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person or circumstances, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the application of any other section, subsection, sentence, clause, phrase, or portion of this Ordinance, and to this end the invalid or unconstitutional section, subsection, sentence, clause, phrase of this ordinance are declared to be severable. The Perris City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, parts or portions thereof be declared invalid or unconstitutional.

SECTION 6. **Effective Date.** This Ordinance shall take effect immediately, pursuant to the authority conferred upon the City Council by Government Code Section 36937, upon its adoption by a four-fifths (4/5) vote of the City Council as if, and to the same extent that, such ordinance had been adopted pursuant to each of the individual sections set forth hereinabove.

SECTION 7. **Automatic Repeal.** This Ordinance shall remain in effect only until the termination of the Declared Emergency.

SECTION 8. **Certification.** The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be posted and codified in the manner required by law.

PASSED, APPROVED and ADOPTED by a four-fifths (4/5) vote at a regular meeting of the Perris City Council on this 31st day of March, 2020.



Michael M. Nargas, Mayor

ATTEST:



Nancy A. Salazar, City Clerk

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 Urgency Ordinance Number 1390 was duly adopted by the City Council of the City of Perris at a regular meeting of said Council on the 9th day of April, 2019, and that it was so adopted by the following vote:

AYES: MAGAÑA, CORONA, RABB, ROGERS, VARGAS

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE



Nancy Salazar, City Clerk