

ORDINANCE NUMBER O- 20645 (NEW SERIES)

DATE OF FINAL PASSAGE MAY 27 2016

AN ORDINANCE AMENDING CHAPTER 5, ARTICLE 1, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 51.0101, 51.0102, 51.0103, AND 51.0104; REPEALING SECTION 51.0105; AMENDING AND RENUMBERING SECTION 51.0106 TO 51.0105; AMENDING AND RENUMBERING SECTION 51.0107 TO 51.0106; AMENDING AND RENUMBERING SECTION 51.0108 TO 51.0107; REPEALING SECTION 51.0109; AMENDING AND RENUMBERING SECTION 51.0110 TO 51.0108; AND REPEALING SECTION 51.0111; AMENDING CHAPTER 5, ARTICLE 1, DIVISION 2 BY AMENDING SECTIONS 51.0202, 51.0203, AND 51.0204 ALL RELATING TO PUBLIC EMERGENCY PROCEDURES AND UNFAIR PRICING PRACTICES.

WHEREAS, the City of San Diego Office of Homeland Security (OHS) has developed updates to the public emergency procedures in the San Diego Municipal Code (Municipal Code); and

WHEREAS, these updates address concerns discovered in a 2014 performance audit of OHS; and

WHEREAS, these updates align the public emergency procedures of the Municipal Code with the California Office of Emergency Services recommended best practices and reflect the City's change to a Strong Mayor form of government; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 5, Article 1, Division 1 of the San Diego Municipal Code is amended by amending sections 51.0101, 51.0102, 51.0103, 51.0104, repealing section 51.0105, amending and renumbering section 51.0106 to 51.0105, amending and renumbering section 51.0107 to 51.0106, amending and renumbering section 51.0108 to 51.0107, repealing section

51.0109, amending and renumbering section 51.0110 to 51.0108, and repealing section 51.0111 to read as follows:

Article 1: Public Emergency Procedures

Division 1: Public Emergency Procedures

§51.0101 Purposes

The purposes of this Article are to provide for the preparation and carrying out of plans for the protection of persons and property within the City of San Diego in the event of an emergency; the direction of an emergency organization; and the coordination of the emergency functions of the City with all other public agencies, corporations, organizations, and affected private persons. This Article is intended to comply with the California Emergency Services Act, California Government Code section 8550 *et. seq.*

§51.0102 Definitions

As used in this Article, the terms *state of emergency*, *local emergency*, and *state of war emergency* have the same meanings as in California Government Code section 8558, as may be amended.

§51.0103 Disaster Council Membership

The City of San Diego Disaster Council is created and shall consist of the following:

- (a) The Mayor, who shall be Chair and also the Director of Emergency Services;
- (b) The Chief Operating Officer, who shall be Vice Chair;
- (c) The Executive Director of the Office of Homeland Security;

- (d) Such Chiefs of Emergency Services as are provided for in a current emergency plan of this City, adopted pursuant to this article; and
- (e) Such representatives of civic, business, labor, veterans, professional, or other organizations having an official emergency responsibility, as may be appointed by the Chair with the advice and confirmation of the City Council.

§51.0104 Disaster Council – Powers and Duties

The City of San Diego Disaster Council shall develop and recommend for adoption by the City Council, emergency and mutual aid plans and agreements and such ordinances, resolutions, rules, and regulations as are necessary to implement such plans and agreements. The Disaster Council shall meet upon call of the Chair, or, in the Chair's absence from the City or inability to call such meeting, upon call of the Vice Chair, at least three times each calendar year.

§51.0105 Powers and Duties of the Chair and Assistant Chair of the Disaster Council

- (a) The Chair is empowered to:
 - (1) Request the City Council to proclaim the existence or threatened existence of a *local emergency* if the City Council is in session, or to issue such proclamation if the City Council is not in session. Whenever a *local emergency* is proclaimed by the Chair, the City Council shall take action to ratify the proclamation within seven days of the proclamation or the proclamation shall have no further force or effect.

- (2) Request the Governor to proclaim a *state of emergency* when, in the opinion of the Chair, the locally available resources are inadequate to cope with the *local emergency*.
- (3) Guide the effort of the emergency organization of the City for the accomplishment of the purposes of this Article.
- (4) Direct cooperation and coordination of services and staff of the emergency organization of the City and resolve questions of authority and responsibility within the emergency organization.
- (5) Represent the City in all dealings with public or private agencies on matters pertaining to a *local emergency*.
- (6) In the event of the proclamation of a *local emergency*, the proclamation of a *state of emergency* by the Governor of California or the Director of the California Governor's Office of Emergency Services, or the existence of a *state of war emergency*, the Chair is empowered:
 - (A) To make and issue rules and regulations on matters reasonably related to the protection of life and property; provided, however, such rules and regulations must be confirmed at the earliest practicable time by the City Council;
 - (B) To obtain vital supplies, equipment, and such other properties found lacking and needed for the protection of life and property and to bind the City for the fair value thereof and, if required immediately, to commandeer the

same for public use within the confines of the San Diego Charter and state law;

- (C) To require emergency services of any City officer or employee and to command the aid of as many citizens of the City as necessary in the execution of these duties; such persons shall be entitled to all privileges, benefits, and immunities as are provided by state law for registered disaster service workers;
 - (D) To requisition necessary personnel or material of any City department or agency; and
 - (E) To execute all of the special powers conferred upon the Chair by this ordinance or by resolution or emergency plan adopted by the City Council, all powers conferred upon the Chair by any statute, by any agreement approved by the City Council, and by any other lawful authority.
- (b) In the event the Chair is unavailable or is otherwise unable to perform the assigned duties during a *local emergency*, *state of emergency*, or *state of war emergency*, individuals listed in this subsection who hold permanent appointments to the following positions automatically serve as Chair of the Disaster Council, in descending order:
- 1) the Chief Operating Officer,
 - 2) the Assistant Chief Operating Officer,
 - 3) the Deputy Chief Operating Officer-Infrastructure/Public Works,
 - 4) the Police Chief,

- 5) the Fire Chief, or
- 6) the Executive Director of the Office of Homeland Security.

The succession of an individual to the position of Acting Chair of the Disaster Council is subject to City Council approval at the next scheduled Council Meeting. The succession pertains only to the duties and responsibilities of the Chair of the Disaster Council as defined in section 51.0105(b) and does not address vacancies to the Office of the Mayor.

- (c) The Vice Chair shall, under the supervision of the Chair and with the assistance of the Executive Director of the Office of Homeland Security, the Police Chief, and the Fire Chief, manage the emergency programs of the City and shall have such other powers and duties as may be assigned by the Chair.

§51.0106 Emergency Organization

All officers and employees of the City, together with those volunteer forces enrolled to aid them during a *local emergency, state of emergency, or state of war emergency*, and all groups, organizations, and persons who may by agreement or operation of law, including persons impressed into service under the provisions of section 51.0105(a)(6)(C) charged with duties incident to the protection of life and property in this City during such emergency, shall constitute the emergency organization of the City of San Diego.

§51.0107 Emergency Operations Plan

The City Office of Homeland Security shall be responsible for the development and updating of the City of San Diego Emergency Operations Plan, which shall provide for the effective mobilization of all the resources of the City, both public

and private, to meet any *local emergency, state of emergency, or state of war emergency*, and shall provide for the organization, powers and duties, services, and staff of the emergency organization.

§51.0108 **Punishment of Violations**

It shall be a misdemeanor, punishable by a fine of not to exceed one thousand dollars (\$1,000), or by imprisonment for not to exceed six months, or both, for any person, during a *local emergency, state of emergency, or state of war emergency*, to:

- (a) Willfully obstruct, hinder, or delay any peace officer or any member of the emergency organization in the enforcement of any lawful rule or regulation issued pursuant to Chapter 5, Article 1, Division 1, or in the performance of any duty imposed upon the peace officer or any member of the emergency organization of the City pursuant to Chapter 5, Article 1, Division 1.
- (b) Do any act forbidden by any lawful rule or regulation issued pursuant to Chapter 5, Article 1, Division 1, if such act is of such a nature as to give or be likely to give assistance to the enemy or to imperil the lives or property of inhabitants of the City, or to prevent, hinder, or delay the defense or protection of the City.
- (c) Wear, carry, or display, without authority, any means of identification specified by the emergency organization of the City.

Section 2. That Chapter 5, Article 1, Division 2 of the San Diego Municipal Code is amended by amending sections 51.0202, 51.0203 and 51.0204 to read as follows:

Article 1: Public Emergency Procedures

Division 2: Emergencies and Major Disasters; Unfair Pricing Practices

§ 51.0202 Purpose

It is the intent of the City Council to ensure that citizens are protected from excessive and unjustified increases in the prices charged during or shortly after a declared *state of emergency, local emergency, or state of war emergency* for goods and services that are vital and necessary for the health, safety, and welfare of consumers. This ordinance shall apply when there is a proclamation of a *state of emergency, local emergency, or state of war emergency* declared by the President of the United States or the Governor, or executive officer or body of the City of San Diego. This ordinance shall also apply to declarations of a *state of emergency, local emergency, or state of war emergency* outside the jurisdiction of the City of San Diego which causes excessive and unjustified increases in the prices of goods and services vital and necessary for the health, safety, and welfare of consumers within the City of San Diego.

§ 51.0203 Definitions

“Consumer food item” through “Goods” [No change in text.]

§ 51.0204 Unlawful Pricing Practices

- (a) Upon the proclamation of a *state of emergency, local emergency, or state of war emergency*, and for a period of 30 days following that 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, 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 above the price charged by that person for those goods or services immediately prior to the proclamation.

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 upon it by the supplier of the goods, or directly attributable to additional costs for labor or materials used to provide the services, provided that in those situations where the increase in price is attributable to additional costs imposed by the sellers' supplier or additional costs of providing the good or service during the *state of emergency, local emergency, or state of war emergency*, the price represents no more than 10 percent above 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, local emergency, or state of war emergency*. A business offering an item for sale at a reduced price immediately prior to the proclamation of the *state of emergency, local emergency, or state of war emergency* may use the price at which it usually sells the item to calculate the price pursuant to this section.

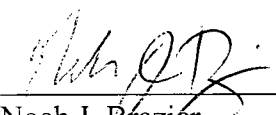
(b) through (c) [No change in text.]

- (d) 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 California Business and Professions Code. The remedies and penalties provided in this section are cumulative to each other, the remedies under section 17200 of the California Business and Professions Code, and the remedies or penalties available under all other laws of this State.

Section 3. That a full reading of this ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 4. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 

Noah J. Brazier
Deputy City Attorney

NJB:hm
04/05/2016
Or.Dept:PSE
Doc. No.: 1165394_4

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of MAY 17 2016.

ELIZABETH S. MALAND
City Clerk

By Stacy Brady
Deputy City Clerk

Approved: 5/27/16
(date)

Kevin L. Faulconer
KEVIN L. FAULCONER, Mayor

Vetoed: _____

KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on MAY 17 2016, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAY 27 2016.

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By Atty Brady, Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

APR 26 2016, and on MAY 27 2016.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By Atty Brady, Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- <u>20645</u>

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~
NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 5, ARTICLE 1, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 51.0101, 51.0102, 51.0103, AND 51.0104; REPEALING SECTION 51.0105; AMENDING AND RENUMBERING SECTION 51.0106 TO 51.0105; AMENDING AND RENUMBERING SECTION 51.0107 TO 51.0106; AMENDING AND RENUMBERING SECTION 51.0108 TO 51.0107; REPEALING SECTION 51.0109; AMENDING AND RENUMBERING SECTION 51.0110 TO 51.0108; AND REPEALING SECTION 51.0111; AMENDING CHAPTER 5, ARTICLE 1, DIVISION 2 BY AMENDING SECTIONS 51.0202, 51.0203, AND 51.0204 ALL RELATING TO PUBLIC EMERGENCY PROCEDURES AND UNFAIR PRICING PRACTICES.

Article 1: Public Emergency Procedures

Division 1: Public Emergency Procedures

§51.0101 Purposes

The ~~declared~~ purposes of this Article are to provide for the preparation and carrying out of plans for the protection of persons and property within ~~this~~the City of San Diego in the event of an emergency; the direction of an emergency organization; and the coordination of the emergency functions of ~~this~~the City with all other public agencies, corporations, organizations, and affected private persons. This Article is intended to comply with the California Emergency

Services Act, California Government Code section 8550 et. seq. The provisions of this Article are limited by the provisions of the Charter of The City of San Diego, Sections 17, 24, and 27.

§51.0102 DefinitionDefinitions

As used in this Article, “emergency” shall mean the actual or threatened existence of conditions of disaster or of extreme peril to the public peace, health or safety of persons or property within this City caused by, but not limited to, such conditions as air pollution, fire, flood, storm, epidemic, riot, or earthquake, or other conditions, including conditions resulting from war or imminent threat of war. the terms state of emergency, local emergency, and state of war emergency have the same meanings as in California Government Code section 8558, as may be amended.

§51.0103 Disaster Council Membership

The City of San Diego Disaster Council is hereby created and shall consist of the following:

- (a) The Mayor, who shall be ~~Chairman~~ Chair and also the Director of Emergency Services;
- (b) The ~~Director of Emergency Services~~ Chief Operating Officer, who shall be Vice Chairman. Chair;
- (c) The ~~Assistant Director of Emergency Services~~ Executive Director of the Office of Homeland Security;

- (d) Such Chiefs of Emergency Services as are provided for in a current emergency plan of this City, adopted pursuant to this article; and
- (e) Such representatives of civic, business, labor, veterans, professional, or other organizations having an official emergency responsibility, as may be appointed by the ~~Director~~Chair with the advice and ~~consent~~confirmation of the City Council.

§51.0104 Disaster Council – Powers and Duties

~~It shall be the duty of The City of San Diego Disaster Council, and it is hereby empowered, to~~ shall develop and recommend for adoption by the City Council, emergency and mutual aid plans and agreements and such ordinances, and resolutions, ~~and~~ rules, and regulations as are necessary to implement such plans and agreements. The Disaster Council shall meet upon call of the ~~Chairman~~Chair, or, in ~~his~~the Chair's absence from the City or inability to call such meeting, upon call of the Vice ~~Chairman~~Chair, at least three times each calendar year.

§51.0105 ~~Director and Assistant Director of Emergency Services~~

- (a) ~~There is hereby created the office of Director of Emergency Services. The City Manager shall be the Director of Emergency Services.~~

§51.01060105 Powers and Duties of the ~~Director~~Chair and Assistant ~~Director of Emergency Services~~Chair of the Disaster Council

- (a) The ~~Director~~Chair is hereby empowered to:
 - (1) Request the City Council to proclaim the existence or threatened existence of a "~~local emergency~~"local emergency if the City Council is in session, or to issue such proclamation if the City

Council is not in session. Whenever a ~~local emergency~~local emergency is proclaimed by the ~~Director~~Chair, the City Council shall take action to ratify the proclamation within seven days ~~thereafter~~of the proclamation or the proclamation shall have no further force or effect.

- (2) Request the Governor to proclaim a “~~state of emergency~~”state of emergency when, in the opinion of ~~The Director~~the Chair, the locally available resources are inadequate to cope with the ~~emergency~~local emergency.
- (3) ~~Control and direct~~Guide the effort of the emergency organization of ~~this~~the City for the accomplishment of the purposes of this Article.
- (4) Direct cooperation ~~between the~~and coordination of services and staff of the emergency organization of ~~this~~the City; and resolve questions of authority and responsibility ~~that may arise between them~~within the emergency organization.
- (5) Represent ~~this~~the City in all dealings with public or private agencies on matters pertaining to ~~emergencies as defined herein~~local emergency.
- (6) In the event of the proclamation of a “~~local emergency~~” as herein ~~provided~~local emergency, the proclamations of a “~~state of emergency~~”state of emergency by the Governor of California or the Director of the State California Governor’s Office of

Emergency Services, or the existence of a “~~state of war emergency;~~”state of war emergency, the ~~Director~~Chair is hereby empowered:

- (A) To make and issue rules and regulations on matters reasonably related to the protection of life and property ~~as affected by such emergency;~~ provided, however, such rules and regulations must be confirmed at the earliest practicable time by the City Council;
- (B) To obtain vital supplies, equipment, and such other properties found lacking and needed for the protection of life and property and to bind the City for the fair value thereof and, if required immediately, to commandeer the same for public use within the confines of the San Diego Charter of The City of San Diego and state law;
- (C) To require emergency services of any City officer or employee and, ~~in the event of the proclamation of a “state of emergency” in the county, in which this City is located or the existence of a “state of war emergency,”~~ to command the aid of as many citizens of ~~this community~~the City as he ~~deems~~ necessary in the execution of ~~his~~these duties; such persons shall be entitled to all privileges, benefits, and immunities as are provided by state law for registered disaster service workers;

(D) To requisition necessary personnel or material of any City department or agency; and

(E) To execute all of his ordinary powers as City Manager, all of the special powers conferred upon him the Chair by this ordinance or by resolution or emergency plan pursuant hereto adopted by the City Council, all powers conferred upon him the Chair by any statute, by any agreement approved by the City Council, and by any other lawful authority.

(b) ~~The Director of Emergency Services shall designate the order of succession to that office, to take effect in~~ In the event the Director ~~Chair is unavailable to attend meetings or is otherwise unable to perform his~~ the assigned duties during an emergency a local emergency, state of emergency, or state of war emergency, individuals listed in this subsection who hold permanent appointments to the following positions automatically serve as Chair of the Disaster Council, in descending order:- ~~Such order of succession shall be approved by the City Council.~~

- 1) the Chief Operating Officer,
- 2) the Assistant Chief Operating Officer,
- 3) the Deputy Chief Operating Officer-Infrastructure/Public Works,
- 4) the Police Chief,
- 5) the Fire Chief, or
- 6) the Executive Director of the Office of Homeland Security.

The succession of an individual to the position of Acting Chair of the Disaster Council is subject to City Council approval at the next scheduled Council Meeting. The succession pertains only to the duties and responsibilities of the Chair of the Disaster Council as defined in section 51.0105(b) and does not address vacancies to the Office of the Mayor.

- (c) ~~The Assistant Director~~Vice Chair shall, under the supervision of the ~~Director~~Chair and with the assistance of the Executive Director of the Office of Homeland Security, the Police Chief, and the Fire Chief, ~~Emergency Service chiefs, develop emergency plans and manage the emergency programs of this~~the City; and shall have such other powers and duties as may be assigned by the ~~Director~~Chair.

§51.01070106 Emergency Organization

All officers and employees of ~~this~~the City, together with those volunteer forces enrolled to aid them during ~~an emergency~~ a local emergency, state of emergency, or state of war emergency, and all groups, organizations, and persons who may by agreement or operation of law, including persons impressed into service under the provisions of ~~Sec. 51.0106a6~~section 51.0105(a)(6)(C) of this ordinance, be charged with duties incident to the protection of life and property in this City during such emergency, shall constitute the emergency organization of ~~The~~ the City of San Diego.

§51.01080107 Emergency Operations Plan

The City of ~~San Diego Disaster Council~~Office of Homeland Security shall be responsible for the development and updating of ~~The~~the City of San Diego

Emergency Operations Plan, which ~~plan~~ shall provide for the effective mobilization of all the resources of ~~this~~the City, both public and private, to meet any condition constituting a local emergency local emergency, state of emergency state of emergency, or state of war emergency state of war emergency; and shall provide for the organization, powers and duties, services, and staff of the emergency organization. Such ~~plan~~ shall take effect upon adoption by resolution of the City Council.

§51.0109 Expenditures

~~Any expenditures made in connection with emergency activities, including mutual aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property of the City of San Diego.~~

§51.0110 108 Punishment of Violations

It shall be a misdemeanor, punishable by a fine of not to exceed ~~five hundred~~one thousand dollars (~~\$500~~1,000), or by imprisonment for not to exceed six months, or both, for any person, during an emergency local emergency, state of emergency, or state of war emergency, to:

- (a) Willfully obstruct, hinder, or delay any peace officer or any member of the emergency organization in the enforcement of any lawful rule or regulation issued pursuant to ~~this Article~~Chapter 5, Article 1, Division 1, or in the performance of any duty imposed upon ~~him~~ by virtue of ~~this Article~~the peace officer or any member of the emergency organization of the City pursuant to Chapter 5, Article 1, Division 1.

- (b) Do any act forbidden by any lawful rule or regulation issued pursuant to ~~this Article~~Chapter 5, Article 1, Division 1, if such act is of such a nature as to give or be likely to give assistance to the enemy or to imperil the lives or property of inhabitants of ~~this~~the City, or to prevent, hinder, or delay the defense or protection ~~thereof~~of the City.
- (c) Wear, carry, or display, without authority, any means of identification specified by the emergency ~~agency~~organization of the stateCity.

§51.0111 Severability

If any provision of ~~this Article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications, and to this end the provisions of this Article are declared to be severable.~~

Article 1: Public Emergency Procedures

Division 2: Emergencies and Major Disasters; Unfair Pricing Practices

§ 51.0202 Purpose

It is the intent of the City Council to ensure that citizens are protected from excessive and unjustified increases in the prices charged during or shortly after a declared state of ~~emergency~~state of emergency, local emergency, or state of war emergency for goods and services that are vital and necessary for the health, safety, and welfare of consumers. This ordinance shall apply when there is a proclamation of a ~~state of emergency~~state of emergency, local emergency, or state of war emergency resulting from an earthquake, flood, fire, riot, storm, or natural ~~or man-made disaster~~ declared by the President of the United States or the

Governor, or executive officer or body of the City of San Diego. This ordinance shall also apply to declarations of a ~~local or national emergency~~ state of emergency, local emergency, or state of war emergency outside the jurisdiction of the City of San Diego which causes excessive and unjustified increases in the prices of goods and services vital and necessary for the health, safety, and welfare of consumers within the City of San Diego.

§ 51.0203 Definitions

~~“State of Emergency” means an emergency resulting from an earthquake, flood, fire, riot, storm, 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 of California, the executive officer or body of the City of San Diego, or any Governor of any of the United States of America.~~

~~“Local Emergency” means an emergency resulting from an earthquake, flood, fire, riot, storm, or other natural or manmade disaster, for which a state of emergency has been declared by the executive officer or governing body of any city or county in the United States.~~

~~“Consumer food item” through “Goods” [No change in text.]~~

§ 51.0204 Unlawful Pricing Practices

- (a) Upon the proclamation of a ~~state of emergency as defined in Section 52.0203~~ state of emergency, local emergency, or state of war emergency, and for a period of 30 days following that 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, 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 above the price charged by that person for those goods or services immediately prior to the proclamation 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 upon it by the supplier of the goods, or directly attributable to additional costs for labor or materials used to provide the services, provided that in those situations where the increase in price is attributable to additional costs imposed by the sellers' supplier or additional costs of providing the good or service during the ~~state of emergency~~state of emergency, local emergency, or state of war emergency, the price represents no more than 10 percent above 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~~state of emergency, local emergency, or state of war emergency. A business offering an item for sale at a reduced price immediately prior to the proclamation of the ~~emergency~~state of emergency, local emergency, or state of war emergency may use the price at which it usually sells the item to calculate the price pursuant to this section.

(b) through (c) [No change in text.]

(d) 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 California Business and Professions Code. The remedies and penalties provided ~~by~~in this section are cumulative to each other, the remedies under section 17200 of the California Business and Professions Code, and the remedies or penalties available under all other laws of this State.

NJB:hm
04/05/2016
Or.Dept:PSE
Doc. No.: 1161933_4