

**CITY OF CLOVIS
EMERGENCY SERVICES DIRECTOR ORDER 2020 – 05**

**DECLARATION OF THE DIRECTOR OF EMERGENCY SERVICES OF THE CITY OF
CLOVIS RELATING TO PRICE GOUGING AND TAKING UNFAIR ADVANTAGE OF
CONSUMERS**

WHEREAS, there exists a local emergency in the City of Clovis (“City”) pursuant to Resolution 20-20, approved by the City Council on March 16, 2020, where the City declared a local emergency due to the increase in confirmed cases of COVID-19, including those confirmed cases within Fresno, Tulare and Madera Counties; and

WHEREAS, under the authority of Government Code sections 8610 and 8634, and Clovis Municipal Code section 4.2.06, I am empowered, upon declaration of a local emergency, to make and issue regulations on matters reasonably related to the protection of life and property as affected by such emergency; and

WHEREAS, 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; and

WHEREAS, it is necessary in such circumstances 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 essential for the health, safety, and welfare of consumers; and

WHEREAS, the City’s residents’ health and property are deemed to be in peril and time is of the essence.

THEREFORE, I, Luke Serpa, as Director of Emergency Services, declare effective 12:00 p.m. on March 26, 2020:

1. During the current local emergency, it shall be 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 ten percent (10%) greater than the price charged by that person for those goods or services immediately prior to the City’s March 16, 2020 declaration of local 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 (10%) 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.

2. In addition to all other remedies and penalties available under the Clovis Municipal Code and state law, violation of this regulation shall be punishable by an administrative citation imposed pursuant to Chapter 1.7 of the Clovis Municipal Code with an administrative penalty of \$1,000 per violation. Due to the local emergency and the need to protect the public health, safety, and welfare, no notice and opportunity to correct is required before issuing a citation. Each and every day during any portion of which any violation of any provision of this regulation is committed, continued, or permitted shall be considered a separate offense.

3. For the purposes of this regulation, the following terms have the following meanings:

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

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

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

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

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


4. 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 Section 1.

NOW, THEREFORE, BE IT RESOLVED, that the law enforcement forces of this City, along with other law enforcement authorities cooperating with the City, are hereby authorized and charged, to the extent provided by law, with the responsibility of enforcing this regulation.

BE IT FURTHER RESOLVED that this regulation shall remain in effect until such time as it is terminated by the Director of Emergency Services or the City Council of the City of Clovis.

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DATE AND TIME: March 26, 2020 at 12:00 p.m.



Luke Serpa, Director of Emergency Services

ATTEST:



John Holt, City Clerk