

ORDINANCE NO. 2527

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF CHICO
AMENDING CHAPTER 9.55 TO THE CHICO MUNICIPAL CITY
CODE REGARDING PROHIBITION ON PRICE GOUGING DURING
AND FOLLOWING A DECLARED EMERGENCY**

WHEREAS, the Camp Fire of November 2018 destroyed over 153,336 acres and burned over 18,700 structures in Butte County, resulting in a large displacement of residents from the Town of Paradise and other surrounding communities; and

WHEREAS, on November 9, 2018, the Governor of California proclaimed a State of Emergency for the County of Butte and on November 12, 2018, the President of the United States declared the existence of a major disaster in the State of California and ordered Federal aid to supplement State and local recovery efforts in the areas affected by wildfire; and

WHEREAS, City officials have been alerted to the possibility of price gouging by persons offering housing for rent or other needed goods and services in the City of Chico, and have seen from other similar events that such gouging may also include eviction of existing tenants of rental property, so that landlords may take advantage of fire victims whose insurance companies may pay rental rates in excess of what was previously charged for existing tenants; and

WHEREAS, California Penal Code Section 396 controls price increases for rental housing, goods and services related to emergency response and recovery for an initial period of thirty (30) days after declaration of an emergency by the President, Governor or local agency, and generally prohibits charging a price that exceeds by more than ten percent (10%) the price of the rental unit, good or service before the declaration of emergency; and

WHEREAS, California Penal Code Section 396 permits a local legislative body to extend the price controls for additional thirty (30) day periods as needed to protect the lives,

1 property or welfare of its citizens. Penal Code Section 396 allows for a city to prohibit the
2 same or similar conduct or impose a more severe penalty for the conduct prohibited by Penal
3 Code Section 396; and

4 WHEREAS, Penal Code Section 396 applies to hotels, motels and any other rental housing
5 restricting set rates and lease to what was advertised immediately prior to the emergency
6 declaration; and

7
8 WHEREAS, the Chico City Council has previously found that the City of Chico is experiencing a
9 housing crisis, and prior to the Camp Fire there existed a severe lack of rental housing, particularly
10 rental housing that is affordable to lower and moderate-income residents; and

11
12 WHEREAS, the extreme number of housing units damaged in the Town of Paradise and the
13 surrounding area increases the pressure on rental housing demand and shortage in Chico by several
14 orders of magnitude; and

15
16 WHEREAS, the destruction of housing units exacerbates the pressure of persons who lived and
17 worked in the Town of Paradise, and those who will be working to restore the viability of the Town
18 of Paradise, to relocate to other housing far from their home due to the housing shortage; and

19
20 WHEREAS, the Chico City Council finds that this ordinance is necessary for the preservation of
21 the public welfare, health and safety of residents living within the City of Chico.

22
23 NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Chico does hereby adopt
24 the following ordinance establishing Chapter 9.55 Prohibition on Price Gouging:

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1 **Section 1. City Code Amendment.**

2 **Chapter 9.55**

3 **Prohibition of Price Gouging**

4 **Section:**

5 **9.55.010 Findings.**

6 **9.55.020 Prohibition on Price Gouging.**

7 **9.55.030 Restrictions on Evictions.**

8 **9.55.040 Repair and Reconstruction Services.**

9 **9.55.050 Definitions.**

10 **9.55.060 Term of Ordinance.**

11 **9.55.010 Findings.**

12 The city council finds as follows:

- 13
- 14 A. Beginning on the morning of November 8, 2018, a series of wildfire events,
15 identified as the Camp Fire burned over 125,000 acres in the County of Butte and
16 surrounding areas and damaged or destroyed over 6,500 homes and 260
17 commercial structures where the majority were within the boundaries of the Town
18 of Paradise; and
- 19
- 20 B. On November 9, 2018, the Governor of California proclaimed a State of Emergency for
21 Butte County and on November 12, 2018, the President of the United States declared the
22 existence of a major disaster in the State of California and ordered Federal aid to
23 supplement State and local recovery efforts in the areas affected by wildfire; and
- 24
- 25 C. California Penal Code Section 396 controls price increases for rental housing,
26 goods and services related to emergency response and recovery for an initial period
27 of thirty (30) days after declaration of an emergency by the President, Governor or
28 local agency, and generally prohibits charging a price that exceeds by more than
ten percent (10%) the price of the rental units, goods or services as such existed

1 before the declaration of an emergency event. Penal Code Section 396 permits a
2 local legislative body to extend the price controls for additional thirty (30) day
3 periods as needed to protect the lives, property or welfare of its citizens. Nothing in
4 Penal Code Section 396 preempts a city's ability to prohibit the same or similar
5 conduct and allows a city to impose a more severe penalty for the conduct
6 prohibited by Penal Code Section 396. Penal Code Section 396 applies to hotels,
7 motels and any other rental housing restricting set rates and lease to what was
8 advertised immediately prior to the emergency declaration; and

9 D. The Council has previously found that the City of Chico is experiencing a
10 housing crisis, and a severe lack of rental housing, particularly rental housing
11 that is affordable to lower and moderate-income residents; and

12 E. The housing units damaged and destroyed by an emergency increase the rental
13 housing shortage further impairing the ability of persons who live and work in the
14 City of Chico to find housing or residents who have been displaced by an
15 emergency to relocate to other housing in Chico; and

16
17 F. City officials have been alerted to the possibility of price gouging by persons
18 offering housing for rent, goods and services in the City of Chico, and have
19 been informed that price gouging may also include eviction of existing tenants
20 of rental properties, so landlords may take advantage of victims of emergencies
21 whose insurance companies may pay rental rates in excess of what was
22 previously charged for existing tenants; and

23
24 G. While the pricing of consumer goods and services is generally best left to the
25 marketplace under ordinary conditions, when a declared state of emergency or local
26 emergency results in abnormal disruptions of the market, the public interest
27 requires that excessive and unjustified increases in the prices of essential consumer
28 goods and services be prohibited, the events of the Camp Fire and other states of
emergency highlight the need for the City of Chico to establish local regulations

1 relating to price gouging during times of emergencies to protect residents from
2 excessive and unjustified increases in the prices charged during or shortly after a
3 declared state of emergency or local emergency for goods and services that are vital
4 and necessary for the health, safety, and welfare of consumers; and

5 H. The City Council hereby finds that this Ordinance is necessary for preservation of
6 the public peace, health or safety based upon the findings contained herein.

7
8 I. The City Council intends to extend the applicability of this Ordinance until December
9 31, 2019, or until such later date as established by a declaration of a state of emergency
10 regarding the Camp Fire

11
12 **9.55.020 Prohibition on Price Gouging.**

13 A. Rental Housing. It is unlawful for any person, business or other entity during the
14 emergency declaration period to rent, lease or offer to rent or lease, or increase the
15 rental price, to any existing or prospective tenant for any housing unit, of any kind,
16 within the City of Chico, for a price of more than 10 percent above the average
17 retail price charged for that housing unit immediately prior to the occurrence of
18 a Declared Emergency, unless that person, business or entity can prove that the
19 increase in price is directly attributable to additional costs for labor or materials
20 used to provide the rental unit, in which case, the price shall not be more than
21 10 percent above the total cost of providing that rental unit.

22 B. Transient Housing. It is unlawful for any person, business or other entity
23 during the emergency declaration period to rent or lease a hotel or motel
24 room, or other short-term or long-term rental unit, including a vacation rental
25 unit, in the City of Chico, for more than 10 percent above the hotel, motel or
26 other short-term or long-term rental's regular rates, as advertised immediately
27 prior to the occurrence of a Declared Emergency, unless that person, business
28 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

1 seasonal adjustments in rates that are regularly scheduled, or to previously
2 contracted rates.

- 3 C. Sales of Goods and Services. It is unlawful for any person, contractor, business,
4 or other entity during the emergency declaration period to sell or offer to sell
5 any consumer food items or goods, goods or services used for emergency
6 cleanup, emergency supplies, medical supplies, home heating oil, building
7 materials, housing, transportation, freight, and storage services, or gasoline or
8 other motor fuels, in the City of Chico, for a price of more than 10 percent above
9 the price charged by that person for those goods or services immediately prior
10 to the occurrence of a Declared Emergency. However, a greater price increase
11 is not unlawful if that person can prove that the increase in price was directly
12 attributable to additional costs imposed on it by the supplier of the goods, or
13 directly attributable to additional costs for labor or materials used to provide the
14 services, provided that in those situations where the increase in price is
15 attributable to additional costs imposed by the seller's supplier or additional
16 costs of providing the good or service during the state of emergency, the price
17 represents no more than 10 percent above the total of the cost to the seller plus
18 the markup customarily applied by the seller for that good or service in the usual
19 course of business immediately prior to the onset of the state of emergency.

20
21 **9.55.030 Restrictions on Evictions.**

- 22 A. It shall be unlawful for any person to evict an existing tenant or terminate an
23 existing lease or month-to-month rental agreement during the emergency
24 declaration period and subsequently rent or lease the same dwelling unit,
25 including a vacation rental unit, in the City of Chico for more than the average
26 retail price, unless such person can prove that the excess is directly attributable
27 to additional costs resulting from the labor or materials necessary to provide the
28 rental. In such instances, only the actual cost increase may be added to the
average retail price. This section does not prohibit an owner from evicting a tenant for

1 any lawful reason, including pursuant to Section 1161 of the Code of Civil Procedure.
2 It shall not be a violation of this subdivision for a person, business, or other entity to
3 continue an eviction process that was lawfully begun prior to the proclamation or
4 declaration of emergency.

5 **9.55.040 Repair and Reconstruction Services.**

6 During the emergency declaration period, it shall be unlawful for a contractor to
7 sell or offer to sell any repair or reconstruction services or any services used in emergency
8 cleanup for a price of more than 10 percent above the price charged by that person for those
9 services immediately prior to the proclamation or declaration of emergency. However, a
10 greater price increase is not unlawful if that person can prove that the increase in price was
11 directly attributable to additional costs imposed on it by the supplier of the goods, or directly
12 attributable to additional costs for labor or materials used to provide the services, during the
13 state of emergency or local emergency, and the price represents no more than 10 percent
14 greater than the total of the cost to the contractor plus the markup customarily applied by the
15 contractor for that good or service in the usual course of business immediately prior to the
16 onset of the state of emergency or local emergency. Nothing in this ordinance shall limit,
17 shorten or otherwise affect the provisions of Penal Code Section 396 applicable to
18 repair or reconstruction services.

19 **9.55.050 Definitions.**

20 For the purposes of this Chapter, the following terms have the following meanings:

- 21 (1) "Declared emergency" means a State of Emergency or Local Emergency.
22 (2) "Emergency declaration period" shall mean the longer of the period of time stated
23 in the declaration of a state of emergency, the declaration of a local emergency,
24 or such other period of time established by the City Council by ordinance.
25 (3) "State of emergency" means a natural or manmade emergency resulting from an
26 earthquake, flood, fire, riot, storm, drought, plant or animal infestation or disease, or other
27 natural or manmade disaster for which a state of emergency has been declared by the
28 President of the United States or the Governor.

- 1 (4) "Local emergency" means a natural or manmade emergency resulting from an earthquake,
2 flood, fire, riot, storm, drought, plant or animal infestation or disease, or other natural or
3 manmade disaster for which a local emergency has been declared by the City Council or
4 City official vested with such authority to make such declaration.
- 5 (5) "Consumer food item" means any article that is used or intended for use for food, drink,
6 confection, or condiment by a person or animal.
- 7 (6) "Repair or reconstruction services" means services performed by any person who is
8 required to be licensed under the Contractors' State License Law (Chapter 9 (commencing
9 with Section 7000) of Division 3 of the Business and Professions Code), for repairs to
10 residential or commercial property of any type that is damaged as a result of a disaster.
- 11 (7) "Emergency supplies" includes, but is not limited to, water, flashlights, radios, batteries,
12 candles, blankets, soaps, diapers, temporary shelters, tape, toiletries, plywood, nails, and
13 hammers.
- 14 (8) "Medical supplies" includes, but is not limited to, prescription and nonprescription
15 medications, bandages, gauze, isopropyl alcohol, and antibacterial products.
- 16 (9) "Building materials" means lumber, construction tools, windows, and anything else used
17 in the building or rebuilding of property.
- 18 (10) "Gasoline" means any fuel or energy source used to power any motor vehicle or power
19 tool.
- 20 (11) "Transportation, freight, and storage services" means any service that is performed by
21 any company that contracts to move, store, or transport personal or business property or
22 that rents equipment for those purposes, including towing services.
- 23 (12) "Housing" means any rental housing with an initial lease term of no longer than one year,
24 including, but not limited to, a space rented in a mobile home park or campground.
- 25 (13) "Average retail price" means the rental price for the dwelling unit during the thirty
26 (30) day period immediately preceding Declared Emergency.
- 27 (14) "Goods" has the same meaning as defined in subdivision (c) of Section 1689.5 of the
28 Civil Code.

1 **9.55.060 Term of Ordinance.**

2 A. This Ordinance shall be effective 30 days after approval by the City Council.

3 B. For purposes of the Camp Fire, emergency declaration period is hereby
4 established to extend until December 31, 2019, unless otherwise extended by the
5 City Council, or until such later date as established by a declaration of a state of
6 emergency regarding the Camp Fire.

7 Section 2. Authority. This Ordinance is enacted pursuant to the City of Chico's general
8 police powers, Article II of the Charter of the City of Chico, Article VI of the Charter of
9 the City of Chico and Article XI of the California Constitution.

10
11 Section 3. Environmental Determination. The Council finds that the adoption and
12 implementation of this ordinance is exempt from the provisions of the California
13 Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15061(b)(3)
14 because it can be seen with certainty that there is no possibility that the Ordinance
15 may have a significant effect on the environment, Public Resources Code Section
16 21080(b)(3) regarding repairs and replacement work after a state-declared disaster,
17 Public Resources Code Section 21080(b)(4) regarding actions to mitigate or prevent an
18 emergency, and CEQA Guidelines Section 15269(a) regarding maintaining, repairing,
19 restoring, demolishing, or replacing property or facilities damaged or destroyed as a
20 result of a disaster in a disaster stricken area in which a state of emergency has been
21 proclaimed by the Governor pursuant to the California Emergency Services Act,
22 commencing with Section 8550 of the Government Code, and CEQA Guidelines Section
23 15269(c) regarding specific actions necessary to prevent or mitigate an emergency.

24 Section 5. Severability. If any section, subsection, sentence, clause, phrase or word of this
25 Ordinance is for any reason held to be invalid and/or unconstitutional by a court of
26 competent jurisdiction, such decision shall not affect the validity of the remaining portions
27 of this Ordinance.
28

1 Section 6. Effective Date. This Ordinance shall be effective 30 days after approval by the
2 City Council.

3 Section 7. Certification. The City Clerk shall certify to the passage and adoption of this
4 Ordinance and shall cause the same to be published or posted in the manner required by law.
5

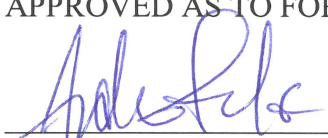
6 THE FOREGOING ORDINANCE was adopted by the City Council of the City of Chico,
7 California at its City Council meeting held this May 7, 2019, by the following votes
8 to wit:

9
10 AYES: Huber, Morgan, Ory, Reynolds, Schwab, Brown, Stone
11 NOES: None
12 ABSENT: None
13 ABSTAIN: None
14 DISQUALIFIED: None

15 ATTEST:

16 
17 _____
18 Deborah R. Presson, City Clerk

APPROVED AS TO FORM:

19 
20 _____
21 Vincent C. Ewing, City Attorney*
22 *Pursuant to The Charter of the City of Chico, Section 906(E)
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24
25
26
27
28