



# *City of Charleston*

*South Carolina*

## AN EMERGENCY ORDINANCE

**TO ESTABLISH IN FURTHERANCE OF THE PUBLIC SAFETY AND WELFARE AN EMERGENCY ORDINANCE PROHIBITING CONSUMER PRICE GOUGING IN THE CITY OF CHARLESTON.**

**BE IT ORDAINED BY THE MAYOR AND COUNCILMEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:**

**Section 1: Findings:** On March 13, 2020, Governor Henry McMaster issued an Executive Order declaring a state of emergency in South Carolina due to the threat posed to the public health, safety and welfare by the coronavirus (COVID-19). The South Carolina Department of Health and Environmental Control (“DHEC”) has confirmed the localized person-to-person spread of COVID-19 in South Carolina, which indicates a significantly increasing risk of exposure and infection to City of Charleston residents and creating an extreme public health risk. If COVID-19 spreads in the City of Charleston at a rate comparable to the rate of spread in other cities and countries, the number of persons relying on medical, pharmaceutical, and general cleaning supplies will increase. The safety of the citizens of Charleston, to include those visiting, is of paramount importance and in furtherance thereof, City Council deems it necessary and proper for the security and general welfare of the citizenry and for the preservation of peace and order within the City during this time of emergency that reasonable measures be imposed to assure that needed goods and services, such as water, food, medical supplies, gasoline, shelter, pharmaceuticals and other life sustaining items are available to the public at fair and reasonable prices. To affect these purposes, the City Council of Charleston, in accordance with the authority devolved upon it pursuant to S. C Cons. Art. VIII, §17 and S. C. Ann. §§ 5-7-30 and 5-7-250 (d) (1976, as amended) does hereby enact this emergency ordinance to prohibit price gouging.

**Section 2:** As used in this emergency ordinance:

(1) “Commodity” means goods, services, materials, merchandise, supplies, equipment, resources, or other articles of commerce, and includes, without limitation, food, water, cleaning supplies, medical devices, medical supplies, chemicals, and pharmaceuticals essential for consumption or use as a direct result of a declared state of emergency.

(2) “Unconscionable price” means an amount charged which:

(1) represents a gross disparity between the price of the commodity or rental or lease of a dwelling unit, including a motel or hotel unit, or other temporary lodging, or self-storage facility that is the subject of the offer or transaction and the average price at which that commodity or dwelling unit, including a motel or hotel unit, or other temporary lodging, or self-storage facility was rented, leased, sold, or offered for rent or sale in the usual course of business during the thirty days immediately before a declaration of a state of emergency, and the increase in the amount charged is not attributable to additional costs incurred in connection with the rental or sale of the commodity or rental or lease of the dwelling unit, including a motel or hotel unit, or other temporary lodging, or self-storage facility, or local, regional, national, or international market trends; or

(2) grossly exceeds the average price at which the same or similar commodity, dwelling unit, including a motel or hotel unit, or other temporary lodging, or self-storage facility was readily obtainable in the trade area during the thirty days immediately before a declaration of a state of emergency, and the increase in the amount charged is not attributable to additional costs incurred in connection with the rental or sale of the commodity or rental or lease of the dwelling unit, including a motel or hotel unit, or other temporary lodging, or self-storage facility, or local, regional, national, or international market trends.

It is prima facie evidence that a price is unconscionable if it meets the definition of item (1) or (2).

**Section 3.** It is unlawful and a violation of this emergency ordinance for a person or his agent or employee to:

(1) rent or sell or offer to rent or sell a commodity at an unconscionable price in any area of this City where there is an abnormal disruption in the market; or

(2) impose unconscionable prices for the rental or lease of a dwelling unit, including a motel or hotel unit, or other temporary lodging, or self-storage facility in any area of this City where there is an abnormal disruption in the market.

**Section 4.** The following are exceptions to this emergency ordinance:

(1) A price increase approved by an appropriate government agency is not a violation of this section.

(2) A price increase that reflects the usual and customary seasonal fluctuation in the price of the subject essential commodity or the rental or lease of a dwelling unit or self-storage facility is not a violation of this section.

(3) Sales by growers, producers, or processors of raw or processed food products, except for retail sales of those products to the ultimate consumer within the area of the declared emergency or disaster.

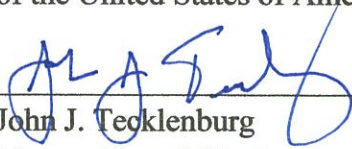
**Section 5.** The evidentiary standards contained in this ordinance are the sole evidentiary standards to be used to restrict price gouging.

**Section 6.** A person who is charged with committing an action in violation of this emergency ordinance may present evidence relating to, but not limited to, his knowledge or intent when committing the action to rebut any presumption or evidence of violation of this emergency ordinance

**Section 7:** This ordinance shall become effective immediately, and shall expire sixty (60) days after the date hereof or upon the termination of the state of emergency as declared by the Mayor, whichever is earlier.

Ratified in City Council this 16<sup>th</sup> day of  
March in the Year of Our Lord,  
2020, and in the 244 th Year of the Independence  
of the United States of America.

By:

  
\_\_\_\_\_  
John J. Tecklenburg  
Mayor, City of Charleston

ATTEST:

  
\_\_\_\_\_  
Vanessa Turner Maybank  
Clerk of Council