



ORDINANCE No. 2503

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

AN URGENCY ORDINANCE REPEALING AND REPLACING SECTION A-III 3.4 OF ARTICLE 3 OF CHAPTER III OF THE NEVADA COUNTY ADMINISTRATIVE CODE RELATING TO ACTS PROHIBITED DURING EMERGENCIES AND PUNISHMENT OF VIOLATIONS (4/5 AFFIRMATIVE VOTE REQUIRED)

THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA, STATE OF CALIFORNIA, ORDAINS AS FOLLOWS:

SECTION I:

Government Code sections 8630 through 8634, inclusive, authorize the Board of Supervisors during a local emergency to promulgate orders and regulations necessary to provide for the protection of life and property.

The Board of Supervisors finds that in emergencies and major natural or manmade disasters including, but not limited to, earthquakes, floods, fires, storms, or civil disturbances, there may be a temporary spike in demand for food, repair or reconstruction services, emergency or medical supplies, hotels, motels, housing, gasoline, propane, and other goods and services that are vital and necessary for health, safety, and welfare. Under such circumstances, there is a heightened risk to consumers that prices for such goods and services may be significantly increased, thereby restricting access to goods and services that are vital and necessary for health, safety, and welfare. In addition, there is a greater need during emergencies to ensure residents are provided reliable and trustworthy information from official sources about emergency services. Therefore, the County of Nevada has an interest in ensuring that county residents are protected against overpricing of vital and necessary goods and services, and from malicious or negligent misinformation and/or obstruction of emergency services, during a state of emergency as proclaimed by the President of the United States or the Governor of California, or during a local emergency as declared pursuant to law.

SECTION II:

Section A-III 3.4 of Article 3 of Chapter III of the Nevada County Administrative Code is hereby repealed and replaced in its entirety to read as shown in Exhibit A attached hereto and incorporated by reference.

SECTION III:

Severability. If any provision of this Section or the application thereof to any person or circumstance is held invalid, the remainder of this Section, including the application of such part or provision to other circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Section are severable. The Board of Supervisors hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one (1) or more sections, subsections,

subdivisions, paragraphs, sentences, clauses or phrases be held unconstitutional, invalid or unenforceable.

SECTION IV:

The Board of Supervisors hereby finds that this Ordinance is exempt from environmental review pursuant to Sections 15060(c)(2) and 15061(b)(3) of the California Environmental Quality Act Guidelines (Title 14, Chapter 3 of the California Code of Regulations), as this action will not result in a direct or reasonably foreseeable indirect physical change in the environment and there is no possibility the activity in question may have a significant effect on the environment.

SECTION V:

The proposed ordinance is an urgency measure, which if adopted by four-fifths (4/5) vote, will become effective immediately. Government Code section 25123(d) authorizes the Board to adopt an urgency ordinance "for the immediate preservation of the public peace, health, or safety."

SECTION VI:

Pursuant to Government Code section 25123(d), this Ordinance shall take effect and be in force immediately up on the passage hereof, and before the expiration of fifteen (15) days after its passage it shall be published once, with the names of the Supervisors voting for and against same in The Union newspaper of general circulation printed and published in the County of Nevada.

PASSED AND ADOPTED by a majority vote of the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 25th day of January, 2022, by the following vote of said Board:

Ayes: Supervisors Heidi Hall, Edward Scofield, Dan Miller and Susan K. Hoek and Hardy Bullock.

Noes: None.

Absent: None.

Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER
Clerk of the Board of Supervisors

By: 


Susan K. Hoek, Chair

1/25/2022 cc: GIS*
Union*
COB*
CoCo*
QC*
IGS*

EXHIBIT A

Sec. A-III 3.4 Punishment of Violations/Acts Prohibited During Emergencies.

A. Any person who violates any of the provisions of this Section or who refuses or willfully neglects to obey any lawful order or regulation promulgated or issued as provided in this Section, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine or by imprisonment to the extent authorized by state or local law.

B. Beginning on the date the existence of a STATE OF WAR EMERGENCY, STATE OF EMERGENCY, or LOCAL EMERGENCY is declared or proclaimed by the President of the United States, Governor of the State of California, the County of Nevada Director of Emergency Services or successor, as described in this Chapter, and/or the Board of Supervisors, and within the area to which the declaration applies, no person, contractor, corporation, business, or other entity during an emergency shall:

1. Willfully obstruct, hinder, or delay any member of the emergency organization in the enforcement of any lawful rule or regulation issued pursuant to this Section or in the performance of any duty imposed upon him/her by virtue of this Section;
2. Do any act forbidden by any lawful rule or regulation issued pursuant to this Section, if the act is of such a nature as to give or be likely to give assistance to the enemy, during a STATE OF WAR EMERGENCY, or to imperil the lives or property of inhabitants of this County, or to prevent, hinder, or delay the defense or protection thereof;
3. Wear, carry, or display, without authority, any means of identification specified by any emergency service agency of the State of California, the County of Nevada, any special district, or any city or town in the County of Nevada;
4. Sell or offer to sell, any consumer food items; repair, construction, or reconstruction services; emergency or medical supplies; housing; transportation; freight; storage services; or gasoline for an amount which is ten (10) or more percent greater than the price charged by a person, contractor, corporation, business, or other entity for said goods or services immediately prior to the proclamation of emergency, unless said person, contractor, corporation, business, or other entity can prove that the increase was directly attributable to additional costs imposed on it by the supplier of the goods or for labor and materials used to provide the service;
 - a. 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 this subsection.
 - b. Notwithstanding the time period set forth herein, for a period of 30 days following a proclamation or declaration referred to in this Section, it is unlawful for an owner or operator of a hotel or motel to increase the hotel's or motel's regular rates, as advertised immediately prior to the proclamation or declaration of emergency, by more than 10 percent, unless an owner or operator of a hotel or motel can prove that the increase in price is due to seasonal adjustments in rates that are regularly scheduled, or to previously contracted rates.
 - c. A violation of this subsection is a violation of California Penal Code section 396 and 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 this Section are cumulative with the remedies and penalties under section 396 of the California Penal Code, section 17200 of the California Business and Professions Code, and the remedies and penalties available under all other laws of this State.
 - d. The District Attorney, or the County Counsel with agreement of the District Attorney, may bring a civil action pursuant to California Business and Professions Code section 17206 to enforce this subsection.
 - e. Subsection 4 is to end no more than one hundred eighty (180) days after the initial declaration of emergency.

5. Buy, sell, remove, deface, cover, hide, destroy, or tamper with any sign, tag or placard posted by a member of the County Emergency Services Organization on a building or structure damaged in an emergency;
6. Post any sign, tag or placard not authorized by the County Emergency Services Organization on a building or structure damaged in an emergency;
7. For purposes of this subsection, the following definitions shall apply:
 - a. A consumer food item is any article, which is used or intended for use for food, drink, confection, or condiment by humans or animals except for alcoholic beverages,
 - b. Repair, construction, or reconstruction services are those contractor services for repairs to residential and commercial property of any type, which are damaged as a result of the disaster. This includes, but is not limited to, the removal of debris (including a damaged tree), towing services, and waste disposal,
 - c. Emergency supplies shall mean those goods and services required to sustain the health, safety, and welfare of a person or animal, including, but not limited to, water, heating oil, propane, firewood, flashlights, radios, batteries, blankets, soaps, and diapers,
 - d. Medical supplies shall mean those medical goods and services required to sustain the health, safety, and welfare of a person or animal, including, but not limited to, prescription and nonprescription drugs, bandages, gauzes, and disinfectants.