

ORDINANCE NO. 3033

AN URGENCY ORDINANCE PROHIBITING RENTAL HOUSING PRICE
GOUGING IN THE COUNTY OF LAKE DURING A STATE OF EMERGENCY

THE BOARD OF SUPERVISORS OF THE COUNTY OF LAKE ORDAINS AS
FOLLOWS:

Section 1: Findings and Purpose.

a. California Penal Code Section 396, the anti-price gouging statute, becomes effective immediately after the President of the United States, the Governor of California, or a local official declares a state of emergency. Governor Jerry Brown declared a state of emergency in Lake and Napa counties on September 13, 2015. On September 22, 2015, President Barack Obama issued a major disaster declaration for the State of California as a result of the devastation caused by the Valley Fire.

b. Penal Code Section 396 generally prohibits charging a price that exceeds, by more than 10%, the price of an item before the declaration of emergency. This law applies not only to food, emergency supplies, emergency cleanup services, storage services, and hotel accommodations, it also applies to rental housing.

c. A violation of Penal Code Section 396 is subject to criminal prosecution that may result in up to one year in County jail, a fine of up to ten thousand dollars (\$10,000), or both. Additionally, a violation may be subject to a civil enforcement action as an unlawful business practice and an act of unfair competition which includes penalties of up to five thousand dollars (\$5,000) per violation, injunctive relief, and mandatory restitution. Both the Attorney General and the County District Attorney may enforce Penal Code Section 396.

d. Nothing in Penal Code Section 396 preempts a local ordinance prohibiting the same or similar conduct and imposing a more severe penalty for the same conduct prohibited by Penal Code Section 396.

1 e. County officials have been alerted to possible price gouging by persons
2 offering rental housing in Lake County. Reports of such price gouging includes
3 charging rent for housing well in excess of a ten percent increase of the rental price
4 before the Valley Fire State of Emergency. Reports of price gouging also include
5 situations where existing tenants of rental properties have been or are being evicted
6 in order for the landlords to take advantage of fire victims whose insurance
7 companies will pay rental amounts far in excess of what that landlord was
8 previously charging. Adequate, affordable housing presents an issue of public
9 health and safety to those who have been displaced by the Valley Fire as well as to
10 those who are being evicted only because their landlord sees an opportunity to
11 financially benefit.

12 f. The purpose of this ordinance is to impose a more severe penalty than
13 that provided in Penal Code Section 396 to ensure that those who have been
14 victimized by the horrific circumstances of the Valley Fire are not further victimized
15 by unscrupulous landlords wishing to take financial advantage of this disaster.
16

17 Section 2: Authority.

18 a. Penal Code Section 396 permits a local jurisdiction to adopt an ordinance
19 to prohibit the same or similar conduct and to impose a more severe penalty than
20 that imposed pursuant to state law.

21 b. Government Code Section 25123 expressly authorizes the Board of
22 Supervisors to adopt, by four-fifths (4/5) vote, an ordinance for the immediate
23 preservation of the public peace, health, or safety, with a declaration of the facts
24 constituting the urgency.

25 c. Government Code Section 25131 expressly authorizes the Board of
26 Supervisors to adopt such an urgency ordinance immediately upon its introduction.
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1 Section 3. Prohibition.

2 a. Until the State of Emergency is terminated, it shall be unlawful for any
3 person to rent or lease a dwelling unit in the unincorporated areas of the County of
4 Lake for more than the average retail price, unless such person can prove that the
5 excess is directly attributable to additional costs resulting from the labor or materials
6 used to provide the service. In such instances, only the actual cost increase may
7 be added to the average retail price. **OR**

9 a. Until the State of Emergency is terminated, it shall be unlawful for any
10 person to evict an existing tenant or lessee to rent or lease a dwelling unit in the
11 unincorporated areas of the County of Lake for more than the average retail price,
12 unless such person can prove that the excess is directly attributable to additional
13 costs resulting from the labor or materials used to provide the service. In such
14 instances, only the actual cost increase may be added to the average retail price.

15 b. For purposes of this ordinance, “average retail price” shall be the rental
16 price for the dwelling unit during the thirty-day period immediately preceding the
17 State of Emergency.

18 Section 4. Penalties.

19 A violation of this ordinance is a misdemeanor punishable by a fine of not
20 more than twenty thousand dollars (\$20,000.).

22 Section 5: It can be seen with certainty that there is no possibility that this
23 Ordinance may have a significant effect on the environment.

24 Section 6: All ordinances or parts of ordinances in conflict herewith are
25 hereby repealed to the extent of such conflict and no further.

26 Section 7: This Ordinance shall take effect immediately upon its adoption,
27 and within fifteen (15) days after adoption of the ordinance, the Clerk to the Board of
28 Supervisors shall publish a summary of the Ordinance with the names of those

1 supervisors voting for and against the ordinance and the Clerk shall post in the
2 office of the Clerk to the Board of Supervisors a certified copy of the full text of the
3 adopted ordinance along with the names of those supervisors voting for and against
4 the Ordinance.

5 The Foregoing Ordinance was passed and adopted by the following vote on
6 the 6th day of October , 2015.

7 AYES: Supervisors Comstock, Smith, Steele, Brown, and Farrington

8 NOES: None

9 ABSENT OR NOT VOTING: None

10
11 COUNTY OF LAKE
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15 _____
Chair Board of Supervisors
16

17 ATTEST: MATT PERRY
18 Clerk of the Board of Supervisors
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20 APPROVED AS TO FORM:
21 ANITA L. GRANT

22 By: _____
Deputy
23
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By: _____