

CITY OF ST. PETERSBURG, FLORIDA
EXECUTIVE ORDER NO. 2023- 02

**AN ORDER OF THE MAYOR TAKING
EMERGENCY ACTION FOR THE PUR-
POSE OF RESPONDING TO TROPICAL
STORM IDALIA BY INVOKING CERTAIN
GENERAL EMERGENCY POWERS AND
BY ESTABLISHING A PROHIBITION ON
PRICE-GOUGING.**

THE FOLLOWING ORDER is hereby made by Kenneth T. Welch, in his capacity as Mayor of the City of St. Petersburg, Florida (the “City”):

SECTION 1—FINDINGS: I hereby make the following findings in support of the emergency actions taken by this order:

- (a) Contemporaneously with this order, I declared a state of local emergency within the municipal boundaries of the City due to Tropical Storm Idalia (the “**Storm**”) pursuant to Florida Statutes section 252.38(3)(a)5. and City Code section 2-425(c) (as it may be extended from time-to-time, the “**Emergency**”). The findings made in support of that declaration are incorporated by reference into this order.
- (b) Invoking certain general emergency powers authorized by City Code section 2-426 will facilitate the City’s efforts to prepare for potential damage, injury, or loss of life or property within the City as a result of the Storm and is, therefore, necessary to protect the public interest.
- (c) Establishing a prohibition against price-gouging pursuant to City Code section 2-427(g) will enable residents to prepare for the Storm without being charged exorbitant prices and is, therefore, necessary to protect the public interest.
- (d) There is a compelling governmental interest in addressing the Storm’s potential to adversely affect public health, safety, and welfare within the City. The emergency actions taken by this order are necessary to achieve that purpose and have been narrowly tailored to achieve that purpose.
- (e) Because this order is being issued in response to a weather-related emergency, it is not subject to the provisions of City Code subsection 2-425(f) concerning “limited actions.”

- (f) Because emergency actions taken by this order will be necessary only until damage from the Storm has been addressed, such emergency actions will be temporary in nature and will not be continuous or continuously recurring.
- (g) This order has been made in consideration of the information described in these findings (including those incorporated by reference) and in consultation with applicable City officials and staff. Accordingly, the procedure used to make this order is fair under the circumstances.

SECTION 2—GENERAL EMERGENCY POWERS: Pursuant to City Code section 2-426, the following emergency powers are hereby invoked and may be exercised by the Mayor generally, without issuance of a written order for each specific exercise of that power:

- (a) *Utilization of City resources.* The Mayor may utilize any available resource of the City government necessary to address the Emergency.
- (b) *Emergency housing and warehousing.* The Mayor may make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.
- (c) *Emergency operations centers and shelters.* The Mayor may establish emergency operations centers and shelters in addition to or in place of those provided for in the City's emergency plan.
- (d) *Coordination and requests for assistance and resources.* The Mayor may coordinate with and request emergency assistance and resources from any federal, state, or local government, in accordance with the following, as applicable: (i) the Florida Comprehensive Emergency Management Plan; (ii) the Florida Emergency Management Assistance Compact; (iii) any interlocal agreement or mutual aid agreement to which the City is a party; and (iv) as otherwise authorized by law.
- (e) *Removal of debris.* The Mayor may order the removal of disaster-generated debris in accordance with the Emergency Code during the Emergency and for as long afterwards as the Mayor determines that such removal is necessary for any of the following purposes: (i) to eliminate immediate threats to life, public health, and safety; (ii) to eliminate immediate threats of significant damage to improved public or private property; or (iii) to promote post-disaster economic recovery of the City.
- (f) *Procurement.* The Mayor may invoke any of the following, individually or in combination: (i) any provision of State law regarding the emergency procurement of goods or services; and (ii) the City's provisions for emergency procurement in City Code section 2-213. Any

limit on expenditures imposed by any of these provisions does not limit overtime compensation for work performed by any City employee during the Emergency unless otherwise required by law.

(g) *Waiver of procedures and formalities.* The Mayor, pursuant to Florida Statutes section 252.38(3), may waive the procedures and formalities otherwise required of the City pertaining to each of the following:

- (i) Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community.
- (ii) Entering into contracts.
- (iii) Incurring obligations.
- (iv) Employment of permanent and temporary workers.
- (v) Utilization of volunteer workers.
- (vi) Rental of equipment.
- (vii) Acquisition and distribution, with or without compensation, of supplies, materials, and facilities.
- (viii) Appropriation and expenditure of public funds.

(h) *Suspension of enforcement.* The Mayor may suspend enforcement of any provision of City Code or any provision of any rule, regulation, policy, procedure, or other directive of any City department, if the Mayor determines that strict enforcement of that provision would prevent, hinder, or delay necessary action in coping with the Storm. Any suspension of enforcement pursuant to this order is not intended to constitute (i) waiver of enforcement of that provision following the Emergency; or (ii) forgiveness of any fine, fee, or other cost that existed prior to the Emergency or that is incurred or accumulates during the Emergency.

SECTION 3—PRICE-GOUGING: Pursuant to City Code section 2-427(g), the Mayor hereby establishes the following prohibition concerning price gouging:

(a) Charging more than the average retail price for any merchandise, goods, or services sold in the City during the Emergency is hereby prohibited. For purposes of this prohibition, “average retail price” means the higher of the following: (i) the average price at which

similar merchandise, goods, or services were sold during the 90 days preceding the Emergency; or (ii) the average wholesale cost plus the mark-up percentage that was charged for similar merchandise, goods, or services during the 90 days preceding the Emergency.

- (b) Violation of this prohibition constitutes a violation of City Code pursuant to City Code sections 1-7 and 2-425(h)(1), and this prohibition may be enforced through any mechanism authorized under City Code section 1-7.
- (c) A violation of this prohibition, which is made pursuant to Florida Statutes section 252.38, is also punishable as a misdemeanor of the second degree pursuant to Florida Statutes section 252.50.

SECTION 4—SEVERABILITY: The provisions of this order are intended to be severable, and a determination that any portion of this order is invalid should not affect the validity of the remaining portions of this order.

SECTION 5—MAYORAL AUTHORITY: In the event the Mayor is absent, incapacitated, or otherwise unavailable during the Emergency, any power granted to the Mayor by this order may be exercised by the City officer or staff member acting in the capacity of Mayor pursuant to City Code section 2-425(b).

SECTION 6—DURATION: Pursuant to City Code section 2-425(e)(1), this order has full force and effect when filed with the City Clerk and continues in effect until the first to occur of the following: (i) amendment or termination of this order pursuant to a subsequent order or (ii) expiration or earlier termination of the Emergency.

[SIGNATURE PAGE FOLLOWS]

This order is executed by the Mayor and filed with the City Clerk on the date and time stated below.

Sign: Kenneth T. Welch
Kenneth T. Welch, Mayor

Filed with the City Clerk:

Sign: [Signature]

Name: Chan Srinivasa

Title: City Clerk

Date: August 28, 2023

Time: 11:52 A.M.

