

**ORDINANCE NO. 2020-25**

**AN ORDINANCE OF THE CITY OF VENICE, FLORIDA, AMENDING THE CODE OF ORDINANCES, CHAPTER 2, ADMINISTRATION, ARTICLE VI, CODE ENFORCEMENT TO PROVIDE FOR A SPECIAL MAGISTRATE; AMENDING CHAPTER 70, TRAFFIC AND VEHICLES, ARTICLE II, STOPPING, STANDING AND PARKING, DIVISION 1, GENERALLY TO ADD SECTION 70-37, APPEALS; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, the City of Venice has a comprehensive code enforcement process and wishes to revise the same for efficiency; and

**WHEREAS**, Chapter 162, Florida Statutes, provides for the use of a Special Magistrate in addition to or in lieu of a code enforcement board; and

**WHEREAS**, the City desires to revise its supplemental procedures for code enforcement to include a Special Magistrate and update its local administrative citation process; and

**WHEREAS**, the City finds it is in the best interest of the public to provide for alternative means of enforcement of its codes for the health, safety and welfare of its citizens; and

**WHEREAS**, the City's code enforcement goal remains compliance with its duly enacted code of ordinances for the benefit of its residents and visitors; and

**WHEREAS**, the City Council finds it necessary to revise certain sections within Chapter 2 of the Code of Ordinances to provide for a clear and concise code which meets all State and Federal constitutional standards of due process, equity and fairness.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA**, as follows:

**SECTION 1.** The whereas clauses above are ratified and confirmed as true and correct.

**SECTION 2.** Chapter 2, Administration; Article VI, Code Enforcement is amended to read as follows:

**DIVISION 1. GENERALLY**

**Sec. 2-301. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Code enforcement board* means the city code enforcement board created pursuant to this article.

*Code-inspector enforcement officer* means those authorized agents or employees of the city whose duty it is to ensure compliance with this Code.

*Repeat violation* means a violation of a provision of this Code or an ordinance by a person whom the code enforcement board has previously found to have violated the same provision within five years prior to the violation.

*Special magistrate.* A person authorized to hold quasi-judicial hearings and assess fines for violations of the City code in accordance with this chapter and any such other authority as may be conferred by Chapter 162, Florida Statutes, or any other law.

**Sec. 2-302. Special magistrate.**

(a) The city council may appoint one special magistrate and up to two alternate special magistrates to serve in the event of legal conflicts of interest or absences. The special magistrate shall have the same status, jurisdiction, and authority as the code enforcement board. All references to the code enforcement board in this Code shall apply to the special magistrate, except that no legal counsel shall be appointed to advise the special magistrate.

(b) The minimum qualifications to be eligible for service as a special magistrate are stated below. In addition, the city may specify additional required qualifications in its solicitation for a special magistrate.

(1) Be an active member in good standing of the Florida Bar with a minimum of three years recent experience in the practice of law, which experience shall include litigation and administrative hearing experience. Preference will be given to former judges, attorneys who have practiced as certified arbitrators or attorneys with local government experience.

(2) Shall not be an employee of the city, nor hold any other elected or appointed office with the city.

(c) The term of appointment for a special magistrate shall be three years, and is subject to renewal for additional three-year terms. Terms of appointment and compensation for the special magistrate shall be as established pursuant to contract approved by the city council.

(d) The city council may, by resolution or contract, specify that the special magistrate appointed under this section shall perform additional duties as a hearing officer on other matters concerning this Code.

(e) The special magistrate shall serve at the pleasure of the city council and may be removed from service at any time, with or without cause, by a majority vote of the members of the city council present and voting.

(f) The following conflict of interest provisions shall apply to the special magistrate:

(1) Upon appointment, the special magistrate shall comply with the disclosure requirements imposed by Florida law, including but not limited to, Sections 112.313 and 112.3145, Florida Statutes.

(2) The special magistrate shall comply with the voting requirements imposed by Florida law, including but not limited to, Sections 286.012 and 112.3143, Florida Statutes.

(3) For a period of one year from the date of termination of office as special magistrate, however terminated, such person is hereby expressly prohibited from acting as agent or attorney in any proceedings, petition or other matter before a special magistrate for the city.

(4) No person who is or may become a party to a hearing before a special magistrate shall communicate ex parte with the special magistrate concerning that violation. This restriction shall extend to any person appearing or interceding on behalf of a party, whether or not such person may have a direct personal or financial interest in the subject property or properties of the alleged violation.

(5) A special magistrate shall not communicate ex parte on his own volition with any party, representative of any party, or interceding person concerning an alleged violation; however, the special magistrate may consider a request regarding the scheduling or continuance of such hearings when such request is made in writing.

(6) In the event a legal conflict of interest prevents the special magistrate from hearing a case, the city manager may direct that the case be heard by an alternate special magistrate previously designated by the city council, or in the alternative the case may be referred to the city's code enforcement board.

(g) The special magistrate shall have the authority to establish procedures for the presentation of cases and the establishment of fines in accordance with this chapter and Chapter 162, Florida Statutes. A city code enforcement officer, or a designee as requested by the city manager, shall prosecute all cases before the special magistrate.

(h) The special magistrate is authorized to reduce any fine he/she imposes pursuant to this chapter. The special magistrate shall establish procedures for hearing cases for the reduction of fines utilizing the criteria set forth in Resolution No. 2014-20, as it may be

amended from time to time, and the special magistrate's decision regarding the reduction of fines shall be final.

**Secs. 2-3023—2-320. Reserved.**

## **DIVISION 2. CODE ENFORCEMENT BOARD**

**Sec. 2-321. Established; membership.**

There is hereby created within the city a code enforcement board, which shall be composed of ~~seven~~ five members, all of whom shall be residents of the city. The current seven member board shall be reduced to five members through attrition. If a member resigns, the member's seat shall not be filled until such time as the number of members totals five.

**Sec. 2-322. Appointment, qualifications and term of members; vacancies; removal of members.**

(a) Appointments to the code enforcement board shall be made by the mayor with advice and consent of the city council. The members shall be residents of the city and shall, whenever possible, include an architect, a businessperson, an engineer, a general contractor, a realtor and a subcontractor.

(b) Appointments shall be for terms of three years. Members may be reappointed upon the concurrence of the city council. Appointment to fill any vacancy of the board shall be for the remainder of the unexpired term of office.

(c) If any member of the board fails to attend two out of three successive meetings without cause and without prior approval of the chair of the board, the board shall declare the member's office vacant and the city council shall promptly fill such vacancy.

(d) Members serve at the pleasure of city council and may be removed by city council at any time with or without cause ~~The members may be removed as provided by ordinance.~~

**Sec. 2-323. Chair; quorum; compensation of members.**

(a) Annually, the members shall elect one of the members to be chair. The person so elected shall function as the chair for a one-year term. The chair shall be a voting member.

(b) Four or more members of the board present at any meeting shall constitute a quorum in order for the board to conduct its business, until the board is comprised of five members at which time three or more members of the board present at any meeting shall constitute a quorum.

(c) Members of the board shall serve without compensation.

**Sec. 2-324. Function and jurisdiction.**

The code enforcement board and special magistrate shall have the purpose of conducting hearings relating to the enforcement of this Code. The code enforcement board and special magistrate shall have the authority and jurisdiction to conduct hearings to consider and enter enforcement orders and civil fines relating to any provision of this Code, including any future amendments, ~~but specifically excluding from code enforcement board jurisdiction the provisions in chapters 6, 42, 70 and 78.~~ The proceedings before the code enforcement board and special magistrate shall be civil in nature and, notwithstanding any other provisions of this Code, there shall be no criminal penalty for any conduct which is made the subject of code enforcement board proceedings.

**Sec. 2-325. Powers.**

The code enforcement board and special magistrate shall have the power to:

- (1) Adopt rules for the conduct of the hearings it holds pursuant to section 2-328.
- (2) Subpoena alleged violators and witnesses to its hearings. Such subpoenas may be served by the city police department.
- (3) Subpoena evidence, records, surveys, plats and other material.
- (4) Take testimony under oath.
- (5) Issue orders following a hearing, which orders shall have the force of law and which orders shall set forth the steps necessary to be accomplished in order to bring a violation into compliance with the Code section that has been violated.
- (6) The special magistrate shall additionally have the power to hear and determine parking citation appeals as provided in Section 70-37 of this Code.

**Sec. 2-326. Legal counsel.**

The city attorney or assistants shall represent the code enforcement board, and may prosecute cases before the special magistrate.

**Sec. 2-327. Enforcement procedure.**

- (a) Except as provided in subsections (c) and (d) of this section, if a code ~~inspector~~ enforcement officer finds or is made aware of a code violation, a code ~~inspector~~ enforcement officer shall notify the violator and such notice of violation shall provide a reasonable time within which to correct the violation. A code ~~inspector~~ enforcement officer shall determine the amount of time that a violator is given to correct a violation, but in no case shall the violator be given less than three days from the receipt of notice of the violation ~~in order~~ to correct the violation.
- (b) If the violation continues beyond the time specified in the correction notice, a code ~~inspector~~ enforcement officer ~~shall notify the board and request a hearing. The code enforcement board, through its clerical staff, shall~~ cause a hearing to be scheduled a

hearing, and written notice of such hearing shall be hand delivered or sent certified mail, return receipt requested, to the violator. ~~At the option of the clerical staff, a~~ Notice may additionally be served by publication or posting as provided in section 2-331. If the violation is corrected and then recurs or if the violation is not corrected by the time specified for correction by a code enforcement officer ~~inspector~~, the case may be presented to the board or special magistrate even if the violation has been corrected prior to the ~~board~~ hearing, and the notice shall so state.

- (c) If a repeat violation is found, a code enforcement officer ~~inspector~~ shall notify the violator but is not required to give the violator a reasonable time to correct the violation. A code enforcement officer ~~inspector~~, upon notifying the violator of a repeat violation, ~~shall notify the code enforcement board and request a hearing. The board, through its clerical staff, shall~~ cause a hearing to be scheduled ~~a hearing~~ and shall provide notice pursuant to section 2-331. The case may be presented to the board or special magistrate even if the repeat violation has been corrected prior to the ~~board~~ hearing, and the notice shall so state. If the repeat violation has been corrected, the code enforcement board and special magistrate retains the right to schedule a hearing to determine costs and impose the payment of reasonable enforcement fees upon the repeat violator. The repeat violator may choose to waive his rights to this hearing and pay the costs as determined by the code enforcement board or special magistrate.
- (d) If a code ~~inspector~~ enforcement officer has reason to believe a violation or the condition causing the violation presents a serious threat to the public health, safety and welfare, or if the violation is irreparable or irreversible in nature, a code ~~inspector~~ enforcement officer shall make a reasonable effort to notify the violator and may immediately ~~notify the code enforcement board and~~ request a hearing.

#### **Sec. 2-328. Hearings.**

- (a) *Calling of hearings.* Upon request of a code ~~inspector~~ enforcement officer, or at such other times as may be necessary, hearings or meetings of the code enforcement board or special magistrate may be scheduled and called by the chair of the code enforcement board, by written notice signed by three members of the code enforcement board, or by any of the clerical staff of the code enforcement board or special magistrate. The code enforcement board or special magistrate may at any hearing set a future hearing date.
- ~~(b) *Frequency of meetings.* The code enforcement board shall attempt to convene no less frequently than once every two months, but it may meet more or less often as the demand necessitates.~~
- ~~(b)(c)~~ *Minutes; hearings to be public; recording of testimony.* Minutes shall be kept of all hearings held by the code enforcement board and special magistrate, and all such hearings shall be open to the public. All testimony shall be under oath ~~and shall be recorded.~~

- ~~(c)(d)~~ *Clerical and administrative personnel.* The city council shall provide clerical and administrative personnel as may be required to assist the board and special magistrate in the proper performance of its duties.
- ~~(d)(e)~~ *Prosecution.* Each case before the code enforcement board shall be presented by a code ~~inspector~~ enforcement officer, his or her assistant, a member of the city staff, or a special attorney hired by the city. Cases before the special magistrate may be prosecuted as provided, or by the city attorney or assistants as needed. If the city prevails in prosecuting a case before the board or special magistrate, the city shall be entitled to recover all costs incurred in prosecuting the case before the board or special magistrate, and such costs may be included in the lien authorized under section 2-329.
- ~~(e)(f)~~ *Conduct of hearing.* Cases placed on the agenda for a particular day shall be heard unless continued for good cause shown. All testimony shall be under oath and shall be recorded. The code enforcement board or special magistrate shall take testimony from a code enforcement officer ~~inspector~~, the alleged violator and other persons having knowledge about the case. The board or special magistrate shall not be bound by formal rules of evidence, but fundamental due process shall be observed and shall govern the proceedings.
- ~~(f)(g)~~ *Action by board or special magistrate.* At the conclusion of each hearing the code enforcement board or special magistrate shall issue findings of fact, based on evidence of record, and conclusions of law, and shall issue an order affording the proper relief consistent with the powers granted in this division. The findings and order by the code enforcement board shall be by motion approved by a majority of those members present and voting. ~~The board may take action on the affirmative vote of three members where only four members of the board are present and voting. Four members must vote in order for an action to be official.~~ The special magistrate may reserve ruling on a matter for the issuance of a written opinion which must be issued no later than fifteen days following the date of hearing.
- (h) *Contents and recording of order.* The order may include a notice that it must be complied with by a specified date and that a fine may be imposed and, under the conditions specified in subsection 2-329(a), and under conditions specified in subsection 2-~~323~~9(a), the cost of repairs may be included along with the fine if the order is not complied with by the specified date. A certified copy of such order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, any subsequent purchasers, successors in interest or assigns. If an order is recorded in the public records pursuant to this section and the order is complied with by the date specified in the order, the code enforcement board, special magistrate or code enforcement officer shall issue an order acknowledging compliance that shall be recorded in the public records. A hearing is not required to issue such an order acknowledging compliance.

**Sec. 2-329. Imposition of fine; amount of fine; fine and costs to constitute lien.**

- (a) The code enforcement board or special magistrate, upon notification by a code ~~inspector~~ enforcement officer that an order of the board has not been complied with by the set time, or upon finding that a repeat violation has been committed, may order the violator to pay a fine in an amount specified in this section for each day the violation continues past the date set by ~~the code enforcement board~~ or special magistrate for compliance or, in the case of a repeat violation, for each day the repeat violation continues beginning with the date the repeat violation is found to have occurred by the code ~~inspector~~ enforcement officer. In addition, if the violation is a violation described in subsection 2-327(d), the code enforcement board or special magistrate shall notify the city manager or his designee, who may make all reasonable repairs which are required to bring the property into compliance and charge the violator with the reasonable cost of the repairs along with the fine imposed pursuant to this section. If a finding of a violation or a repeat violation has been made as provided in this division, a hearing shall not be necessary for issuance of the order imposing the fine. If, after due notice and hearing, the code enforcement board or special magistrate finds a violation to be irreparable or irreversible in nature, it may order the violator to pay a fine as specified in subsection (b) of this section.
- (b) A fine imposed pursuant to this section shall not exceed \$250.00 per day for a first violation and shall not exceed \$500.00 per day for a repeat violation. The order imposing a fine may also include all costs of repairs pursuant to subsection (a) of this section. In addition, after due notice and a public hearing, if the code board or special magistrate finds the violation to be irreparable or irreversible in nature, the code board or special magistrate may impose a fine not to exceed \$5,000.00 per violation.
- (c) In determining the amount of the fine, if any, the code enforcement board or special magistrate shall consider the following factors:
  - (1) The gravity of the violation;
  - (2) Any actions taken by the violator to correct the violation; and
  - (3) Any previous violations committed by the violator.
- (d) The code enforcement board or special magistrate may reduce a fine imposed pursuant to this section.
- (e) A certified copy of an order imposing a fine, or a fine plus abatement costs, may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator. Upon petition to the circuit court, such order shall be enforceable in the same manner as a court judgment by the sheriffs of this state, including execution and levy against the personal property of the violator, but such order shall not be deemed to be a court judgment except for enforcement purposes. A fine imposed pursuant to this section shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit filed pursuant to this section, whichever occurs first. A

lien arising from a fine imposed pursuant to this section runs in favor of the city. The city may execute a satisfaction or release of lien entered pursuant to this section. After three months from the filing of any such lien which remains unpaid, the city code enforcement board or special magistrate may recommend ~~authorize~~ the city ~~attorney~~ to foreclose on the lien or to sue to recover a money judgment for the amount of the lien plus accrued interest. No lien created pursuant to the provisions of this section may be foreclosed on real property which is a homestead under section 4(a), article X of the state Constitution. The money judgment provisions of this section shall not apply to real property or personal property which is covered under section 4(a), article X of the state Constitution.

- (f) No lien provided for under this division shall continue for a period longer than 20 years after the certified copy of an order imposing a fine has been recorded, unless within that time an action to foreclose on the lien is commenced in a court of competent jurisdiction. In an action to foreclose on a lien, or for a money judgment, the prevailing party is entitled to recover all costs, including a reasonable attorney's fee that it incurs in the action. The city shall be entitled to collect all costs incurred in recording and satisfying a valid lien. The continuation of the lien effected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

#### **Sec. 2-330. Appeal of ~~board~~ code enforcement orders.**

An aggrieved party, including the city council, may appeal a final administrative order of the code enforcement board or special magistrate to the circuit court in and for the county. Such an appeal shall not be a hearing do novo, but shall be limited to appellate review of the record created ~~before the code enforcement board~~ during the hearing and submitted for consideration to the finder of fact. An appeal shall be filed within 30 days of the execution of the order to be appealed.

#### **Sec. 2-331. Notices.**

- (a) All notices required by this division shall be provided to the alleged violator by:
- (1) Certified mail, return receipt requested, to the address listed in the tax collector's office for tax notices, or to the address listed in the county property appraiser's database. The city may also provide an additional notice to any other address it may find for the property owner. For property owned by a corporation, notices may be provided by certified mail to the registered agent of the corporation. If any notice sent by certified mail is not signed as received within 30 days after the postmarked date of mailing, notice may be provided by posting as described in subsection (b)(2);
  - (2) Hand delivery by a city police officer, the sheriff or other law enforcement officer, code enforcement officer ~~inspector~~, or other person designated by the city manager;

- (3) Leaving the notice at the violator's usual place of residence with any person residing therein who is above 15 years of age and informing such person of the contents of the notice; or
- (4) In the case of commercial premises, leaving the notice with the manager or other person in charge.
- (b) In addition to providing notice as set forth in subsection (a) of this section, ~~at the option of the code enforcement board or the city,~~ notice may be served by publication or posting, as follows:
  - (1) a. Such notice shall be published once during each week for four consecutive weeks (four publications being sufficient) in a newspaper of general circulation in Sarasota County. The newspaper shall meet such requirements as are prescribed under F.S. ch. 50 for legal and official advertisements.
  - b. Proof of publication shall be made as provided in F.S. §§ 50.041 and 50.051.
  - (2) a. In lieu of publication as described in subsection (b)(1)a., such notice may be posted at least ten days prior to the hearing, or prior to the expiration of any deadline contained in the notice, in at least two locations, one of which shall be the property upon which the violation is alleged to exist and the other of which shall be city hall.
  - b. Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.
  - (3) Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail as required under subsection (a) of this section.
- (c) Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (a) of this section, together with proof of publication or posting as provided in subsection (b), shall be sufficient to show that the notice requirements of this division have been met, without regard to whether or not the alleged violator actually received such notice.

**Sec. 2-332. Provisions of division supplemental.**

Nothing contained in this division shall prohibit the city from enforcing its codes by any other means. Utilization of the code enforcement board or special magistrate rather than or in addition to county or circuit court prosecution shall, in each case, be optional.

**DIVISION 3. SUPPLEMENTAL ENFORCEMENT PROCEDURES**

**Sec. 2-333. Supplemental enforcement procedures for city codes and ordinances.**

- (a) *Supplemental procedures established.* There is hereby established pursuant to F.S. § 162.21, a collateral and supplemental procedure, process and remedy for the

effective enforcement and compliance of all codes and ordinances, or any subsequent amendments thereto, of the city pursuant to the ~~S~~chedule of ~~V~~violations and ~~P~~penalties attached to the ordinance from which this division is derived as ~~exhibit A~~, through the issuance of citations by code enforcement officers of the city for violation of such codes and ordinances. The ~~S~~chedule of ~~V~~violations and ~~P~~penalties in this section shall be posted in the building and code enforcement office and shall be on file in the office of the city clerk.

~~(b)~~ ~~Code enforcement officers. As used in this section, "code enforcement officer," means any designated employee or agent of the city whose duty it is to enforce codes and ordinances enacted by the city. The term is synonymous with the term "code inspector" utilized in the city's ordinance establishing a code enforcement board.~~

~~(b)(c)~~ *Designation of certain city employees or agents as code enforcement officers.* City code enforcement officers (~~CEO~~) shall be designated and appointed, in writing, by the city manager. The training and qualifications necessary for designation or appointment as a code enforcement officers~~CEO~~ shall be determined by the city manager. However, those employees of the city who may be designated as, and are qualified as code enforcement officers ~~CEO~~, are hereby declared to include, but are not limited to, code inspectors, law enforcement officers, fire safety inspectors and building inspectors. Designation of an employee as a code enforcement officer ~~CEO~~, other than those employees who are certified law enforcement officers, does not provide the code enforcement officer ~~CEO~~ with the power of arrest or subject the code enforcement officer ~~CEO~~ to the provisions of F.S. §§ 943.085—943.255.

~~(c)(d)~~ *Issuance of citations and procedures :*

- (1) A code enforcement officer ~~CEO~~ is authorized to issue a citation to a person when, based upon personal investigation, the code enforcement officer ~~CEO~~ has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted code or ordinance of the city.
- (2) Prior to issuing a citation, a code enforcement officer ~~CEO~~ shall provide notice to the violator that he or she has committed a violation of a code or ordinance of the city and ~~shall~~ establish a reasonable time period within which the violator must correct the violation. The designation of a reasonable time period for correction of the violation shall be within the sole discretion of the code enforcement officer ~~CEO~~, taking into consideration and utilizing as factors for such, the nature of the violation, the circumstances surrounding the violation, the efforts necessary to reasonably correct the violation, the length of time the violation has been in effect and whether the violation is a repeat offense. Nevertheless, such time period for correction shall not exceed 30 days. If upon personal investigation, a code enforcement officer ~~CEO~~ finds that the violator has not corrected the violation within the time period provided in the notice, a code enforcement officer ~~CEO~~ may issue a citation to the violator. A code enforcement officer ~~CEO~~ does not have to provide a reasonable time period to correct the violation prior to issuing a citation and

may immediately issue a citation if a repeat violation is found or if the code enforcement officer CEO has reason to believe that the violation presents a serious threat to the public health, safety or welfare, or if the violation is irreparable or irreversible.

- (3) A citation issued by a code enforcement officer CEO shall be in a form prescribed by the city and shall, as a minimum, contain:
- a. The date and time of issuance;
  - b. The name and address of the person to whom the citation is issued;
  - c. The date and time the civil infraction was committed;
  - d. The facts constituting reasonable cause;
  - e. The number or section of the code or ordinance violated;
  - f. The name and job title of the code enforcement officer CEO;
  - g. The procedure for the person to follow in order to pay the civil penalty or to contest the citation;
  - h. The applicable civil penalty, if the person elects to contest the citation ~~(including an administrative fee to be paid to the clerk of the circuit court);~~
  - i. The applicable civil penalty, if the person elects not to contest the citation ~~(including an administrative fee to be paid to the clerk of the circuit court);~~ and
  - j. A conspicuous statement that if the person fails to pay the civil penalty or, alternatively, request a hearing, in writing, to contest the citation within 15 days of issuance, or fails to appear at the hearing in court to contest the citation, the person shall be deemed to have waived his or her right to contest the citation and that, in such case, a judgment may be entered against the person for an amount up to the maximum civil penalty.
- (4) After issuing a citation to the violator, a code enforcement officer CEO shall ~~deposit file~~ the original citation in a code enforcement file maintained by the city, and one copy of the citation with the finance department county court ~~by filing with the clerk of the circuit court.~~

~~(d)(e)~~ *Schedule of violations and penalties.* The "Schedule of Violations and Penalties" ~~attached hereto is hereby adopted~~ shall be established and amended by a resolution of the city council. A violation of a city code or ordinance ~~listed below~~ and enforced hereunder is a civil infraction. The maximum civil penalty for violation of a code or ordinance ~~listed below~~ shall not exceed \$500.00, ~~not including the administrative fee to be paid to the clerk of the circuit court, which shall be established and authorized for payment and receipt by administrative order.~~ The maximum civil penalty shall not be assessed against a person who has

~~committed a civil infraction identified in the Schedule of Violations and Penalties schedule below and does not contest the citation. A person who has been issued a citation by a code enforcement officer ~~CEO~~ may contest the issuance of that citation ~~in county court~~ to the special magistrate. A person wishing to contest a citation must do so in writing no later than 15 days following the issuance of the citation. The request to contest a citation must be received by the code enforcement division, and reference the date the citation was issued and grounds for contesting the citation. The hearing shall be in accordance with Section 2-328. ~~The clerk of the circuit court is hereby authorized to collect said civil penalties, including an administrative fee of ten dollars, as tendered by the violator and remit the tendered sum, less the administration fee (which the clerk of the circuit court shall retain), to the city. The nonsubstantive reference provisions of the schedule relating to the inclusion, identification and referencing of city ordinances and codes may be added, amended and revised from time to time. The city manager, or his designee, is authorized to pursue the collection of any unpaid civil penalties.~~~~

~~(e)(f)~~ *Willful refusal to sign or accept a citation.* Any person who willfully refuses to sign and accept a citation issued by a code enforcement officer ~~CEO~~ shall be guilty of a misdemeanor of the second degree.

**SECTION 3.** Chapter 70, Traffic and Vehicles; Article II, Stopping, Standing and Parking; Division 1, Generally, is hereby amended to add Section 70-37, Appeal as follows:

**Sec. 70-37. Appeal.**

Any person who receives a citation under this Code and believes that the citation was issued in error, has the right to appeal to the special magistrate. Such appeal shall be filed within 15 calendar days after the citation was issued. Such appeal shall be filed with the police department who shall provide appropriate forms. If the appeal is not filed within 15 calendar days, the citation is final. There shall be an appeal filing charge of \$25.00 to be paid at time of filing the appeal. This fee will be refunded should the special magistrate reverse the citation. Upon notification of the appeal, the police department shall transmit the request for appeal to the special magistrate who will hear the appeal at the next available meeting.

**SECTION 4.** Conflict. All Ordinances or parts of Ordinances in conflict herewith shall be and the same are hereby repealed.

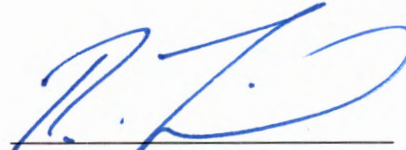
**SECTION 5.** Severability. If for any reason a provision of this ordinance or the application thereof to any person, group of persons, or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the ordinance, which can be given effect without the invalid provision, or application, and to this end the provisions of the ordinance are severable.

**SECTION 6. Effective Date.** This Ordinance shall take effect immediately upon adoption.

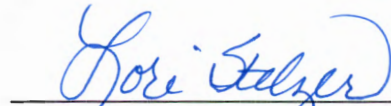
**PASSED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA THIS 22ND DAY OF SEPTEMBER 2020.**

First Reading: September 8, 2020  
Second Reading: September 22, 2020

Adoption: September 22, 2020


  
\_\_\_\_\_  
Ron Feinsod, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Lori Stelzer, MMC, City Clerk

I, Lori Stelzer, MMC, City Clerk of the City of Venice, Florida, a municipal corporation in Sarasota County, Florida, do hereby certify that the foregoing is a full and complete, true and correct copy of an Ordinance duly adopted by the City of Venice Council, a meeting thereof duly convened and held on the 22<sup>nd</sup> day of September 2020, a quorum being present.

**WITNESS** my hand and the official seal of said City this 22<sup>nd</sup> day of September 2020.

  
\_\_\_\_\_  
Lori Stelzer, MMC, City Clerk

Approved as to form:

  
\_\_\_\_\_  
Kelly Fernandez, City Attorney