

ORDINANCE NO. 2021-26

AN ORDINANCE OF THE CITY OF VENICE, FLORIDA, AMENDING THE CODE OF ORDINANCES CHAPTER 26, EMERGENCY MANAGEMENT, ARTICLE I, IN GENERAL AND ARTICLE II, STATE OF EMERGENCY TO UPDATE THE CITY'S EMERGENCY MANAGEMENT PROCEDURES TO BE CONSISTENT WITH STATE LAW; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE

WHEREAS, in 2021, Senate Bill 2006 was adopted and signed into law which revised multiple provisions of state law pertaining to local emergency management authorities and procedures; and

WHEREAS, the City Council desires to update the emergency management provisions in its Code of Ordinances ("Code") in order to maintain consistency with state law; and

WHEREAS, the City Council desires to remove a potential conflict of authority within the Code pertaining to who can declare a state of emergency and enact related orders; and

WHEREAS, the City Council finds this ordinance is in the best interests of the City and is in furtherance of the public health, safety and welfare.

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

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

SECTION 2. Chapter 26, Emergency Management, Article I, In General, is hereby amended as follows:

ARTICLE I. IN GENERAL

Sec. 26-1. Comprehensive emergency management plan-adopted.

The city shall adopt a comprehensive emergency management plan (CEMP) by resolution, October 2002 Edition, including all future amendments, is hereby adopted by the city for the purpose of establishing a framework by which the city shall manage an emergency or disaster which impacts the city. Annual updates to non-substantive information within the CEMP, including, but not limited to, dates and employee information, may be made by staff.

SECTION 3. Chapter 26, Emergency Management, Article II, State of Emergency, is hereby amended as follows:

ARTICLE II. STATE OF EMERGENCY

Sec. 26-31. 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:

State of emergency means:

- (1) A riot or unlawful assembly characterized by the use of actual force or violence or any threat to use force if accompanied by immediate power to execute by three or more persons acting together without authority of law.
- (2) Any natural disaster or manmade calamity, including pandemic, hurricane, flood, conflagration, cyclone, tornado, earthquake or explosion, within the city likely to cause or resulting in the death or injury of persons or the destruction of property to such an extent that extraordinary measures must be taken to protect the public health, safety and welfare.

Curfew means a prohibition against any person walking, running, loitering, standing or motoring upon any alley, street, highway, public property or vacant premises within the city, or some designated part or parts thereof, except persons whose official duties require them to be present during time of a state of emergency.

Sec. 26-32. Violations.

Any person violating the provisions of this article or an executive order issued relative to a riot or unlawful assembly shall be guilty of a misdemeanor of the first degree, punishable as provided in F.S. § 775.082 or F.S. § 775.083. Any person violating the provisions of this article or an executive order issued relative to any other kind of state of emergency is guilty of a misdemeanor of the second degree, punishable as provided in F.S. § 775.082 or F.S. § 775.083.

Sec. 26-33. Proclamation of state of emergency.

When in the judgment of the ~~mayor or~~ city manager a state of emergency is deemed to exist, ~~he either~~ shall forthwith proclaim in writing the existence of the state of emergency. Such proclamation shall invoke state assistance and emergency-related mutual-aid assistance.

Sec. 26-34. Authority to order curfew.

After proclamation of a state of emergency by the ~~mayor or~~ city manager, ~~he either~~ may order a curfew applicable to such geographical areas of the city, or to the city as a whole, as ~~he either~~ deems advisable, and applicable during such hours of the day or night as ~~he either~~ deems necessary in the interest of the public safety and welfare. The order must allow persons to travel during the curfew to their places of employment to report for work and to return to their residences after their work has concluded.

Sec. 26-35. Additional powers, authority and orders authorized.

(a) After proclamation of a state of emergency, the ~~mayor or~~ city manager may also in the interest of public safety and welfare make any or all of the following orders which shall be in effect no longer than during the period of said emergency in the area or areas for which the emergency has been declared:

- (1) The prohibition of the sale or distribution of any alcoholic beverage, with or without the payment or a consideration therefor.
- (2) The prohibition of the possession on any person in a public place of any portable container containing any alcoholic beverage.
- (3) The closing of places of public assemblage with designated exceptions.
- (4) The prohibition of the sale or other transfer of possession, with or without consideration, of gasoline or any other flammable or combustible liquid altogether or except by delivery into a tank properly affixed to an operable motor-driven vehicle, bike, scooter, boat, or airplane and necessary for the propulsion thereof.
- (5) The prohibition of the possession in a public place of any portable container containing gasoline or any other flammable or combustible liquid.

(b) After proclamation of a state of emergency, the city manager also has the power and authority to waive the procedures and formalities otherwise required by law pertaining to:

- (1) Performance of public work and taking whatever prudent action is necessary to ensure the health, safety and welfare of the community.
- (2) Entering into contracts.
- (3) Incurring obligations.
- (4) Employment of permanent and temporary workers.

- (5) Utilization of volunteer workers.
- (6) Rental of equipment.
- (7) Acquisition and distribution, with or without compensation, of supplies, materials and facilities.
- (8) Appropriation and expenditure of public funds.

Sec. 26-36. Filing and publication of proclamation and orders.

Any state of emergency or emergency measure declared or ordered and promulgated by virtue of this article shall, ~~as promptly as practicable~~, be filed in the office of the city clerk within three days after issuance, or it will be void, and delivered to appropriate news media for publication and broadcast thereof. ~~If practicable, such~~ state of emergency declaration or emergency measure shall be published on a dedicated webpage accessible through a conspicuous link on the city's homepage ~~by other means, such as posting and loudspeakers~~. The dedicated webpage must identify the state of emergency or emergency measures currently in effect. The city shall provide the Florida Division of Emergency Management with the link to the dedicated webpage.

Sec. 26-37. Duration of state of emergency and emergency orders.

(a) Generally. Except as provided in subsection (b), ~~t~~The duration of a state of emergency is limited to seven days and may be extended by the city manager, as necessary, in seven-day increments.

(b) Exceptions.

~~(1)~~ However, ~~A~~ state of emergency related to a riot or unlawful assembly shall commence upon the declaration thereof and shall terminate at the end of a period of 72 consecutive hours thereafter unless, prior to the end of such 72-hour period, the ~~mayor or~~ city manager shall have terminated such state of emergency. Any extension of this 72-hour time limit must be accomplished by request from the ~~mayor or~~ city manager and the concurrence of the city council by duly enacted ordinance or resolution at a in regular or special meeting session.

~~(2)~~ (c) An state of emergency order or ordinance that limits the rights or liberties of individuals or businesses within the city enacted in response to an emergency caused by something other than a hurricane or other weather-related emergency automatically expires seven days after issuance unless extended by a majority vote of the city council

in seven-day increments. In no case may the state of emergency order or ordinance be extended for a total duration of more than 42 days.

SECTION 4. This Ordinance shall become effective immediately upon its approval and adoption, as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA THIS 24TH DAY OF AUGUST 2021.

First Reading: July 13, 2021

Final Reading: August 24, 2021

Adoption: August 24, 2021

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 Venice City Council, at a meeting thereof duly convened and held on the 24th day of August, 2021, a quorum being present.

WITNESS my hand and the official seal of said City this 24th day of August, 2021

Lori Stelzer, MMC, City Clerk

Approved as to form:

Kelly Fernandez, City Attorney