

Prepared by: Building Department and
City Clerk's Office

ORDINANCE NO. 2013-31

AN ORDINANCE OF THE CITY OF VENICE, FLORIDA, AMENDING THE CODE OF ORDINANCES, CHAPTER 90, BUILDINGS AND BUILDING REGULATIONS, ARTICLE III, CONTRACTORS, DIVISION 2, CONTRACTOR REGISTRATION; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, staff recommends that the city comply with a recent amendment to Florida State Statute Section 489.127 with regards to civil penalties and renewal fees; and

WHEREAS, staff recommends that the renewal process be streamlined to be more efficient for both the applicant and the department; and

WHEREAS, the city council concurs with both recommendations.

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 90, Buildings and Building Regulations, Article III, Contractors, Division 2, Contractor Registration, is amended to read as follows:

Sec. 90-161 through 90-163. No changes

Sec. 90-164. Registration fee; exemption for state certified contractors.

(a) *Exemption.* State certified contractors as defined in F.S. §489.105 shall be exempt from all initial registration and renewal fees.

(b) *Payment; proration.*

(1) Prior to the issuance of a contractor registration pursuant to section 90-162, a registration fee, pursuant to subsection (c) of this section, shall be paid by the applicant to the building division.

(2) The registration fee shall be paid every two years commencing on October 1, 2013. ~~not be prorated and shall remain the same regardless of the date during the year commencing October 1 and ending September 30 upon which the certificate of registration is issued.~~

*The City of Venice Code of Ordinances is amended as follows
with ~~strike through text~~ identifying deletions and underlined text indicating additional language.*

a. Initial registration fees paid within the first 12 months of the two year cycle shall be paid pursuant to subsection (c) of this section.

b. Initial registration fees paid after the first 12 months of the two year cycle shall be 50 percent of the required fee pursuant to subsection (c) of this section.

(3) Registered contractors that do not renew their registration prior to the expiration date must re-apply and pay the initial registration fee pursuant to this section.

(c) *Amount.*

~~(1) Initial registration fee. The charges listed in this section may be changed by resolution of the city council. The initial registration fee for a certificate shall be fixed by resolution.~~ Initial registration fees are as follows:

a. General contractor ~~\$150.00~~ 300.00

b. Building contractor ~~125.00~~ 250.00

c. Residential contractor ~~125.00~~ 250.00

d. Plumbing contractor ~~125.00~~ 250.00

e. Electrical contractor ~~125.00~~ 250.00

f. HARV/ mechanical contractor ~~125.00~~ 250.00

g. Roofing contractor ~~125.00~~ 250.00

h. Specialty contractor ~~100.00~~ 200.00

~~(2) Renewal fee. The charges listed in this section may be changed by resolution of the city council. The biennial annual renewal fee shall be fixed by resolution.~~ Renewal fees are as follows:

a. General contractor ~~\$125.00~~ 250.00

b. Building contractor ~~100.00~~ 200.00

c. Residential contractor ~~100.00~~ 200.00

d. Plumbing contractor ~~100.00~~ 200.00

*The City of Venice Code of Ordinances is amended as follows
with ~~strike through text~~ identifying deletions and underlined text indicating additional language.*

e. Electrical contractor ~~100.00~~ 200.00

f. HARV and mechanical contractor ~~100.00~~ 200.00

g. Roofing contractor ~~100.00~~ 200.00

h. Specialty contractor ~~75.00~~ 150.00

Sec. 90-165. Issuance of citations for unlicensed contracting and/or unpermitted work.

(a) *Violations of state law incorporated by reference.* Any person(s) who violates F.S. §§ 489.127, 489.132(1), or 489.531, as may be amended from time to time, shall also be in violation of this section.

(b) *Enforcement officers.* The city building official, city code enforcement officers and any other persons designated by the city building official as enforcement officers are authorized to issue citations for violations of this section when the enforcement officer has reasonable and probable grounds to believe that a violation has occurred.

(c) *Contents of citations.* A citation issued by an enforcement officer shall state:

(1) The time and date of issuance.

(2) The name and address of the person to whom the citation is issued.

(3) The time and date of the violation.

(4) A brief description of the violation and the facts constituting reasonable cause.

(5) The name of the enforcement officer.

(6) The procedure for the person to follow in order to pay the civil penalty or to contest the citation.

(7) The applicable civil penalty if the person elects not to contest the citation.

(d) *Civil penalties.* The civil penalties for violation of this section shall be as adopted by resolution of the city council. A person cited for a violation of this section is deemed to be charged with a noncriminal infraction and must pay a civil penalty of not less than the amount set forth in the citation but not more than \$2,000. Each day a willful, knowing violation continues shall constitute a separate offense under the provisions of this section. Monies collected pursuant to this section shall be retained and set aside in a specific fund to support future enforcement activities against unlicensed contractors.

(e) *Administrative remedies.* The person charged with the violation shall elect either to correct the violation and pay the civil penalty in the manner indicated on the citation or, within ten days of receipt of the citation, exclusive of weekends and legal holidays, request an administrative hearing before the construction board of adjustment and appeals to appeal the issuance of the citation by the enforcement officer.

(f) *Conduct during construction board of adjustment and appeals hearings.* Construction board of adjustment and appeals hearings shall be conducted in the following manner:

(1) Hearings shall be held before the construction board of adjustment and appeals and shall be conducted pursuant to the requirements of F.S. §§ 162.07 and 162.08 and subsection 90-171(b) of this Code.

(2) Failure of a violator to appeal the citation within the time period set forth above shall constitute a waiver of the violator's rights to an administrative hearing. A waiver of the right to an administrative hearing shall be deemed an admission of the violation and penalties may be imposed accordingly.

(3) If the person issued the citation, or his designated representative, shows that the citation is invalid or that the violation has been corrected prior to appearing before the construction board of adjustment and appeals, the construction board of adjustment and appeals may dismiss the citation unless the violation is irreparable or irreversible.

(4) If the construction board of adjustment and appeals finds that a violation exists, the construction board of adjustment and appeals may order the violator to pay a civil penalty of not less than the amount set forth in the citation, but not more than ~~\$1,000.00~~ \$2,500.00 per day for each violation. Monies collected pursuant to this section shall be retained and set aside in a specific fund to support future enforcement activities against unlicensed contractors.

In determining the amount of the penalty, the construction board of adjustment and appeals shall consider the following factors:

- a. The gravity of the violation;
- b. Any actions taken by the violator to correct the violation; and
- c. Any previous violations committed by the violator.

(g) *Failure to contest the citation.* Upon written notification from the enforcement officer that a violator has not contested the citation or paid the civil penalty within the time frame allowed in the citation, the construction board of adjustment and appeals shall enter an order ordering

the violator to pay the civil penalty set forth on the citation. A hearing shall not be necessary for the issuance of such order.

(h) *Order imposing fine shall constitute a lien.* A certified copy of an order imposing a civil penalty pursuant to this section may be recorded in the public records and thereafter shall constitute a lien against any real or personal property owned by the violator in the county of recordation. Upon petition to the circuit court, such order may be enforced in the same manner as a court judgment by the sheriffs of this state, including a levy against personal property. A civil penalty imposed hereunder shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit to foreclose on such lien, whichever occurs first. After three months from the filing of any such lien which remains unpaid, the city attorney is authorized to foreclose on the lien. No such lien may be foreclosed on real property which is a homestead under section 4, article X of the state Constitution.

(i) *Appeal of construction board of adjustment and appeals order.* An aggrieved party, including the city, may appeal a final administrative order of the construction board of adjustment and appeals to the circuit court pursuant to F.S. ch. 162. Such an appeal shall not be a hearing de novo, but shall be limited to appellate review of the record created before the special magistrate. An appeal shall be filed within 30 days of the execution of the order to be appealed.

(j) *Notice procedures.* All notices required by this section shall be provided to the alleged violator in the same manner as provided for in F.S. ch. 162.

(k) *Refusal to sign citation.* Pursuant to F.S. §§ 489.127(4)(m) and 489.531(4)(n), any person who willfully refuses to sign and accept a citation issued by an enforcement officer commits a misdemeanor of the second degree, punishable as provided in F.S. §§ 775.082 or 775.083.

Sec. 90-166 through 90-168. No changes

Sec. 90-169. Renewal.

A registered contractor may continue to ~~biennially~~ annually renew the registration upon payment of the registration renewal fee as provided in subsection 90-164(c). However, registered contractors that do not renew their registration prior to the expiration date must re-apply and pay the initial registration fee pursuant to this section. ~~should a registered contractor fail to renew the registration for any year, then the registration shall lapse and no further contractor registration shall be issued until the applicant has complied with the provisions of this division.~~

Sec. 90-170 through 90-200. No changes

SECTION 3. 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

effect 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 4. Effective Date. This Ordinance shall take effect immediately upon its adoption as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA THIS 24TH DAY OF SEPTEMBER, 2013.

First Reading: September 10, 2013

Final Reading: September 24, 2013

Adoption: September 24 2013

John W. Holic, Mayor

ATTEST:

Lori Stelzer, MMC, City Clerk

Approved as to form:

David Persson, City Attorney