CHAPTER 87 LAND DEVELOPMENT CODE

SECTION 6. SPECIAL CONSIDERATIONS

Contents

6.1. Alcoholic Beverages

6.1.1. Definitions

A. Definitions. The definitions contained in F.S. Chs. 561, 562, 563, 564 and 565 are hereby adopted as the definitions for this section.

6.1.2. Hours for Sale, Service and On-Premises Consumption

A. Hours Restricted. It shall be unlawful for any person to sell, offer for sale, serve or dispense or consume alcoholic beverages in the City in any place or establishment licensed by the state for the sale of alcoholic beverages except during those hours hereby fixed and established as follows:

1. *Sales and serving.* The hours shall be 7:00 a.m. to 2:15 a.m. of the following day for all sales and serving.

2. *Consumption on-premises.* The hours shall be 7:00 a.m. to 2:30 a.m. of the following day for all consumption on-premises.

3. *New Year's Day exception.* On December 31 of each year the regular hours shall be extended to 2:45 a.m. for sales and serving and 3:00 a.m. of the following day (New Year's Day) for consumption on-premises.

B. Prohibited Acts. It shall be unlawful for:

1. Any licensee, or his agent or employee, to permit such establishment to be open during prohibited hours.

2. Any licensee, or his agent or employee, to sell, offer for sale or dispense any alcoholic beverages during prohibited hours.

3. Any licensee, or his agent or employee, to allow any person to enter or remain in such establishment during prohibited hours.

4. Any person to enter or remain in such establishment during prohibited hours, except for the licensee and his agents for purposes other than the sale, dispensing or consuming of alcoholic beverages.

C. Motels, Restaurants and Similar Establishments. Nothing in this section shall be construed to prohibit the operation of restaurants, motels or other establishments for purposes other than the sale, serving or consumption of alcoholic beverages; providing the bar, lounge or area licensed for consumption-on-the-premises sales can be locked, sealed or isolated from the business to be operated during prohibited hours.

D. State Law Reference— Authority to regulate hours, F.S. §§ 562.14(1), 562.45(2).

6.1.3. Distance of Vendors from Schools, Churches or Public Bathing Beaches

A. Distance Requirement. Except for those vendors licensed in accordance with F.S. § 563.02(1)(a), as amended, and except for restaurants subject to F.S. § 561.20(2)(a)4, as amended, no vendor of alcoholic beverages shall maintain a place of business within 300 feet of an established school, church or public bathing beach within the corporate limits.

1. This distance requirement shall be measured by following the shortest route of ordinary pedestrian travel along the public thoroughfare from the main entrance of such place of business to the main entrance of the church, and, in the case of a school, to the nearest point of the school grounds in use as part of the school facility as measured from the main entrance of the place of business, and, in the case of a public bathing beach, to the nearest point of the property comprising the public beach in use as part of the beach facility as measured from the main entrance of the place of business.

2. The term "the shortest route of ordinary pedestrian travel," as used in this section, shall mean that route of pedestrian travel nearest to the main entrance of the place of business of the vendor. The purpose of this provision is to prevent the practical evasion of this section by the establishment of a circuitous route of pedestrian travel upon the property of the vendor in order to avoid a measurement of the closest available route of pedestrian travel.

3. Whenever a licensee has procured a license certificate permitting the sale of beverages containing more than one percent of alcohol by weight and thereafter a church, school or public bathing beach shall be established within a distance otherwise prohibited by law, the establishment of such church, school or public bathing beach shall not be cause for the discontinuance of the business of such licensee.

6.1.4. Bottle Clubs Prohibited

A. Bottle Clubs. The operation of bottle clubs within the City is hereby prohibited. For the purpose of this section, a bottle club is defined as a business establishment to which patrons bring with them alcoholic beverages to be consumed on the business premises in connection with the viewing for a monetary consideration of entertainment or to be consumed with a mixer or other beverage furnished by the business establishment for a monetary consideration, but which business establishment is not licensed.

1. Exception. An Artist Studio, as defined by this LDC, may feature events where alcohol can be brought on premise for on-site consumption.

6.1.5. Nudity in Establishments Serving Alcoholic Beverages

A. Prohibited Acts

1. It shall be unlawful for any person maintaining, owning or operating a commercial establishment located within the City at which alcoholic beverages are offered for sale for consumption on the premises to encourage, allow, suffer or permit any person, while on the premises of such establishment, to expose to public view any specified anatomical area.

2. It shall be unlawful and an offense for any person while on the premises of an establishment located within the City, which is licensed for the sale or consumption of alcoholic beverages on the premises, whether or not such beverages are offered for sale or consumption, to expose to public view any specified anatomical area at any time.

3. The term "specified anatomical area," as used in this section, means any of the following:

a. Less than completely or opaquely covered:

i. Human genitals or pubic region;

ii. Cleavage of the human buttocks; or

iii. That portion of the human female breast directly or laterally below a point immediately above the top of the areola.

b. Human male genitals in a discernably turgid state, even if completely and opaquely covered.

c. Any covering, paint, or other device which simulates or otherwise gives the appearance of the display or exposure of any of the specified anatomical areas listed in subsections 3.a. and 3.b. of this section.

4. It shall be unlawful and an offense for any person to procure, counsel, aid or assist any person in violating any of the provisions of this section.

5. Penalty. Any person who shall violate any sub-section of this section shall be punishable as provided by code.

B. Cross Reference. Nude swimming or sunbathing in beaches, parks and public places, § 46-67.

6.2. Telecommunications

6.2.1. Findings, Purpose, and Intent

A. In order to promote the public health, safety, and general welfare the City finds that it is necessary to:

1. Facilitate the provision of wireless telecommunication facilities/services to the residents and businesses of the City, outside and in public right-of-ways.

2. Minimize adverse visual effects of telecommunication facility towers through the utilization of careful design and siting standards.

3. Maximize the protection of the citizenry from the hazards of falling debris or equipment as a result of destruction by storm or wind or other natural occurrences.
4. Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements.
5. Maximize the use of existing and approved towers, buildings and structures, conforming and nonconforming, to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the community.
6. Minimize the visual impact of new towers and antennas by encouraging their location in currently visually impacted areas.
7. Maximize the opportunity for, and use of, co-location of new commercial wireless telecommunication towers.
8. Expedite the removal of abandoned, unused, and unsafe commercial wireless telecommunication towers and antennas.

B. **Interference or Obstruction with Public Safety Telecommunications.** New telecommunication service shall not obstruct existing or proposed public safety telecommunication facilities. All applications for new service shall be accompanied by a certification obtained by the applicant from the City Police Chief, County Sheriff and County Director of Emergency Management that the tower and ancillary facilities are not expected to interfere with or obstruct such public facilities. In the event interference or obstruction does occur with public safety telecommunication facilities, it shall be the responsibility of the owner of the commercial wireless telecommunication facility creating the interference or obstruction to make all necessary repairs and/or accommodations to alleviate the problem.

C. **Effective Date.** All commercial wireless telecommunication towers and antennas legally installed prior to the effective date of the ordinance from which this section is derived shall be considered permitted, nonconforming uses and structures, unless if inactive for greater than one (1) year.

D. **Sunshine State One-Call.** Every Service Provider shall utilize and maintain membership in the utility notification one call system administered by Sunshine State One Call of Florida, Inc.

6.2.2. Exemptions

A. The following items are exempt from the provisions of this section:

1. Amateur radio antenna with an overall height of 50 feet or less. Any such structure may be developed only in accordance with the provisions of the LDC and per zoning district standards defined in Section 2: Zoning.
2. Satellite earth stations, other than broadcast, may only be developed in accordance with the standards and regulations of this LDC and per zoning districts defined in Section 2: Zoning.

3. Maintenance of existing wireless communications facilities that does not include the placement or replacement of a wireless communications facility.
4. Replacement or modification of antennas, ancillary appurtenances or other equipment with facilities that are substantially similar or of the same or smaller size, and that do not substantially change the physical dimensions of the wireless communications facility when viewed from ground level from surrounding properties.
5. Wireless communications facilities erected as a temporary use, which receive a temporary use permit.
6. Wireless communications facilities erected upon the declaration of a state of emergency by a federal, state, or local government. However, no wireless communications facility will be exempt pursuant to this paragraph unless City staff makes a determination of public necessity for the facility. The written determination must be submitted to the Director. No wireless communications facility will be exempt from the provisions of this division beyond the duration of the state of emergency, and such facility must be removed within 90 days of the termination of the state of emergency.
7. Co-location of antennas on existing antenna-supporting structures that:
    a. Do not increase the height of the existing structure, as measured to the highest point of any part of the structure or any existing antenna attached to the structure;
    b. do not increase the approved ground wireless communication facility site; and
    c. are of a design and configuration consistent with all of the applicable design and aesthetic regulations, restrictions or conditions, if any, applied to the first antenna placed on the structure or applied to the structure itself.

6.2.3. Abandonment

A. Upon *abandonment* (as defined in Section 9: Definitions) of any facility owned by a Communications Services Provider, the Communications Services Provider shall notify the City within sixty (60) days.

B. The City may direct the Communications Services Provider, by written notice, to remove all or any portion of such abandoned communications facility at the Communications Services Provider's sole expense if the City determines that the abandoned communications facility's presence interferes with the public health, safety or welfare, which shall include, but shall not be limited to, a determination that such communications facility:
    1. compromises safety at any time for any public right-of-way user;
    2. compromises the safety of other persons performing placement or maintenance of communications facilities in the public right-of-way;

3. prevents another person from locating other facilities in the area of the public right-of-way where the abandoned communications facility is located when other alternative locations are not reasonably available; or

4. creates a maintenance condition that is disruptive to the use of the public right-of-way.

In the event of (3), the City may require the third Person to coordinate with the Communications Services Provider that owns the existing communications facility for joint removal and placement, where agreed to by the Communications Services Provider.

C. If the Communications Services Provider fails to remove all or any portion of an abandoned communications facility as directed by the City within the time period specified in the written notice, which time period must be reasonable under the circumstances, the City may perform such removal and charge the cost of the removal against the Communications Services Provider.

D. In the event that the City does not direct the removal of the abandoned communications facility, the Communications Services Provider, by its notice of abandonment to the City, shall be deemed to consent to the alteration or removal of all or any portion of such abandoned facility by the City or other person, provided that the cost of the alteration or removal is not borne by the Communications Services Provider.

E. **Declaration of Continuing Operation.** Towers shall be in continuous operation or they may be determined to be abandoned, unused, or unsafe. Towers or portions of towers that are abandoned, unused for a period of twelve months, or unsafe shall be removed as follows:

1. The owner of a tower shall file annually with the City Manager, or his designee, a declaration as to the continuing operation (with active antennas) of every facility installed subject to these regulations. Said declaration shall include a listing of all tower users' names and mailing addresses and any additional information deemed appropriate by the City.

2. In addition, every three years the declaration shall also include a statement of continued structural integrity (i.e., a statement that a thorough and complete inspection of the tower was conducted and the tower and ancillary facilities are and will continue to perform as originally designed) certified by a qualified and licensed professional engineer.

3. Failure to file the annual declaration in a timely manner shall result in a presumption that the facility is abandoned, unused, or unsafe, and subject to the following:

a. The building official may order that the commercial wireless telecommunication facility be demolished and removed based upon determination that the facility is unsafe or abandoned in accordance with the provisions of the Standard Unsafe Building Abatement Code (1985 edition) and the City's local amendments thereto, as revised.

b. In addition to the remedies provided in Chapter 7, Recovery of Costs or Repair of Demolition as set forth in the Standard Unsafe Building Abatement Code (1985 edition) and the City's local amendments thereto as revised, the City may recover its costs

associated with the demolition and removal of any such tower under the required performance guarantee.

6.2.4. Telecommunication Service Towers

A. Tower Approval Process. Site and development plan approval shall be required for all new towers. All towers for commercial wireless telecommunication services erected, constructed, or located within the City shall comply with the following requirements:

1. A proposed new commercial telecommunication service tower shall not be approved by the City unless the applicant demonstrates to the satisfaction of the Planning Commission that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing tower or building due to one or more of the following reasons:

a. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate the planned or equivalent equipment at a reasonable cost.

b. Existing or approved towers and buildings cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional.

c. Other unforeseen reasons that make it unfeasible to locate the planned telecommunications equipment upon an existing or approved tower or building as documented by a qualified and licensed professional.

B. Additional Submittal Requirements. In addition to the information required in this code, development applications for towers shall include the following supplemental information:

1. A report from a qualified licensed professional engineer which:

a. Describes the tower height and design including a cross-section and elevation,

b. Documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas,

c. Describes the tower's capacity, including the number and types of antennas that can be accommodated,

d. Includes an engineer's signature, seal, date and registration number,

e. If a new structure, states that there is no existing suitable structure available or higher priority zoning district in the geographic search area,

f. Includes graphical representation of the search ring,

g. Provides a survey of existing conditions (not applicable to roof-mounted and surface-mounted antennas,

h. Includes photo simiulations (not for co-locations) and elevation drawings, and

i. Includes other information necessary to evaluate the request.

2. For all commercial wireless telecommunication service towers, a letter of intent committing the tower owner and his or her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.

3. Before the commencement of construction activities, the Federal Aviation Administration's response to the submitted notice of proposed construction or alteration, or its replacement, shall be submitted to the City Manager, or his designee.

4. Before issuance of a building permit, a qualified and licensed professional engineer's report which demonstrates the tower's compliance with the appropriate structural, electrical standards and all appropriate state and federal development standards, shall be submitted to the City Manager, or their designee.

5. A performance agreement or surety for removal in a suitable form for recording in the Public Records of Sarasota County, Florida, as well as a guarantee shall be required for all new commercial wireless telecommunication facilities approved under this Code. The performance agreement and guarantee shall obligate the owner and all subsequent owners to remove, pursuant to this Code, abandoned, unused or unsafe towers, portions of towers, and facilities as described herein:

a. The guarantee will be secured by letter of credit in a form acceptable to the City finance director. The guarantee is designed to ensure the City a fund for demolition and removal of the tower and associated facilities in the event the owner fails to discharge his obligations to demolish and remove said tower and facilities.

b. The aggregate of the guarantee posted on a project will be 25 percent of the construction cost of the facility.

C. Tower and Antenna Design and Construction Requirements.

1. Any proposed commercial wireless telecommunication service tower shall be designed, structurally, electrically, and in all other respects, to accommodate antennas for at least three users if the tower is 161 to 200 feet in height, or for two users if the tower is 160 feet or less in height.

2. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

3. In order to provide the maximum opportunity for other providers to co-locate on a new tower, the applicant shall notice other potential users of the new tower, offering an opportunity for co-location. If another potential user requests co-location in writing to the City, the request shall be accommodated, unless it can be documented as outlined in subsection (1) above that co-location is not possible.

4. In addition to the general review criteria required by the LDC, towers and antennas shall be designed to blend into the surrounding environment through the use of color, texture, or camouflaging architectural treatment to minimize its visual intrusiveness and negative aesthetic impact. When reviewing an application for approval through the conditional use process, the Planning Commission shall consider the following factors:
   a. Whether the tower will be readily visible.
   b. Type of tower, the shape and width of the facility relative to its height, and the color, texture, and reflectivity of materials, with neutral colors and non-reflective materials being given preference, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration.
   c. Type of antennas proposed for the tower, with narrow profile antenna arrays being given preference.
   d. Nature of the uses on the site, with preference given to the use of sites which are already developed with industrial type uses.
   e. Nature of uses on adjacent and nearby properties and the relationship of the proposed facility to the character and scale of surrounding structures and uses, with preference given to sites adjacent to nonresidential uses or to projects designed to protect residential neighborhoods.
   f. Onsite and surrounding tree coverage and foliage.
   g. Effectiveness of the use of screening and concealment devices and techniques, including but not limited to, the use of structural camouflaging, buffer walls, opaque fencing and landscaping.
5. The proposed facility or tower may not, as determined by the Planning Commission, unreasonably interfere with the view from any public park, historic building or district, or scenic view corridor.
6. The base of the tower, anchors, and any accessory facility or building shall be substantially screened from view from public streets and adjoining and nearby residential properties with a combination of evergreen and deciduous trees and shrubs, except when the Planning Commission determines a design of non-vegetated screening better reflects and complements the architectural character of the surrounding neighborhood. The use of all types of chain link or other open mesh fencing, barbed wire, razor wire, and similar items is prohibited.
7. All ground mounted commercial wireless telecommunication service towers shall be of a monopole design unless the Planning Commission determines that an alternative design would better blend in to the particular surrounding environment.

8. With the exception of necessary electric and telephone service and connection lines approved by the City, no part of any antenna, tower, anchoring devices or guys, equipment or wires or braces in connection with either shall at any time extend across or over any part of a right-of-way, public street, highway, sidewalk, or easement.
9. Every tower affixed to the ground shall be designed to discourage climbing of the tower by unauthorized persons.

D. Tower Setbacks. All towers shall conform with each of the following minimum setback requirements:

1. Towers shall meet the setbacks of the zoning district in which proposed, as required in Section 2: Zoning.
2. New towers shall be set back from the public right-of-way of arterial and collector roads, as shown on the most recently amended City's Comprehensive Plan, by a minimum distance equal to one-half of the height of the tower, including all antennas and attachments.
3. New towers shall not be located in the public right-of-way of any roads. New antennas may be located on existing towers, poles and other structures in all public right-of-way subject to restrictions specified in this code.
4. Towers shall not be located between a principal structure and a public street, provided that within industrial zoning districts, towers may be located within a side yard abutting an internal industrial street.
5. A tower's setback may be reduced or its location in relation to a public street varied, at the sole discretion of the Planning Commission, only to allow the integration of a tower onto an existing or proposed structure or building such as a church steeple, light standard, power line support device (e.g., power line tower), or similar structure.

E. Tower Height. All proposed towers shall conform to the following maximum height requirements. The height of towers shall be determined by measuring the vertical distance from the tower or existing structure's lowest point of contact with the ground to the highest point of the tower, including all antennas or other attachments. The maximum height of any tower shall be as follows:

1. Parcels zoned with a conservation and recreation or residential zone district:
   a. Free-standing: seventy-five (75) feet.
   b. When mounted on existing buildings or structures: No greater than fifteen (15) feet above existing building or structure.
2. Parcels zoned with an office and commercial, industrial, or government zone district:
   a. Free-standing: 200 feet.
   b. When mounted on existing buildings or structures: No greater than fifteen (15) feet above existing building or structure.

F. Tower Lighting. Towers shall not be illuminated by artificial means and shall not display strobe lights, except for aviation caution lights shielded from sight from the ground, unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a specific tower. When incorporated into the approved design of the tower, and when in accordance with all other appropriate portions of this code, light fixtures used to illuminate ballfields, parking lots, or similar areas may be attached to the tower consistent with Section 3.9 of this LDC.

G. Accessory Utility Buildings. All utility buildings and structures accessory to a tower shall be architecturally designed, as determined by the Planning Commission, to be compatible with, and blend into, the surrounding environment and shall meet the minimum building setback requirements of the underlying zoning district.

H. Landscaping. Telecommunication facilities have aesthetic impacts which shall be mitigated through the provision of landscaping. Landscaping for such facilities shall be subject to the following:

1. Landscaping shall be located outside and parallel to the perimeter of the telecommunication facility security fencing.

2. Existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute or to supplement landscape buffer requirements.

3. The following landscaping shall be provided around the perimeter of the telecommunication facility:

a. Canopy trees fifteen (15) feet in height with two and one half-inch (2.5”) caliper trunk (at time of planting). Trees shall be planted twenty (20) feet on center around the perimeter of the security fence.

b. A continuous hedge of shrubs at least thirty (30) inches in height (at time of planting).

c. All required plants shall be evergreen or broadleaf evergreen and of the approved types as listed in Chapter 89 of this Code.

4. Landscape plans shall include irrigation provisions in accordance with this Code.

5. Landscaping shall be installed prior to final building inspection and shall be maintained in accordance with this Code.

I. Signage. Telecommunication facilities shall have signage to identify the facility as a “no-trespassing area” and to provide a current emergency contact, telephone number, site address and other information as required by applicable federal, state, or local laws. No other signage shall be allowed on any telecommunication facility.

6.2.5. Telecommunication Facilities in Public Right-of-way

A. Generally. This section shall apply to any public or private entity who seeks to construct, place, install, maintain, or operate a telecommunication facility in public right-of-way. Nothing in this section shall exempt any Services Provider from obtaining right-of-way use permits for work done within the public right-of-way.

B. Additional Findings for Telecommunication Facilities in Public Right-of-way

1. The public right-of-way within the City of Venice are a physically limited resource critical to the travel of persons and property in the City.

2. The demand for telecommunication services has grown in recent years, requiring continuous upgrades and replacement of equipment.

3. Placing telecommunication facilities in the public right-of-way raises important issues with respect to the City's responsibility to manage its public right-of-way.

4. The public right-of-way must be managed and controlled in a manner that enhances the health, safety and general welfare of the City and its citizens.

5. The use and occupancy of the public right-of-way by providers of communications services must be subject to regulation which can ensure minimal inconvenience to the public, coordinate users, maximize available space, reduce maintenance and costs to the public, and facilitate entry of an optimal number of providers of cable, telecommunications, and other services in the public interest.

6. Section 337.401, Florida Statutes, provides that because federal and state law require the nondiscriminatory treatment of providers of telecommunications services and because of the desire to promote competition among providers of communications services, it is the intent of the Florida Legislature that municipalities and counties treat providers of communications services in a nondiscriminatory and competitively neutral manner when imposing rules or regulations governing the placement or maintenance of communications facilities in the public roads or right-of-way.

7. The City finds that, to promote the public health, safety, and general welfare, it is necessary to:

a. provide for the placement or maintenance of Communications Facilities in the public right-of-way within the City limits;

b. adopt and administer reasonable rules, regulations and general conditions not inconsistent with applicable state and federal law;

c. manage the placement and maintenance of Communications Facilities in the public right-of-way by all Communications Services Providers;

d. minimize disruption to the public right-of-way; and

e. require the restoration of the public right-of-way to original condition.

8. The City's intent is that these rules and regulations must be generally applicable to all providers of communications services and, notwithstanding any other law, may not require a provider of communications services to apply for or enter into an individual license, franchise, or other agreement with the City as a condition of placing or maintaining communications facilities in its roads or right-of-way.

9. It is also the City's intent to exercise the City's retained authority to regulate and manage the City's roads and right-of-way in exercising its police power over Communications Services Providers' placement and maintenance of facilities in the public right-of-way in a nondiscriminatory and competitively neutral manner.

C. General Permitting Requirements for Telecommunication Facilities in Right-of-ay

1. Applicability. The provisions of this section shall apply to all City right-of-way.

2. Exemptions. The following activities are exempt from the requirements of this section:

a. Routine maintenance and repair of telecommunication facilities.

b. Installation, construction, or modification of telecommunication facilities by governmental entities or approved as part of a government-initiated projects within the right-of-way.

c. Placement or operation of telecommunication facilities in the right-of-way by any telegraph or telephone company charted by this or another state per F.S. 362.01.

D. Application for Permit

1. A right-of-way permit is required to allow the placement or maintenance of a telecommunication facility, including small wireless facilities, in the public right-of-way. The City has the right to first review and consider and the communication shall provide all required items including:

a. Expected dates and times when the facility will be installed.

b. Location of proposed facility, the public right-of-way affected and detailed description of the facility, including the type, number of items installed, and approximate size of the facility including height and width.

c. Plans, drawings, photographs, and schematics, including a cross-section layout, prepared by a registered engineer showing where the facility is proposed to be located in the public right-of-way and also showing any known telecommunication facilities in the public right-of-way.

2. The City may deny a proposed small wireless facility in the public right-of-way if the proposed facility:

a. Materially interferes with the safe operation of traffic control equipment.

b. Materially interferes with sight lines or clear zones for transportation, pedestrians, or public safety purposes.

c. Materially interferes with compliance with the Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement.

d. Materially fails to comply with the 2010 edition of the Florida Department of Transportation Utility Accommodation Manual.

e. Fails to comply with applicable codes and the applicable provisions of this section.

E. Placement and Maintenance Standard

1. The placement or maintenance of telecommunication facilities in the public right-of-way shall be performed in accordance with the standards and requirements of the following:

a. Florida Department of Transportation Utilities Accommodation Guide;

b. State of Florida Manual of Uniform Minimum Standards for Design Construction and Maintenance for Streets and Highways;

c. Trench Safety Act (Chapter 553, Florida Statutes);

d. Underground Facility Damage Prevention and Safety Act;

e. National Electrical Code or the ANSI National Electrical Safety Code; and

f. The "Safety Rules for the Installation and Maintenance of Electrical Supply and Communication Lines" established by the Department of Commerce, Bureau of Standards of the United States.

2. The placement of small wireless facilities and/or antennae anywhere in the public right-of-way in all cases are subject to the City's zoning and land use regulations. A permitted wireless antenna shall, unless otherwise agreed to by the City in writing:

a. Be limited in height to 10 feet above any utility pole or structure upon which the small wireless facility is to be co-located;

b. Not have any type of lighted signal, lights, or illuminations unless required by an applicable federal, state, or local rule, regulation or law;

c. Comply with any applicable Federal Communications Commission Emissions Standards;

d. Comply with any applicable local building codes in terms of design, construction and installation; and

e. Not contain any commercial advertising thereon.

F. Safety and Minimal Interference. All placement and maintenance of Telecommunication facilities in the public right-of-way shall be performed with the least possible interference with the use and appearance of the public right-of-way and the rights and reasonable convenience of the property owners who abut or adjoin the public right-of-way. The Communications Services Provider shall at all times employ reasonable care and shall use commonly accepted methods and devices for preventing failures and accidents that are likely to cause damage or injury or be a nuisance to the

public. Suitable barricades, flags, lights, flares, or other devices shall be used at such times and places as are reasonably required for the safety of all members of the public. All placement and maintenance shall be done in such a manner as to minimize to the greatest extent any interference with the usual travel on such public right-of-way. The use of trenchless technology (e.g. microtunneling and horizontal directional drilling techniques) for the installation of communications facilities in the public right-of-way as well as joint trenching or the co-location of facilities in existing conduit is strongly encouraged, and should be employed wherever and whenever feasible.

G. Relocation or Removal of Facilities. Except in cases of emergency, a Communications Services Provider, at its own expense, shall:

1. Upon thirty (30) days written notice from the City, relocate or remove, as specified in said notice, its telecommunications facility in the event the City finds that the particular facility is unreasonably interfering in some way with the convenient, safe or continuous use, or the maintenance, improvement, extension or expansion of any public right-of-way. The City shall provide the Communications Services Provider with a notice and order as provided for in Section 337.404 of the Florida Statutes, or any subsequently enacted law of the State of Florida, in the event it charges the Communications Services Provider for the cost and expense of relocating or removing such facility pursuant to this paragraph.

2. Within a reasonable period of time from the date of written notice from the City, but not more than one hundred twenty (120) days thereafter, relocate or remove, as specified in said notice, its telecommunications facility in the event the City Engineer determines it necessary for the construction, completion, repair, relocation or maintenance of a City project, because the particular telecommunications facility is interfering with or adversely affecting the proper operation of street light poles, traffic signals, or any communications system belonging to the City or because the particular telecommunications facility is interfering with the signals or facilities of the City of Venice Police Department, City of Venice Fire and Emergency Services Department or any municipal public utility. In the event the City issues any such written notice to the Communications Services Provider pursuant to this paragraph, and the Communications Services Provider fails to cause the aforementioned relocation or removal as required herein, the City shall be entitled to relocate or remove such facilities without further notice to the Communications Services Provider and the total cost and expense shall be charged to the Communications Services Provider.

H. Joint Use Agreement. A Communications Services Provider, in an effort to minimize the adverse impact on the useful life of the public right-of-way, shall, whenever possible, enter into joint use agreements with the City and other parties who have registered with, or who are expressly

authorized by, the City to use its public right-of-way; provided that the terms of such agreements are satisfactory to the Communications Services Provider. Nothing herein contained shall mandate that the Communications Services Provider enter into joint use agreements with parties other than the City or an agency of the City. However, prior to placement of any new or additional underground conduit in the public right-of-way, a Communications Services Provider is required to certify in writing to the City Engineer that it has made appropriate inquiry to all existing utilities and other entities possessing a right to occupy the public right-of-way as to the availability of existing or planned conduit that the particular Communications Services Provider could reasonably utilize to meet its needs, and that no such conduit is available or planned at a reasonable cost by any other entity on the time schedule reasonably needed. The Communications Services Provider shall not be permitted to perform any placement or maintenance of Facilities in those segments of the public right-of-way where there exists vacant or available conduit, dark fiber or surplus fiber owned by the City or another governmental body which is or, through a reasonable amount of effort and expense, can be made compatible with the Communications Services Provider's System or network. Under such circumstances the Communications Services Provider shall have the opportunity to enter into a use agreement or lease arrangement with the City at or below reasonable and prevailing market rates for such conduit or fiber or, where owned by another governmental body, shall, in good faith, first exhaust all means of obtaining use of such conduit or fiber before applying for a Right-of-way use permit from the City.

6.2.6. Co-location

A. Co-Location Map. To encourage co-location of facilities, the City shall maintain a map of all existing telecommunications facilities located on towers, buildings and structures on which an antenna has been located. To prepare and maintain such a map, at the time of its first application after the effective date of the ordinance from which this section is derived, each applicant for a tower and or antenna shall provide the City with an inventory of all the applicant's existing towers and antennas that are located in the City and within one mile outside the City limits. The inventory shall specify the location, type and design of each tower, the ability of the tower to accommodate additional antenna(s), and, where applicable, the height of the support structures on which the applicant's existing antennas are located. This information is available for public use in encouraging the co-location of antenna(s) on existing tower facilities. By requiring and using this information, the City is not in any way representing or approving such sites as available or suitable.

B. Co-location of Small Wireless Facilities on City Utility Poles. Co-location of small wireless facilities on City utility poles is subject to the following requirements:

1. The City shall not enter into an exclusive arrangement with any person for the right to attach equipment to City utility poles.
2. The rates and fees for co-locations on City utility poles must be nondiscriminatory, regardless of the services provided by the co-locating person.

6.2.7 Antennas Mounted on Roofs, Walls, and Existing Towers.

A. The placement of commercial wireless telecommunication antennas on roofs, walls, existing towers, and other structures is encouraged. Such requests may be approved administratively by the Director, provided the antenna meets the requirements of this code, after submittal of:

1. a site plan and building plan in accordance with this code;
2. a report prepared by a qualified and licensed professional engineer indicating the existing structure or tower's suitability to accept the antenna, and the proposed method of affixing the antenna to the structure; and
3. a copy of a lease or other agreement with the owner of the existing structure or tower indicating their agreement to the proposed placement. Such placements shall comply with the following requirements:
   - **a.** No such commercial wireless telecommunication antenna(s) shall be placed on any building of less than forty (40) feet in height.
   - **b.** For facilities having visual impact to residential areas, all facilities must be stealth in nature. If stealth is unable to be achieved, the applicant should provide a narrative justification for why stealth cannot be achieved.
   - **c.** For facilities not having visual impact to residential areas, facilities mounted on an existing building, tower, and/or antenna must be of a color that is identical to, or closely compatible with, the color of the building to make them as visually unobtrusive as reasonably possible. In addition, supporting electrical and mechanical equipment shall be screened from view or camouflaged.
   - **d.** No such commercial wireless telecommunication antenna(s) shall exceed fifteen (15) feet in height from the top of the building or other structure.
   - **e.** For all commercial wireless telecommunication antennas mounted on an existing building by use of a tower, the maximum height of such tower shall not exceed fifteen (15) feet from the top of the building.
   - **f.** The diameter of roof mounted dish antennas shall not exceed twelve (12) feet; provided that, no such antenna shall be visible from front yard areas and the color, location and design shall blend into and not detract from the character and appearance of the building and surrounding properties.
   - **g.** The diameter of a tower mounted dish antenna shall not exceed four (4) feet.

6.3. Airport Regulations

6.3.1. Findings and Purpose

A. F.S. Ch. 333 requires every political subdivision having an airport hazard area within its territorial limits to adopt, administer, and enforce airport protection zoning regulations for such airport hazard area.

B. An airport hazard may endanger the lives and property of users of the airport and of occupants of land in its vicinity and also, in the case of obstruction, reduces the size of the area available for the taking off, maneuvering, or landing of aircraft, thus tending to destroy or impair the utility of the airport and the public investment therein. It is further found that certain activities and uses of land in the immediate vicinity of the airport are not compatible with normal airport operations, and may, if not regulated, also endanger the lives of the participants, adversely affect their health, or otherwise limit the accomplishment of normal activities. Accordingly, it is hereby declared:

1. That the creation or establishment of an airport hazard and the incompatible use of land in the airport vicinity is a public nuisance and an injury to the City;

2. That it is therefore necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards and incompatible land uses be prevented; and

3. That this should be accomplished, to the extent legally possible, by the exercise of the police power, without compensation.

C. It is further declared that the limitation of land uses incompatible with normal airport operations, the prevention of the creation or establishment of airport hazards, and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which the City may raise and expend public funds and acquire land or property interests therein, or air rights thereover.

D. The airport conducted a noise study and all noise contours established therein are on property owned or controlled by the airport.

E. An interlocal agreement in compliance with the provisions of F.S. Ch. 163 will be entered into between Sarasota County and the City of Venice in accordance with F.S. § 333.03(1)(b).

6.3.2. Imaginary Surfaces and Height Limitations.

A. Any existing or proposed object, terrain, or structure construction or alteration that penetrates an imaginary surface of the airport is an obstruction. The imaginary surfaces are depicted on the airspace drawings and are described as follows, consistent with 14 C.F.R. part 77, subpart C:

1. Primary surface: A surface longitudinally centered on a runway and extending 200 feet beyond each end of that runway with a width of 500 feet for each runway.

2. Horizontal surface: A horizontal plane 150 feet above the airport height, the perimeter of which is constructed by swinging arcs of a specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is 10,000 feet for runways 05, 13, 23 and 31. The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest composite value determined for either end of the runway.
3. Conical surface: A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of 4,000 feet.
4. Approach surface: A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.
    a. The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of 3,500 feet for runways 05, 13, 23 and 31.
    b. The approach surface extends for a horizontal distance of 10,000 feet for runways 05, 13, 23 and 31.
    c. The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.
    d. Transitional surface: The surface extending outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of 7:1 from the sides of the primary surfaces and from the sides of the approach surfaces. Transitional surfaces for those portions of the precision approach surfaces which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at right angles to the runway centerline.

6.3.3. Permits

A. A person proposing to construct, alter, or allow an obstruction in an airport hazard area within a ten-nautical-mile radius of the airport reference point, located at the approximate geometric center of all usable runways of a public-use airport or military airport, shall apply for a permit from the Planning and Zoning Director. In determining whether an obstruction constitutes an airport hazard, the Planning and Zoning Director, in consultation with the Airport Director, shall consider:

1. The safety of persons on the ground and in the air.
2. The safe and efficient use of navigable airspace.

3. The nature of the terrain and height of existing structures.
4. The effect of the construction or alteration of an obstruction on the state licensing standards for the airport contained in F.S. Ch. 330 and rules adopted thereunder.
5. Existing, planned, and proposed facilities and flight operations at the airport on public-use airports contained in the airport master plan or airport layout plan.
6. Federal airways, visual flight rules, flyways and corridors, and instrument approaches as designated by the Federal Aviation Administration.
7. The effect of the construction or alteration of an obstruction on the minimum descent altitude at the airport.
8. The cumulative effects on navigable airspace of all existing obstructions and all known proposed obstructions in the area.
9. Documentation showing compliance with the federal requirement for notification of proposed construction or alteration and a valid aeronautical study. A permit may not be approved solely because the FAA determines that the proposed obstruction is not an airport hazard.

B. Upon receipt of a complete permit application, the City shall provide a copy of the application to FDOT's aviation office by certified mail, return receipt requested, or by a delivery service that provides a receipt evidencing delivery. To evaluate technical consistency with F.S. § 333.025, FDOT shall have a 15-day review period following receipt of the application, which must run concurrently with the City's permitting process. Cranes, construction equipment, and other temporary structures in use or in place for a period not to exceed 18 consecutive months are exempt from FDOT's review, unless such review is requested by FDOT.

C. A permit may not be issued if it would allow the establishment or creation of an airport hazard or if it would permit a nonconforming use to become a greater hazard to air navigation than it was when the applicable regulation herein was adopted which allowed the establishment or creation of the obstruction, or than it is when the application for a permit is made.

D. The permit, if granted, shall require the owner of the obstruction to install, operate, and maintain thereon, at his or her own expense, marking and lighting in conformance with the specific standards established by the FAA.

E. Any application submitted hereunder may be referred to the Planning Commission by the Planning and Zoning Director. The Planning Commission, at a publicly noticed public hearing, may grant or deny such application, or may grant such application subject to suitable conditions, safeguards and stipulations.

6.3.4. Land Use Restrictions; Nonconforming Uses

A. No new landfills shall be allowed:

1. Within 10,000 feet from the nearest point of any runway used or planned to be used by turbine aircraft;
2. Within 5,000 feet from the nearest point of any runway used by only nonturbine aircraft; and
3. Outside the perimeters defined in subsections (a)(1) and (2), but still within the lateral limits of the civil airport imaginary surfaces defined in 14 C.F.R. § 77.19 and described in Section 6.3.2, above.

B. No new incompatible uses, activities, or substantial modifications to existing incompatible uses shall be allowed within runway protection zones as depicted on the airport layout plan. Incompatible uses include residences, schools, churches/places of worship, hospitals/nursing homes, commercial/industrial buildings, recreational facilities, public roads, parking facilities, fuel storage facilities, hazardous material storage, wastewater treatment facilities, above ground utility infrastructure, and other places of public assembly.

C. As required by Florida law, there must be the compatibility of lands adjacent, or in close proximity, to the airport.

D. The City, when either requesting from or submitting to a state or federal governmental agency with funding or approval jurisdiction a "finding of no significant impact," an environmental assessment, a site-selection study, an airport master plan, or any amendment to an airport master plan, shall submit simultaneously a copy of said request, submittal, assessment, study, plan, or amendments by certified mail to Sarasota County as an "affected local government" under F.S. Ch. 333.

E. Nonconforming Uses.

1. This division may not be interpreted to require the removal, lowering, or other change or alteration of any obstruction not conforming to these regulations when adopted or amended, or otherwise interfering with the continuance of any nonconforming use, except under subsection (2) below.
2. If the City determines that a nonconforming use has been abandoned or is more than 80 percent torn down, destroyed, deteriorated, or decayed, the owner of the nonconforming use may be required, at his or her own expense, to lower, remove, reconstruct, alter, or equip such obstruction as may be necessary to conform to the current regulations in this division. If the owner of the nonconforming use neglects or refuses to comply with such requirement for ten days after notice thereof, the City may proceed to have the obstruction so lowered, removed, reconstructed, altered, or equipped and assess the cost and expense thereof upon the owner of the obstruction or the land whereon it is or was located.

6.3.5. Administration; Enforcement; Appeals

A. It shall be the duty of the Planning and Zoning Director (Director) to administer and enforce the regulations prescribed in this division, in consultation with the Airport Director.

B. The initiation of any civil or criminal enforcement procedure under the provisions of F.S. § 333.13, and the acquisition of any air rights under the provisions of F.S. § 333.12, shall be the sole responsibility of the City Council.

C. A person may appeal a final decision of the Planning and Zoning Director to the Planning Commission under this section. A person may appeal any final decision of the Planning Commission to City Council.

6.3.6. Judicial Review

A. Any person aggrieved by any decision rendered pursuant to this division may appeal, after exhaustion of administrative remedies, to the Circuit Court of the 12th Judicial Circuit in and for Sarasota County, Florida, as provided in F.S. § 333.11.

6.3.7. Conflicting Regulations

A. Where this division conflicts with or overlaps another ordinance or statute, whichever imposes the more stringent restrictions shall prevail. This division is cumulative and supplemental to existing ordinances and statutes.

6.4. Resort Dwellings (formerly Section 86-151)

The following regulations retain the formatting and content of the City's previous Land Development Code to maintain compliance with F.S. § 509-032(7)(b).

Generally; intent. These regulations apply only to resort dwellings, defined herein. City council finds that resort dwelling rental activities in single-family neighborhoods negatively affects the character and stability of a residential neighborhood. The home and its intrinsic influences are the foundation of good citizenship. The intent of these regulations is to prevent the use of single-family residences for transient purposes in order to preserve the residential character of single-family neighborhoods. In RE or RSF zoning districts, units offered for rental or lease for periods of 30 days or one calendar month or more, are not considered to be resort dwellings and are not subject to regulations applicable to resort dwellings.

(1) No new resort dwelling units are allowed in RE or RSF zoning districts.

(2) For existing resort dwellings, the regulation of resort dwelling activities is deemed to be an issue affecting the general health, safety and welfare of the city and its residents. For existing resort dwellings, the following regulations will apply:

a. If a lot zoned RE or RSF has more than one legally existing dwelling on the property, the prohibition of resort dwellings shall apply to all structures on the lot. For all existing legal nonconforming resort dwellings, all inspections and applicable approvals must be current for each unit or structure that is used as a resort dwelling.

b. Except as provided herein, each residential property where resort dwelling use is in effect shall prominently display on the primary structure on the subject property, a permanent notification, on an all-weather placard 11" x 17" in size located adjacent to the front entrance and with black lettering on a white background with at least 14 point type, alerting the public of the resort dwelling use and containing the following information:

    1. The name of the managing agency, agent, vacation rental manager, local contact or owner of the resort dwelling, and a telephone number at which that party may be reached on a 24-hour basis;
    2. The maximum number of occupants permitted to stay in the resort dwelling per Chapter 69A-43, FAC, Uniform Fire Safety Standards for Transient Public Lodging Establishments, Timeshare Plans and Timeshare Unit Facilities;
    3. The maximum number of vehicles allowed to be parked on the property;
    4. The number and location of on-site parking spaces and the parking rules prohibiting on-street parking;
    5. The trash pickup day and notification that trash and refuse shall not be left or stored on the exterior of the property except from 6:00 p.m. of the day prior to trash pickup to 6:00 p.m. on the day designated for trash pickup;
    6. Notification that an occupant may be cited, fined and/or immediately removed by the owner or manager, pursuant to state law, in addition to any other remedies available at law, for creating a disturbance or for violating other provisions of the ordinance from which this section derives;
    7. Notification that failure to conform to the parking and occupancy requirements of the structure is a violation of the ordinance from which this section derives;
    8. The name and phone number of the contact person available 24-hours per day, seven days per week for the purpose of responding promptly to complaints regarding the conduct of the occupants of the resort dwelling.

c. Use of a single-family residence in the RE or RSF zoning district as a resort dwelling is deemed to be a change of use as compared to its original permit approval unless it can be demonstrated by the owner that the original approval was for a resort dwelling at the time of permitting or at some subsequent time in which all applicable commercial lodging codes were applied for review of the use and structure. All currently operating resort dwellings must request immediately a change of use and revised occupancy permit for the purpose of notifying the city that said dwelling is being used for resort purposes and requesting all necessary permits and inspections to determine that all applicable zoning, building and life/safety codes have been met.

d. The owner or manager shall maintain a tenant and vehicle registration log which shall include the name and address of each resort dwelling's tenant, and the make, year and tag number of the tenant's vehicle(s). Such registration log will be subject to inspection by the city upon request by the city manager or his designee.

e. All parking must be off-street for resort dwelling units. Not less than one paved, off-street parking space per resort dwelling bedroom must be provided. Minimum yard areas for the applicable zoning district must be maintained for all resort dwelling units.

(Ord. No. 2009-06, § 2, 7-14-09)

6.5. Commercial and Recreational Vehicle Parking

6.5.1. Commercial Vehicles

A. Automotive vehicles or trailers of any type without current license plates shall not be parked or stored other than in completely enclosed buildings in any district, provided such vehicles or trailers may be parked or stored in licensed vehicle sales lots in any district and in outdoor storage yards in industrial districts.

B. Commercial vehicles may not be parked overnight in a residential district except for one commercial vehicle and small utility trailer per dwelling, the rated capacity not to exceed one ton, when the vehicle is used by an occupant of the dwelling for personal transportation; or except when a commercial vehicle is engaged in a lawful construction or service operation on the site where it is parked. In no event may they be parked or stored upon required landscape or buffer areas.

C. The parking, servicing, repair or storage of trucks, buses, tractors, boats, and other commercial vehicles in excess of 6,000 lbs. vehicle empty weight as listed on the vehicle registration form is prohibited in any residential district.

D. Trailers with single- or double-axle platforms and towing tongues for the purposes of hauling items in excess of 2,500 lbs. vehicle empty weight as listed on the trailer registration form are prohibited in any residential district.

E. Stake-bed trucks, flatbed trucks, box trucks, step vans, tow trucks, wreckers, or bucket trucks are prohibited in any residential district, regardless of their empty vehicle weight.

6.5.2. Recreational Vehicles

A. **Generally**. For the purpose of this section, recreational vehicles are defined as including boats, boat trailers, travel trailers, camping trailers, truck campers, motorhomes, private motor coaches, and van conversions, which are licensed by the state as such.

1. Recreational vehicle or equipment may be parked or stored in residential zoning districts, except where specifically prohibited, provided the vehicle is operational with current license tags and is on the property of the owner or tenant who resides at the residence.

2. No lot or parcel of land shall contain more than one boat and one recreational vehicle which is stored outside of a completely enclosed building, and no such vehicle or equipment shall be used for living, sleeping, housekeeping or business purposes.

3. No recreational vehicle or equipment shall be connected to utility services except in preparation for departure.

4. Recreational vehicles or equipment may be parked or stored only upon designated parking or drive areas if located within the front yard. Such vehicles or equipment may be located within side or rear yards. In no event may they be parked or stored upon required landscape or buffer areas.

6.6. Medical Marijuana Dispensing Facilities

A. Prohibition. Medical marijuana dispensing facilities are prohibited and shall not be located within the boundaries of the City. The City shall not accept, process or approve any request or application for a development order, building permit or other approval associated with a proposed medical marijuana treatment center dispensing facility.

B. Definition. For the purposes of this section, the term "medical marijuana treatment center dispensing facility" means any facility where medical marijuana or any product derived therefrom is dispensed at retail.

C. Interpretation. This section and the terms used herein shall be interpreted in accordance with F.S. § 381.986 and Ch. 64-4 of the Florida Administrative Code. The intent of this section is to ban medical marijuana treatment center dispensing facilities from being located within the boundaries of the City as authorized by F.S. § 381.986(11).

6.7. Residential Garage Sales

A. Purpose and Intent. This section is intended to establish frequency and duration standards and a registration procedure for garage sales. Garage sales are considered a temporary use. In lieu of a temporary use permit, a registration procedure, described below, shall be the means to monitor and enforce the standards of this section.

B. Definition of a Garage Sale. For the purpose of this section the term garage sale shall mean the sale of personal belongings or household effects (e.g. furniture, tools, clothing, etc.) at the seller's premises, typically held in a garage and/or yard. The term garage sale shall be considered equivalent with the terms yard sale, estate sale and other terms that convey the same meaning.

C. Garage Sale Standards. Garage sales conducted in the city shall comply with the following standards:

1. Garage sales shall be allowed in residential districts as defined in Section 2: Zoning.
2. Any one address in a residential district shall have no more than four (4) garage sales during a calendar year and the duration of such garage sales shall not exceed three (3) consecutive days.
3. Garage sales shall be open to the public no earlier than 7:00 a.m. and no later than 6:00 p.m.

4. Placement of temporary signs on city right-of-way shall be exempt from permitting and subject to the standards contained in Section 3.3: Signs.
5. Garage sale signs shall be limited to four (4) square feet in area. One (1) sign per location of garage sale, and a maximum of four (4) off-premises signs are permitted.

D. Registration Procedure. The resident of the premises in which a garage sale will be held shall register the temporary use with the city no later than three business days in advance of the first day of the garage sale in accordance with the registration procedure established by the planning and zoning department.

6.8 Mobile Food Vending

A. Definitions. When used in this section, the following terms and phrases shall have meanings ascribed to them in this section, except when the context clearly indicates a different meaning:

1. *Ice cream truck.* A motorized vehicle or vehicle-mounted trailer from which only prepackaged, individually portioned frozen novelties or desserts, such as ice cream sandwiches, frozen yogurt bars, popsicles, or other frozen dessert products defined in F.S. § 502.012, are sold.

2. *Mobile food vendor.* Any vehicle that is a public food service establishment that is self-propelled or otherwise movable from place to place and includes self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal, and is licensed by the State of Florida. A mobile food vendor includes an ice cream truck.

B. Applicability. It is a violation of this Code for a mobile food vendor to sell any product at any location or in any manner that is not in compliance with the requirements of this section and the requirements of state law. The provisions of this section shall not apply to a mobile food vendor operating pursuant to a special event permit or temporary use permit.

C. Permit. No permit is required for an ice cream truck or mobile food vendor that operates within the city in compliance with the requirements of this section and the requirements of state law.

D. Location. A mobile food vendor is authorized to operate in the following locations:

1. City-owned property.

a. Location. A mobile food vendor may operate within designated portions of certain city-owned property on a first come, first served basis. A description of city-owned property authorized for use by mobile food vendors shall be maintained by the city manager's office. The operation of a mobile food vendor on or within all other city-owned property is prohibited absent a special event permit or temporary use permit.

b. Conflict. A mobile food vendor may not operate at any location designated for the use of mobile food vendors where:

i. The city manager or designee determines that a conflict exists between a mobile food vendor's operation and an existing license, contractual obligation,

or any other public health or safety concern, including, but not limited to, a special event or facility rental.

ii. The county operates or maintains a park for the city, without the mobile food vendor first obtaining approval of the county.

2. Private property.

a. **Permission**. Other than as permitted by subsection (d)(2)e., below, a mobile food vendor may operate on private property located within only the following zoning districts and with the written permission of the property owner(s). Evidence of a property owner's written permission must be available for inspection by the city upon request while the mobile food vendor is operating.

i. Commercial, General (CG);
ii. Commercial, Intensive (CI);
iii. Commercial, Highway Interchange (CHI);
iv. Commercial, Neighborhood (CN);
v. Office, Professional and Institutional (OPI);
vi. Commercial, Mixed Use (CMU);
vii. Commercial, Shopping Center (CSC);
viii. Office, Medical and Institutional (OMI);
ix. Planned Industrial Development (PID);
x. Planned Commercial Development (PCD);
xi. Industrial, Light and Warehousing (ILW);
xii. Planned Unit Development (PUD).

b. **Setback requirement.** When operating on private property, a mobile food vendor may operate only if set back at least 150 feet from any exclusively residential structure, unless the owner(s) of the residential structure provides the mobile food vendor with express written permission to operate. The 150 feet setback requirement is reduced to 50 feet where an intervening nonresidential building, such as a commercial building, screens the operation from the direct view of the single-family residential structure.

c. **Maximum number of mobile food vendors**. No more than two mobile food vendors shall operate on any private property at any one time, except as may be allowed by a city-issued special event permit or temporary use permit. Mobile food vendors cannot utilize parking spaces that are required parking spaces for a business. Mobile food vendors shall maintain a minimum of ten feet separation from other mobile food vendors, buildings, and vehicles.

d. **Principal structure requirement**. Except as otherwise provided by this section, a mobile food vendor may only operate on a lot that has a principal structure. However, operating on a vacant lot is permitted where the vacant lot is under the same ownership as, and is abutting, a lot that has a principal structure. Lots located across a public right-of-way shall not be considered abutting.

e. **Construction areas**. A mobile food vendor may operate on private property that has an active building permit(s) for the development of a commercial or multi-family project only with approval of the property owner or developer. A mobile food vendor may also operate on private property that has an active building permit(s) for a single-family subdivision until the first certificate of occupancy is issued. Each phase of single-family subdivision shall be treated as a separate project.

E. Stationary location requirement. A mobile food vendor must operate from a stationary location but may operate from multiple locations throughout the day, except as otherwise permitted in this article. An ice cream truck may operate as a moving vendor but only along a roadway defined as a local road in the transportation element of the Venice Comprehensive Plan.

F. Access. A mobile food vendor shall not operate or park in any location that impedes, endangers, or interferes with pedestrian or vehicular traffic or endangers customers, including failure to meet sight distance and visibility requirements and mobile food vendor customers standing in roadways.

G. Operation.

1. **Hours**. A mobile food vendor may only operate during the posted operating/business hours of the park or on-site office, business, or construction, or between the hours of 9:00 a.m. and 10:00 p.m. if no such activity is on-site. Operating hours includes time required for setup and breakdown of the mobile food vending operations. A mobile food vendor shall not be permitted to remain at the operating location overnight or otherwise outside of operating hours.
2. **Items authorized for sale**. A mobile food vendor is only permitted to sell food and beverages.
3. **Noise requirements.** Amplified music or other sounds from a mobile food vendor shall comply with the noise control standards in chapter 34 of this Code.
4. **State license.** At any time during operation, upon request, a mobile food vendor must provide the city a valid state license issued pursuant to F.S. § 509.241.
5. **Florida fire prevention code.** Compliance with NFPA 1 Mobile and Temporary Cooking Operations is required.

H. Placement of items.

1. Except as provided herein, the placement or storage of any item related to a mobile food vendor's business is prohibited from being on the street, sidewalk, or ground immediately surrounding an operating mobile food vendor. The following items may be placed in the immediate area of operation as long as they do not impede, endanger, or interfere with pedestrian or vehicular traffic:
    a. Two trash receptacles;
    b. One recycling receptacle; and
    c. One menu board no larger than 30 inches by 50 inches in height. "A frame" type signs are allowed, and must be situated in close proximity to the truck no more than ten feet away.
2. A mobile food vendor must provide receptacles for trash and recycling. The area immediately surrounding an operating mobile food vendor shall be kept neat and orderly at all times and all garbage, trash, and recyclables shall be removed prior to departure of the mobile food vendor.
3. Mobile food vendors are responsible for the proper disposal of all waste generated on-site. No grease, waste, trash, or other by-product from a mobile food vendor's business may be deposited or released onto city-owned property, including, but not limited to, the streets, sidewalk, into the gutter or storm drainage system, or other public place.
4. **Limitations on sales**. The sale of alcoholic beverages is prohibited unless authorized by a special event permit.

I. Insurance. At all times, a mobile food vendor must maintain all insurance policies required by local, state, and federal laws and regulations.

(Ord. No. 2021-30, § 2, 9-28-21)

6.9 Dog Friendly Dining

6.9.1 Purpose and intent; program created; definitions.

A. The purpose and intent of this section is to implement the local exemption established by F.S. § 509.233, by permitting public food service establishments within the city, subject to the terms and conditions contained herein, to become exempt from certain portions of the United States Food and Drug Administration Food Code, as amended from time to time, and as adopted by the State of Florida Division of Hotels and Restaurants of the Department of Business and Professional Regulation, in order to allow patrons' dogs within certain designated outdoor portions of their respective establishments.

B. Pursuant to F.S. § 509.233(2), there is hereby created in the city, a local exemption procedure to certain provisions of the United States Food and Drug Administration Food Code, as amended

from time to time and as adopted by the State of Florida Division of Hotels and Restaurants of the Department of Business and Professional Regulation, in order to allow patrons' dogs within certain designated outdoor portions of public food service establishments, which exemption procedure shall be known as the City of Venice Dog Friendly Dining Program.

C. As used in this program:

1. *Division* means the Division of Hotels and Restaurants of the State of Florida Department of Business and Professional Regulation.
2. *Dog* means an animal of the subspecies Canis lupus familiaris.
3. *Outdoor area* means an area adjacent to a public food service establishment that is predominantly free of physical barriers on at least three sides but may be covered from above.
4. *Patron* has the meaning given to "guest" by F.S. § 509.013.
5. *Public food service establishment* has the meaning given it by F.S. § 509.013.
6. *Business services coordinator* means the city employee responsible for the collection and coordination of all matters relating to the city business tax imposed pursuant to F.S. Ch. 205.

(Ord. No. 2012-16, § 1, 6-12-12)

6.9.2 Permit required; submittals.

A. In order to protect the health, safety and general welfare of the public, a public food service establishment is prohibited from having any dog on its premises unless it possesses a valid permit issued in accordance with this section.

B. Applications for a permit under this section shall be made to the business services coordinator, on a form provided for such purpose by the business services coordinator, and shall include, along with any other such information deemed reasonably necessary by the business services coordinator in order to implement and enforce the provisions of this section, the following:

1. The name, location and mailing address of the subject public food service establishment.
2. The name, mailing location and telephone contact information of the permit applicant.
3. A diagram and description of the outdoor area to be designated as available to patrons' dogs, including dimensions of the designated area; a depiction of the number and placement of tables, chairs, and restaurant equipment, if any; the entryways and exits to the designated outdoor area; the boundaries of the designated area and of any other areas of outdoor dining not available for patrons' dogs; any fences or other barriers; surrounding property lines and public right-of-way, including sidewalks and common pathways; and such other information reasonably required by the business services coordinator. The diagram or plan shall be accurate and to scale but need not be prepared by a licensed design professional.

4. A description of the days of the week and hours of operation that patrons' dogs will be permitted in the designated outdoor area.
5. All application materials shall contain the appropriate division issued license number for the subject public food service establishment.

(Ord. No. 2012-16, § 1, 6-12-12)

6.9.3 General regulations; cooperation; enforcement.

A. In order to protect the health, safety and general welfare of the public, and pursuant to F.S. § 509.233, all permits issued pursuant to this section are subject to the following requirements:

1. All public food service establishment employees shall wash their hands promptly after touching, petting, or otherwise handling any dog. Employees shall be prohibited from touching, petting, or otherwise handling any dog while serving food or beverages or handling tableware or before entering other parts of the public food service establishment.

2. Patrons in a designated outdoor area shall be advised that they should wash their hands before eating. Waterless hand sanitizers shall be provided at all tables in the designated outdoor area.

3. Employees and patrons shall be instructed that they shall not allow dogs to come into contact with tabletops, serving dishes, utensils, tableware, linens, paper products, or any other items involved in food service operations.

4. Dogs shall not be allowed to consume any food.

5. Patrons shall keep their dogs on a leash at all times and shall keep their dogs under reasonable control.

6. Dogs shall not be allowed on chairs, tables, or other furnishings.

7. All table and chair surfaces shall be cleaned and sanitized with an approved product between seating of patrons. Spilled food and drink shall be removed from the floor or ground between seating of patrons.

8. Accidents involving dog waste shall be cleaned immediately and the area sanitized with an approved product. A kit with the appropriate materials for this purpose shall be kept near the designated outdoor area.

9. At least one sign reminding employees of the applicable rules, including those contained in this section, and those additional rules and regulations, if any, included as additional conditions of the permit by the business services coordinator, shall be posted in a conspicuous location frequented by employees within the public food service establishment. The mandatory sign shall be not less than 8½ inches in width by 11 inches in height and printed in easily-legible typeface of not less than 20-point font size.

10. At least one sign reminding patrons of the applicable rules, including those contained in this section, and those additional rules and regulations, if any, included as additional conditions of the permit by the business services coordinator, shall be posted in a conspicuous location within the designated outdoor portion of the public food service establishment. The mandatory sign shall be not less than 8½ inches in width by 11 inches in height and printed in easily-legible typeface of not less than 20-point font size.

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11. At all times while the designated outdoor portion of the public food service establishment is available to patrons and their dogs, at least one sign shall be posted in a conspicuous and public location near the entrance to the designated outdoor portion of the public food service establishment, the purpose of which shall be to place patrons on notice that the designated outdoor portion of the public food service establishment is currently available to patrons accompanied by their dog or dogs. The mandatory sign shall be not less than 8½ inches in width by 11 inches in height and printed in easily-legible typeface of not less than 20-point font size.

12. Dogs shall not be permitted to travel through indoor or undesignated outdoor portions of the public food service establishment, and ingress and egress to the designated outdoor portions of the public food service establishment shall not require entrance into or passage through any indoor or undesignated outdoor portion of the public food service establishment.

B. A permit issued pursuant to this section shall not be transferred to a subsequent owner upon the sale or transfer of a public food service establishment, but shall expire automatically upon such sale or transfer. The subsequent owner shall be required to reapply for a permit pursuant to this section if such owner wishes to continue to accommodate patrons' dogs.

C. In accordance with F.S. § 509.233(5), the business services coordinator shall accept and document complaints related to the "dog friendly dining program" within the city, and shall timely report to the division all such complaints and the city's enforcement response to such complaint. The business services coordinator shall also timely provide the division with a copy of all approved applications and permits issued pursuant to this section.

D. Any public food service establishment that fails to comply with the requirements of this section of the Code of Ordinances shall be subject to any and all enforcement proceedings consistent with the Code of Ordinances and general law.

E. All public food service establishments participating in the dog friendly dining program shall provide and maintain a drinking water station for patrons' dogs and dogs in general.

(Ord. No. 2012-16, § 1, 6-12-12)

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