

Prepared by: City Attorney

RESOLUTION NO. 2014-20

A RESOLUTION OF THE VENICE CITY COUNCIL SUPERSEDING RESOLUTION NO. 2011-04, AND AUTHORIZING THE MUNICIPAL CODE ENFORCEMENT BOARD TO REDUCE FINES IMPOSED BY THE CODE ENFORCEMENT BOARD AFTER RECEIPT OF A WRITTEN REQUEST AND HOLDING A PUBLIC HEARING; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Venice City Council created a Municipal Code Enforcement Board (Board) pursuant to Chapter 162, Florida Statutes; and

WHEREAS, the Board has the power to hold hearings and enter orders imposing fines which become liens on the real and personal property of the violators; and

WHEREAS, Section 162.09(2)(b), Florida Statutes and Section 2-329(d) of the City Code of Ordinances give the Board the authority to reduce fines; and

WHEREAS, the Florida Attorney General has opined that after an order imposing a fine has been recorded, then only city council has the authority to reduce a fine; and

WHEREAS, the Venice City Council desires to delegate to the Board the authority to reduce fines; and

WHEREAS, the Board and Venice City Council wish to provide specific procedures to follow when the Board is considering fine reductions.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF VENICE, FLORIDA, THAT:

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

SECTION 2. Upon adoption, this resolution shall supersede Resolution No. 2011-04.

SECTION 3. The Board is hereby authorized to reduce a fine previously imposed by order of the Board and recorded as a lien on the following conditions:

1. No fine reduction shall be considered where the property owner appealed an order imposing fine to the court and the city prevailed.
2. A written application shall be filed with the city clerk with a filing fee of \$50.00.
3. The written application shall state the grounds and factual basis for the fine reduction.

4. The clerk of the Board shall prepare a record of the hearing at which the fine was imposed including minutes of the proceeding and a copy of all documents that were part of the proceedings. A copy of the record shall be provided to the applicant and to the Board.
5. The applicant is responsible for making a verbatim record of the testimony and evidence of the meeting upon which any appeal is based.
6. The Board shall hold a public hearing.
7. In reviewing the amount of a fine, the Board shall consider the gravity of the violation, the actions taken by the violator to correct the violation and any previous or current violations committed by the violator.
8. The grounds for reducing a fine shall be limited to errors in the record, newly discovered evidence, misconduct, mistake, surprise, excusable neglect or substantial financial hardship. The Board shall also consider how much time has elapsed since the order imposing fine was entered.
9. The burden shall be on the applicant to prove the grounds for a fine reduction.
10. The Board shall make a decision after the hearing and enter a written order.
11. The decision of the Board to reduce or not to reduce a fine shall be final.

SECTION 4. This Resolution shall take effect immediately upon adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA, AT A MEETING HELD ON May 27, 2014.

John W. Holic, Mayor, City of Venice

ATTEST:

Lori Stelzer, MMC, City Clerk

I, LORI STELZER, MMC, City Clerk of the City of Venice, Florida, a municipal corporation in Sarasota County, Florida, do hereby certify that the foregoing is a full and complete, true and correct copy of a Resolution duly adopted by the City Council of the City of Venice, Florida, at a meeting thereof duly convened and held on May 27, 2014, a quorum being present.

WITNESS my hand and official seal of said City this 27th day of May, 2014.

(S E A L)

Lori Stelzer, MMC, City Clerk