

**RESOLUTION NO. 2023-40**

**A RESOLUTION OF THE VENICE CITY COUNCIL SUPERSEDING RESOLUTION NO. 2014-20, AND AUTHORIZING THE CITY OF VENICE SPECIAL MAGISTRATE TO REDUCE FINES IMPOSED BY THE SPECIAL MAGISTRATE OR FORMER CODE ENFORCEMENT BOARD; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, in 2020, the Venice City Council amended Chapter 2, Article VI, of the City of Venice Code of Ordinances to create a special magistrate position for handling code enforcement hearings; and

**WHEREAS**, in April of 2023, the Venice City Council adopted Ordinance No. 2023-10, dissolving the City of Venice Code Enforcement Board; and

**WHEREAS**, Section 162.09(2)(c), Florida Statutes gives a code enforcement board the authority to reduce fines; and

**WHEREAS**, the Florida Attorney General has opined that after an order imposing a fine has been recorded, only the governing body has the authority to reduce a fine; and

**WHEREAS**, through Resolution No. 2014-10, the Venice City Council authorized the Code Enforcement Board to reduce a fine previously imposed by the Code Enforcement Board and recorded as a lien if certain conditions were met; and

**WHEREAS**, due to the dissolution of the Venice Code Enforcement Board, the Venice City Council desires to delegate to the Special Magistrate the authority to reduce fines; and

**WHEREAS**, the Venice City Council wishes to provide specific criteria and procedures for the Special Magistrate to follow when 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. 2014-20 in its entirety.

**SECTION 3.** The Venice Special Magistrate is hereby authorized to reduce a fine previously imposed by order of the Special Magistrate or Code Enforcement 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 City Clerk's Office 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 Special Magistrate.
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 Special Magistrate shall hold a public hearing.
7. In reviewing the amount of a fine, the Special Magistrate 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 Special Magistrate 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 Special Magistrate shall make a decision after the hearing and enter a written order.
11. The decision of the Special Magistrate to reduce or not to reduce a fine shall be final.

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

**APPROVED AND ADOPTED AT A REGULAR MEETING OF THE VENICE CITY COUNCIL HELD ON THE 10<sup>TH</sup> DAY OF OCTOBER 2023.**

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Nick Pachota, Mayor

ATTEST:

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Kelly Michaels, MMC, City Clerk

I, Kelly Michaels, 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 the 10th day of October 2023, a quorum being present.

WITNESS my hand and official seal of said City this 10th day of October 2023.

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Kelly Michaels, MMC, City Clerk

( S E A L )

Approved as to form:

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Kelly Fernandez, City Attorney