

ORDINANCE NO. 2013-34

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF VENICE, FLORIDA, CHAPTER 86, LAND DEVELOPMENT CODE, ARTICLE IV, DEVELOPMENT REVIEW PROCEDURES, BY ADDING SECTION 86-48, VESTED RIGHTS; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE. (TEXT AMENDMENT 13-4AM)

WHEREAS, pursuant to Section 163.3174, Florida Statutes, Venice City Council has duly designated the city's planning commission as the local planning agency for the incorporated area of the city; and

WHEREAS, the City of Venice is required by Florida Statutes to update the land development code for consistency with the comprehensive plan; and

WHEREAS, the city assures equitable treatment of property owner rights including those property owners with alleged rights acquired by prior city action; and

WHEREAS, the city desires to establish a procedure for property owners to petition the city for a determination of vested rights; and

WHEREAS, the planning commission has considered this amendment to the land development code and following a duly noticed public hearing on September 3, 2013, forwarded its recommendation for approval and findings of consistency with the comprehensive plan of the city to city council as required by law; and

WHEREAS, city council has received and considered the report of the planning commission recommending approval.

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

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

SECTION 2. Chapter 86, Land Development Code, Article IV, Development Review Procedures, Section 86-48, Reserved, is amended to read as follows:

86-48. ~~Reserved.~~ Vested rights.

(a) Nothing contained in this chapter shall be construed as affecting existing vested rights. It shall be the duty and responsibility of any person alleging vested rights to affirmatively demonstrate to city council the following:

(1) A reliance in good faith upon some act or omission of the government; and

(2) A substantial change in position or the incurrence of such extensive obligations and expenses that it would be highly inequitable and unjust to destroy the rights that have been acquired.

(b) Notwithstanding anything ~~herein in this provision~~ to the contrary, any person alleging vested rights may not rely upon an erroneous act of the city that the person asserting vested rights could have discovered with reasonable diligence and effort. Further, ~~of~~ the city may deny a requested vested rights determination if the city shows that a peril to the health, safety, morals or general welfare of the residents or property in the city has arisen subsequent to the approval of any development order on the subject property.

(c) *Written petition.* The property owner shall submit written petition for a vested rights determination to the zoning administrator. The petition shall state the grounds on which the request is based, with particular reference to the requirements contained in subsection (a), above.

(d) *Public hearing required.* In making its determination city council shall hold a public hearing after full payment of an application fee as established by resolution of city council and public notice has been provided in accordance with subsection (e), below. Any party may appear personally or by agent or attorney.

(e) *Notice of public hearing.*

(1) No request for a vested rights determination may be considered by city council until such time as notice of a public hearing has been given to the citizens of the city in a newspaper of general circulation in the city, at least once, 15 days in advance of the public hearing.

(2) Notice of the time and place of the public hearing by city council shall be sent at least 15 days in advance of the hearing by mail to the owner of the subject property or his designated agent or attorney, if any, and to all owners of property within 250 feet of the property lines of the land for which vested rights determination is sought, or within 250 feet of the centerline of any right-of-way or water body adjacent to the subject property, whichever distance is greater; provided, however, that, where the applicant is the owner of land not included in the applicant's application, and such land that is not included in the application is a part of or adjoins the parcel for which the request is made, the 250-foot requirement shall be measured from the boundaries of the applicant's ownership, including the land not covered by the applicant's application up to a maximum of 600 feet. For purposes of this requirement, the names and addresses of property owners shall be deemed those appearing on the latest tax rolls of the county. Failure of a property owner to receive mail notice shall not invalidate the hearing or subsequent action related thereto. The city clerk shall execute and file a certificate that shall contain the names and addresses of those persons notified, and the date the notice was mailed. The certificate shall be signed

by the city clerk and the official seal affixed. The certificate shall be prima facie evidence of the fact that notice was mailed.

SECTION 3. All ordinances or parts of ordinances in conflict herewith shall be and the same are hereby repealed.

SECTION 4. If any part, section, subsection, or other portion of this ordinance or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, such part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this ordinance, and all applications thereof not having been declared void, unconstitutional, or invalid, shall remain in full force and effect. The city council specifically declares that no invalid or prescribed provision or application was an inducement to the enactment of this ordinance, and that it would have enacted this ordinance regardless of the invalid or prescribed provision or application.

SECTION 5. This ordinance shall take effect immediately upon approval and adoption as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA THIS 6TH DAY OF NOVEMBER, 2013.

First Reading: October 22, 2013
Final Reading: November 6, 2013
Adoption: November 6, 2013

John W. Holic, Mayor

ATTEST:

Lori Stelzer, MMC, City Clerk

Approved as to form:

David Persson, City Attorney