

Requested by: City Attorney
Prepared by: City Attorney and City Clerk's Offices

ORDINANCE NO. 2018-21

AN ORDINANCE OF THE CITY OF VENICE, FLORIDA, AMENDING CHAPTER 26, EMERGENCY MANAGEMENT, ARTICLE II, CIVIL EMERGENCIES, BY CHANGING THE NAME OF THE ARTICLE TO READ STATE OF EMERGENCY AND AMENDING PROCEDURES IN TIME OF A STATE OF EMERGENCY; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the State of Florida has various laws regarding a municipality's responsibilities in time of a state of emergency; and

WHEREAS, the City wishes to ensure that its ordinances comport with the requirements of State law.

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

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

SECTION 2. Chapter 26, Emergency Management, Article II, Civil Emergencies, is amended as follows:

ARTICLE II. ~~CIVIL EMERGENCIES~~ STATE OF EMERGENCY

Sec. 26-31. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

~~Civil~~ State of emergency means:

- (1) A riot or unlawful assembly characterized by the use of actual force or violence or any threat to use force if accompanied by immediate power to execute by three or more persons acting together without authority of law.
- (2) Any natural disaster or manmade calamity, including hurricane, flood, conflagration, cyclone, tornado, earthquake or explosion, within the city likely to cause or resulting in the death or injury of persons or the destruction of property to such an extent that extraordinary measures must be taken to protect the public health, safety and welfare.

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

Curfew means a prohibition against any person walking, running, loitering, standing or motoring upon any alley, street, highway, public property or vacant premises within the city, or some designated part or parts thereof, except persons whose official duties require them to be present during time of a state of emergency. ~~officially designated to duty with reference to a civil emergency.~~

Sec. 26-32. Violations.

Any person violating the provisions of this article or an executive order issued ~~pursuant to this article shall be guilty of a violation of this Code.~~ relative to a riot or unlawful assembly shall be guilty of a misdemeanor of the first degree, punishable as provided in § 775.082 or § 775.083, Florida Statutes. Any person violating the provisions of this article or an executive order issued relative to any other kind of state of emergency is guilty of a misdemeanor of the second degree, punishable as provided in § 775.082 or § 775.083, Florida Statutes.

Sec. 26-33. Proclamation of state of emergency.

When in the judgment of the mayor or city manager a ~~civil~~ state of emergency is deemed to exist, either shall forthwith proclaim in writing the existence of the ~~civil~~ state of emergency. Such proclamation shall invoke state assistance and emergency-related mutual-aid assistance.

Sec. 26-34. Authority to order curfew.

After proclamation of a ~~civil~~ state of emergency by the mayor or city manager, either may order a ~~general~~ curfew applicable to such geographical areas of the city, or to the city as a whole, as either deems advisable, and applicable during such hours of the day or night as either deems necessary in the interest of the public safety and welfare.

Sec. 26-35. ~~Other~~ Additional powers, authority and orders authorized.

(a) After proclamation of a ~~civil~~ state of emergency, the mayor or city manager may also in the interest of public safety and welfare make any or all of the following orders which shall be in effect during the period of said emergency in the area or areas for which the emergency has been declared:

- (1) ~~Order the closing of all retail liquor stores. The prohibition of the sale or distribution of any alcoholic beverage, with or without the payment or a consideration therefor.~~
- (2) ~~Order the closing of all establishments serving alcoholic beverages. The prohibition of the possession on any person in a public place of any portable container containing any alcoholic beverage.~~

~~(3) Order the closing of all private clubs or portions thereof wherein the consumption of alcoholic beverages are permitted.~~ The closing of places of public assemblage with designated exceptions.

~~(4) Order the discontinuance of the sale of alcoholic beverages.~~ The prohibition of the sale or other transfer of possession, with or without consideration, of gasoline or any other flammable or combustible liquid altogether or except by delivery into a tank properly affixed to an operable motor-driven vehicle, bike, scooter, boat, or airplane and necessary for the propulsion thereof.

~~(5) Order the discontinuance of selling, distributing or giving away of gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle.~~ The prohibition of the possession in a public place of any portable container containing gasoline or any other flammable or combustible liquid.

~~(6) Order the closing of gasoline stations and other establishments, the chief activity of which is the sale, distribution or dispensing of liquid flammable or combustible products.~~

~~(7) Issue such other orders as are imminently necessary for the protection of life and property.~~

(b) After proclamation of a state of emergency, the city also has the power and authority to waive the procedures and formalities otherwise required by law pertaining to:

(1) Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community.

(2) Entering into contracts.

(3) Incurring obligations.

(4) Employment of permanent and temporary workers.

(5) Utilization of volunteer workers.

(6) Rental of equipment.

(7) Acquisition and distribution, with or without compensation, of supplies, materials, and facilities.

(8) Appropriation and expenditure of public funds.

Sec. 26-36. Filing and publication of proclamation and orders.

Any state of emergency or emergency measure declared or ordered and promulgated by virtue of this article shall, as promptly as practicable, be filed in the office of the city clerk and delivered to appropriate news media for publication and ~~radio and television~~ broadcast thereof. If practicable, such state of emergency declaration or emergency measure shall be published by other means, such as posting and loudspeakers.

Sec. 26-37. Duration of state of emergency.

~~A state of emergency established under this article shall commence upon the declarations thereof by the mayor or city manager and shall remain in effect until rescinded by the mayor or city manager.~~

The duration of a state of emergency is limited to seven (7) days and may be extended, as necessary, in seven (7) day increments. However, a state of emergency related to a riot or unlawful assembly shall commence upon the declaration thereof and shall terminate at the end of a period of 72 consecutive hours thereafter unless, prior to the end of such 72-hour period, the mayor or city manager shall have terminated such state of emergency. Any extension of this 72-hour time limit must be accomplished by request from the mayor or city manager and the concurrence of the city council by duly enacted ordinance or resolution in regular or special session.

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 28TH DAY OF AUGUST, 2018.

First Reading: July 10, 2018
Final Reading: August 28, 2018
Adoption: August 28, 2018

John W. Holic, Mayor

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 an Ordinance duly adopted by the Venice City Council at a meeting thereof duly convened and held on the 28th day of August 2018 a quorum being present.

WITNESS my hand and the official seal of said City this 28th day of August 2018.

Lori Stelzer, MMC, City Clerk

(SEAL)

Approved as to form:

City Attorney

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