

**ORDINANCE NO. 2018-40**

**AN ORDINANCE OF THE CITY OF VENICE, FLORIDA, AMENDING CHAPTER 62, STREETS, SIDEWALKS AND OTHER PUBLIC PLACES, ARTICLE V, PUBLIC RIGHT-OF-WAY AND PUBLIC PROPERTY PERMITS, SECTION 62-121, ACTIVITIES REQUIRING PERMIT; SECTION 62-123, APPLICATION; SECTION 62-124, ISSUANCE, CONDITIONS, TRANSFER; SECTION 62-126, REVOCATION; TO ADD ADDITIONAL REGULATIONS; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, the care, maintenance, oversight and operation of activities on public streets and sidewalks are among the responsibilities and within the authority of the City of Venice; and

**WHEREAS**, the city is charged with establishing and exercising regulations governing the use of public right-of-way (ROW) that protect the public interest and contribute to a safe and healthy environment.

**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 62, Streets, Sidewalks and Other Public Places, Article V, Public Right-of-Way and Public Property Permits is amended as follows:

**ARTICLE V. PUBLIC RIGHT-OF-WAY AND PUBLIC PROPERTY PERMITS**

**Sec. 62-121. Activities requiring permit.**

~~No person shall conduct any of~~ The following activities upon any public right-of-way or public property within the city ~~without first obtaining~~ require a permit in accordance with this article:

- (1) Any parade, march, procession or special event.
- (2) Any fair, show, festival, exhibition or special event.
- (3) The display and/or sale of any merchandise.
- (4) The display of any sign permitted in the zoning regulations.
- (5) ~~Vehicles for hire, excluding taxicabs.~~ Placement of tables, chairs or other items for food and/or beverage services.
- (6) Entertainment.

**Sec. 62-122. Exemptions.**

The permit provisions of this article shall not apply to the following activities:

- (1) Garage sales and open house signs in compliance with the standards contained in Section 86-401.
- (2) Political signs.
- (3) Newspaper vending machines.

**Sec. 62-123. Application.**

(a) ~~Each person wishing~~ To obtain a permit to utilize the public right-of-way or public property, an shall make application shall be submitted to the city manager's office or his designee. The application shall contain the following information:

- (1) The name, address and telephone number of the applicant.
- (2) A detailed description of the activity for which the permit is sought.
- (3) A detailed description of the public right-of-way or public property sought to be utilized.
- (4) The length of time for which the permit is sought.
- (5) The hours during which the activity will occur.
- (6) All other information which the city deems relevant for consideration of the application.
- (7) For any use that extends beyond the length of the public right-of-way or public property immediately adjacent to (measured parallel to front lot line) the subject property, the written consent of the adjacent, affected property owner.

(b) The completed application shall be submitted to the city manager or his designee at least ten days prior to commencement of the proposed activity. An application fee of \$25.00 shall accompany all applications, ~~unless the activity is a special event.~~ Any applicant that is a not-for-profit organization may request a waiver of the application fee from city council.

**Sec. 62-124. Issuance; conditions; transfer.**

(a) Upon submission of a completed application and payment of the application fee and any other charges for use of public right-of-ways and public property as provided in section 62-123, the city manager or his designee may either issue, issue with conditions, or deny the permit. The city manager or his designee shall consider the following factors in deciding whether or not to issue the permit:

- (1) The extent to which the proposed activity will disrupt normal municipal functions.
- (2) The extent to which the proposed activity will impact the public health, safety and welfare.
- (3) The extent to which the proposed activity is compatible with the surrounding area.
- (4) The extent to which the proposed activity impacts previously permitted activity.

~~(b) A certificate of zoning compliance shall be required for all uses on public property other than a right-of-way.~~

(b) The city manager or his designee may impose conditions on the permit which he deems necessary in light of the factors enumerated in this section. Any permit issued in accordance with this article shall be nontransferable, must be renewed annually, and shall define and

illustrate all objects to be placed in the permitted area to include size, dimension and location of such items.

- (c) Permits shall be displayed so they are clearly visible from the public right-of-way or public property at all times.
- (d) The permittee is responsible for general maintenance of the permitted area and any permittees that provide food and/or beverage service shall power wash the permitted area a minimum of three times per year.
- (e) Permittees shall at all times maintain a clear unobstructed pedestrian pathway of 48 inches wide, or a width to meet the current Americans with Disabilities Act (ADA) pedestrian pathway standard, whichever is greater. The city shall mark or otherwise delineate the pedestrian pathway. It is the responsibility of the permittee to ensure the pathway remains free of impairment or obstruction including chairs, tables and other objects.
- (f) The permittee shall maintain an unobstructed clearing of a minimum of 24 inches from the face of curb. The city shall mark or otherwise delineate the curb clearing.
- (g) If the permittee installs or utilizes a canopy or other covering that protrudes over the public right-of-way, the permittee shall provide for lighting in the affected area to ensure illumination adequate for safe pedestrian passage.
- (h) A permitted use may extend to the end (as measured parallel to the front lot line) of one adjacent property, but may not then extend to the end of any other adjacent property.

**Sec. 62-125. Prohibitions.**

The use of misters, misting apparatuses, and similar devices capable of emitting a spray, propellant, liquid or other substance onto a public street, public sidewalk, or other public right-of-way is prohibited.

**Sec. 62-126. Schedule of fees and charges.**

The city may establish a schedule of fees and charges for the use of public right-of-ways and public property. The schedule of fees and charges may be adopted and changed by resolution of city council.

**Sec. 62-125~~7~~. Liability insurance; identification of city.**

- (a) No permit shall be issued in accordance with this article until the applicant has provided the city with proof of liability insurance with coverage limits deemed adequate by the risk manager. The city manager ~~may~~ or his designee shall require that the city be named as an additional insured upon any such policy of insurance.

- (b) In consideration for the issuance of a permit in accordance with this article, the applicant shall indemnify and hold harmless the city and its officers, agents and employees from any liability or loss sustained as a result of claims or demands arising from any permit issued in accordance with this article or any activity conducted in connection therewith.

**Sec. 62-1268. ~~Revocation~~ Penalties.**

~~The city manager may revoke any permit issued in accordance with this article for any one of the following reasons:~~

- ~~(1) Fraud, misrepresentation or false statements contained in the permit application.~~
- ~~(2) Exceeding the scope of activity for which the permit was issued.~~
- ~~(3) Violation of any provision of this Code.~~
- ~~(4) Other just cause.~~

The city may enforce this article through the city code enforcement board in addition to any county or circuit court proceedings. In enforcing this article, the code enforcement board shall have the authority to levy such fines and penalties as are provided in chapter 2, article VI, division 2, relating to the code enforcement board.

**SECTION 2.** Effective Date. This Ordinance shall take effect immediately upon its adoption, as required by law.

**PASSED BY THE COUNCIL OF THE CITY OF VENICE, FLORIDA, THIS 27TH DAY OF NOVEMBER, 2018.**

First Reading: November 13, 2018

Final Reading: November 27, 2018

ADOPTION: November 27, 2018

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JOHN W. HOLIC, MAYOR

ATTEST:

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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 27th day of November, 2018, a quorum being present.

WITNESS my hand and the official seal of said City this 27th day of November, 2018.

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Lori Stelzer, MMC, City Clerk

Approved as to form:

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City Attorney