

ORDINANCE NO. 2019-02

AN ORDINANCE OF THE CITY OF VENICE, FLORIDA, AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE II, MAYOR AND COUNCIL, DIVISION 2, MEETINGS, SUBDIVISION I, IN GENERAL, SECTION 2-53, ADDRESSING COUNCIL, TO ESTABLISH ADDITIONAL PROCEDURES FOR QUASI-JUDICIAL HEARINGS; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, city council desires to establish additional quasi-judicial procedures to promote an efficient hearing that continues to ensure basic due process is met; and

WHEREAS, city council finds that establishing additional reasonable standards for quasi-judicial proceedings before council is in the best interest of effective city government.

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 2, Administration, Article II, Mayor and Council, Division 2, Meetings, Subdivision I, In General, Section 2-53, Addressing council, is hereby amended as follows:

Sec. 2-53. - Addressing council.

- (a) No change.
- (b) Quasi-judicial hearings shall be conducted in substantially the following manner:
 - (1) All speakers shall sign and submit a request to speak card, which shall contain an oath or affirmation that the testimony to be given will be truthful.
 - (2) Affected party. City council may allow a person or entity to intervene as an affected party if they have an interest in the application which is different than the public at large. At least three business days prior to the hearing, the person or entity shall complete an application for affected party status and submit it to the city clerk's office.
 - (3) Designated representative. Members of the public, an association, corporation, legal entity, or group who wish to communicate the same message or provide the same competent substantial evidence to the city may choose a designated representative to

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Speak on the members' behalf, rather than individual members of the group speaking. Designated representatives shall submit a written list of the members they represent and shall verify that the representative speaks on behalf of the members. Such verification may be by testimony under oath or by notarization. Members of the public on the written list shall cede their time for public comment to the designated representative, who shall be granted additional time to speak based on the number of members represented. Designated representatives shall be considered participants and not an affected party.

(4) The order of the hearing should generally be as follows:

- a.~~(2)~~ The mayor, or designee, shall open the public hearing and call upon the city clerk to read the title of the proposal before council.
- b.~~(3)~~ The mayor and councilmembers shall disclose any conflicts of interest and ex parte communications.
- c.~~(4)~~ City attorney shall raise any preliminary matters including whether there are any requests for affected party status.
- d.~~(5)~~ City council decides on any preliminary matters including affected party status.
- e.~~(6)~~ Staff makes a presentation, if requested.
- f.~~(7)~~ After the staff presentation, the applicant may make a presentation.
- g.~~(8)~~ Any affected party may make a presentation.
- h.~~(9)~~ Cross examination of witnesses may occur after each presentation.
- i.~~(10)~~ City council shall hear any public comment whereupon the public comment portion of the public hearing shall be closed.
- j.~~(11)~~ Staff may offer rebuttal or a ~~shall make any response and~~ summary.
- k.~~(12)~~ Any affected party may offer rebuttal or a summary.
- l.~~(13)~~ The applicant may offer rebuttal or a summary.

(~~5~~14) During the course of the hearing, councilmembers may ask questions through the mayor, or designee, of the person testifying. The timing of these questions shall be at the sound discretion of the mayor, or designee, in consultation with the presenter in order to facilitate and achieve an orderly public hearing process. After rebuttal, the mayor, or designee, shall close the public hearing but may allow staff, the applicant or any affected party to respond to specific questions from councilmembers.

(~~6~~15) Staff shall submit written material in accordance with the requirements of this Code. Any written material the applicant and any affected party wishes to have considered by city council should be submitted at least three business days prior to the hearing. The hearing may be continued to the next available agenda at the discretion of city council if any substantive written material is submitted thereafter. All other persons who wish to submit written material are encouraged to provide it to the city clerk as far in advance of the hearing as possible (at least five

~~business days is recommended~~). All material submitted shall be made part of the record except for material specifically excluded by law.

~~(716)~~ Staff, the applicant and any affected party shall each be entitled to 30 minutes for presentation. All other persons shall be entitled to five minutes. Rebuttal shall be limited to 15 minutes ~~except when there are multiple affected parties and additional time is requested by the applicant. In order to ensure that due process is afforded, time limits may be extended by vote of the majority of councilmembers present. All time limits shall be enforced by the city clerk and shall not include the time for council questions or presenter's responses.~~

(8) Statements of counsel, or any non-attorney representative, shall only be considered as argument and not testimony unless counsel or the representative indicates at the start of their presentation that they are a fact witness, is sworn in, and the testimony is based on personal knowledge of the matters which are the subject of the statements.

(9) All evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a court of law in Florida. Irrelevant, immaterial, harassing, defamatory or unduly repetitive evidence shall be excluded. Hearsay evidence may be used for the purposes of supplementing or explaining other evidence, but it shall not be sufficient by itself to support a finding unless it would be admissible over objection in a civil action.

~~(107)~~ Any person making personal, impertinent or slanderous remarks, or who shall become boisterous or disorderly, or who speaks longer than the allotted time without permission, or who speaks vulgarities, may be requested to leave the meeting and may be barred from further presentation before the council at that meeting by the mayor, or designee.

~~(118)~~ City council shall vote on the matter within 30 days of closing the public hearing unless the mayor, or designee, announces at the close of the public hearing that a vote will be taken on a specific date beyond the 30-day period.

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 8TH DAY OF JANUARY, 2019.

First Reading: December 11, 2018

Final Reading: January 8, 2019

Adoption: January 8, 2019

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 8th day of January 2019 a quorum being present.

WITNESS my hand and the official seal of said City this 8th day of January 2019.

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.