

## **ORDINANCE NO. 2020-11**

**AN ORDINANCE OF THE CITY OF VENICE, FLORIDA, AMENDING THE CODE OF ORDINANCES, CHAPTER 46, PARKS AND RECREATION, BY CREATING ARTICLE V, CAMPING AND STORAGE OF PERSONAL PROPERTY ON PUBLIC PROPERTY; PROVIDING FOR DEFINITIONS; PROVIDING FOR THE RESTRICTION OF CAMPING ON CITY OWNED PROPERTY AND RIGHTS-OF-WAY; PROVIDING FOR THE RESTRICTION OF STORAGE OF PERSONAL PROPERTY ON PUBLIC PROPERTY; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE**

WHEREAS, the 2019 Point-in-Time Survey conducted by Suncoast Partnership to End Homelessness, a one day count of individuals without homes, identified 594 homeless individuals within Sarasota County; and

WHEREAS, the city manages and protects public lands and facilities such as parks, public buildings and transportation centers to ensure public access, health, and welfare so all citizens and visitors have the opportunity to use lands, open spaces and buildings for their intended purposes including recreation, exchange of information, operation of government, and conveyance of persons, respectively; and

WHEREAS, unpermitted camping on public lands and facilities such as parks, public buildings, and transportation facilities interferes with public access and their intended public purpose; and

WHEREAS, unpermitted camping on public lands and facilities may result in trespassing, unattended fires, public disturbances, public intoxication, public urination or defecation, litter, or other public health and safety problems; and

WHEREAS, unpermitted camping results in incompatible use of property, resulting in diminished property values; and

WHEREAS, unpermitted camping on public streets, sidewalks, and walkways interferes with their primary purposes of pedestrian and vehicle use; and

WHEREAS, it is the intent of the city to protect public lands and buildings for their intended purposes and to ensure a shelter, free of restrictions and available 24 hours a day, seven days per week for individuals without homes to conduct necessary life-sustaining activities; and

WHEREAS, the storage of personal property on public property likewise interferes with its intended uses; and

WHEREAS, the plight of individuals without homes who must perform certain life-sustaining activities, such as sleeping outdoors due to a lack of available space in an available shelter, storage of personal property outdoors, or public urination or defecation, should not be resolved

through criminal sanction, but rather by encouraging the individual without a home to seek temporary lodging and aid from social services at an available shelter.

**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 46, Parks and Recreation, is hereby amended by the addition of Article V, Camping and Storage of Personal Property on Public Property, as follows:

**ARTICLE V. CAMPING AND STORAGE OF PERSONAL PROPERTY ON PUBLIC PROPERTY**

**Sec. 46-201. Definitions.**

The following definitions shall apply to the interpretation and enforcement of this Article:

*Abandoned property* shall have the same meaning as defined in F.S. ch. 705.

*Available shelter* means a private or public shelter for an individual without a home, with a bed for sleeping and restrooms provided at no cost to the individual without a home, within the territorial boundaries of Sarasota County, that treats individuals without a homes with dignity and respect, accepts those who may be impaired by the use of drugs and/or alcohol, imposes no religious requirements, does not impose involuntary substance abuse or mental health treatment, allows the storage of a reasonable amount of personal property, and is available 24 hours a day, seven days a week, except for routine maintenance and cleaning.

*Beach* means any sandy or rocky area located waterward or seaward of the vegetation line or a bluff. Where a functioning shore-parallel seawall or rock revetment exists, the beach shall constitute the sandy or rocky area located seaward or waterward thereof.

*Camping* means lodging out-of-doors, which must include demonstration of at least one of the following elements:

- (1) The laying down of bedding, such as a blanket, sleeping bag, bed roll, newspapers, cardboard, or similar material, for sleeping purposes; or
- (2) The erection, use, or occupation of any tent, hut, lean-to, shack, temporary shelter, hammock, or the like, for sleeping purposes

*Code enforcement officer* means any employee or agent of the city designated to enforce the codes and ordinances enacted by the city.

*Individual without a home* means a person that lacks a fixed, regular, and adequate residence or has a primary residency that is: (a) a supervised publicly or privately operated shelter designed to provide temporary living accommodations; (b) an institution that provides a

temporary residence for individuals intended to be institutionalized; or (c) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. The term does not include any person imprisoned or otherwise detained pursuant to general law.

Law enforcement officer means a city police officer or any other sworn law enforcement officer certified pursuant to F.S. ch. 943.

Lost property shall have the same meaning as provided in F.S. ch. 705.

Park means public beach parks, public natural areas, public recreation areas, other city-owned public lands maintained for the protection and preservation of their natural features or historic significance, including the facilities and amenities located within.

Permit means written authorization issued by the city to use city right-of-way or property in accordance with Chapter 62, Article V of the city code.

Public property means property owned, leased, operated or managed by the city, including but not limited to structures, conveyances, city park, trails, playgrounds, public rights-of-way, docks, pavilions, parking lots, vacant lots, fenced land, posted land, easements, and other property generally used by the public.

Public rights-of-way means land in which the state, the Florida Department of Transportation, a county, or other public entity owns or has an easement associated with any road, including the road surface and sidewalk.

Public beach park means any public parkland owned, leased, or operated by the city that is contiguous to a Beach or separated by a roadway from a beach that is located along the Gulf of Mexico, any bay, or Venice Inlet, including parking areas associated with the public beach park.

Public natural area means any property owned, leased, or operated by the city for public use and preservation of its natural resources.

Public recreation area means any property owned, leased, or operated by the city and used for a public park including, but not limited to, parking areas and public accesses associated with the public recreation and public natural areas.

Public restroom means a restroom which is dedicated to public use where any person may avail him or herself of a toilet or urinal and sink without requiring the permission of any other person or business.

Road means the road surface, medians, travel lanes, turn lanes and all ways open to travel by operators of motorized vehicles within the city. The definition excludes private roads and roads that are not open to motor vehicle travel, and sidewalks open for pedestrian travel.

Road surface means the flat paved or concrete area of the road intended for vehicular use, including any bicycle or breakdown lanes, gutters, and any curb to the top of the curb abutting the paved or concrete area.

Sidewalk means that portion of the rights-of-way between the road surface and the adjacent property lines intended for use by pedestrians. A sidewalk may be paved or unpaved.

Store or storage means any action to place, leave, park, or set an item upon public property, public right-of-way, or private property for a period of time in excess of 24 hours.

#### **Sec. 46-202. Camping Prohibited; Exceptions.**

(a) Prohibition of camping. It shall be unlawful and a violation of the Code for any person to knowingly camp, except as otherwise provided in this Code.

(b) Additional elements of the offense. Prior to a charge of unlawful camping, a law enforcement officer must also:

(1) Observe one or more of the following:

a. Numerous items of personal belongings in and around the bedding, tent, hut, lean-to, shack, temporary shelter, hammock or the like;

b. Evidence of existing or past cooking activities;

c. Evidence of an existing or past fires;

d. Evidence of digging or earth breaking activities;

e. Evidence of public urination or defecation outside of a toilet or urinal connected to a septic system, central sewer system, or other sanitary disposal system; or

f. The person is asleep.

(2) Afford the person the opportunity to remove any bedding, tent, hut, lean-to, shack, temporary shelter, hammock, or the like, without a return to camping;

(3) Find that available shelter exists;

(4) Provide the person details of the available shelter in writing, including the following:

a. The available shelter may be used at no cost;

b. Use of the available shelter does not require sobriety;

c. Use of the available shelter does not include any religious imposition;

d. Use of the available shelter does not require mental or substance abuse treatment;

e. The available shelter provides a place to store a reasonable amount of personal property; and

f. The available shelter may be used 24 hours a day, 7 days a week, except during times of routine maintenance and cleaning.

(5) Afford the person the opportunity for free transport to available shelter; and

- (6) Hear or observe the person's refusal of the offer for free transport to available shelter.
- (d) Exceptions. The prohibition in subsection (a) of this section shall not apply under any of the following circumstances:
  - (1) To any person using any city park during posted hours of operation and in accordance with any posted rules.
  - (2) To any camping authorized by the city.
  - (3) Any conduct which is in conformity with the conditions of any permit pursuant to this Code.
  - (4) To any person camping with the permission of the City Manager.
  - (5) To any person who has an active trespass warning issued within the past year associated with the available shelter.

#### **Sec. 46-203. Storage of Personal Property.**

- (a) Storage of personal property. It shall be unlawful for any person to knowingly store personal property in or on public property or public right-of-way without the permission of the city manager or his designee.
- (b) Removal of personal property. A person shall not be charged with a violation of this section if the person removes or causes to be removed all prohibited items from any public property, public right-of-way, or private property immediately after warning and does not return any personal property to any public property or public right-of-way.
- (c) Destruction of personal property of an individual without a home. With the exception of any personal property that poses a health hazard to officers or members of the public, in no event shall a law enforcement officer or code enforcement officer destroy any personal property known to belong to an individual without a home, or readily recognizable as property belonging to an individual without a home (i.e., bedding or clothing or other belongings organized or packaged together in a way indicating it has not been abandoned) except as specified in this section.
- (d) Handling personal property of an individual without a home. A law enforcement officer, code enforcement officer, or outreach worker shall make a reasonable attempt to ascertain the rightful owner of the personal property stored in violation of subsection (a) and request its removal. When collecting and disposing of the personal property, whether found on public or private property, the procedure detailed in F.S. ch. 705, shall be followed. All abandoned property may be disposed of consistent with F.S. ch. 705, Florida Statutes. All lost property shall be moved to a secure indoor or outdoor location until claimed or otherwise disposed of through the procedure detailed in F.S. ch. 705, Florida Statutes.
- (e) Transport of personal property to an available shelter. A law enforcement officer who offers free transport to an individual without a home to an available shelter shall allow that individual the opportunity to take a reasonable amount of personal property with them to the available shelter. For any personal property which cannot be reasonably transported to the available shelter, a law enforcement officer shall contact a code

enforcement officer or outreach worker to take possession of the remaining personal property for disposition consistent with F.S. ch. 705.

- (f) *Imminent threat.* In the event a law enforcement officer, code enforcement officer, or outreach worker determines that any personal property located on public property, public right-of-way, or private property constitutes an imminent threat to the health, safety, and welfare of the public, the officer may immediately remove such property. Examples of an imminent threat include a fire hazard, an explosive hazard, or an infestation of vermin such as rodents, lice, cockroaches, bedbugs or fleas. The procedure detailed in F.S. ch. 705 shall be followed. In the interest of security and safety, permanent signs warning of the immediate removal of personal property from public property may be posted around public buildings which are likely targets by terrorists or dissidents.

#### **Sec. 46-204. Enforcement and Penalties.**

- (a) *Enforcement by law enforcement officers.* This article shall be enforced by a law enforcement officer. Violations of this section shall be prosecuted in the same manner misdemeanors are prosecuted pursuant to F.S. § 125.69, punishable by a fine not to exceed \$500.00 or by imprisonment in the county jail not to exceed 60 days or by both such fine and imprisonment. Each day of continued violation or noncompliance shall be considered as a separate offense. A law enforcement officer shall secure all personal items of an arrestee in a manner consistent with Section 46-203 of this Code. After the personal items are secure, a law enforcement officer may contact a code enforcement officer to take possession of the items for storage in accord with the requirements of F.S. ch. 705.
- (b) *Civil remedies.* Nothing in this article shall prevent or restrict the city from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any violation or noncompliance, including, but not limited to, an equitable action for injunctive relief or an action at law for damages.
- (c) *Code enforcement.* Nothing in this article shall be construed to prohibit the city from prosecuting any violation of this section pursuant to the procedures set forth in F.S. ch. 162, and Chapter 2, Article VI, of this Code.
- (d) *Independence of remedies.* All remedies and penalties provided for in this section shall be cumulative and independently available to the city and the city shall be authorized to pursue any and all remedies to the full extent allowed by law.

**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 COUNCIL OF THE CITY OF VENICE, FLORIDA, THIS 28TH DAY OF APRIL, 2020.**

First Reading: April 14, 2020

Final Reading: April 28, 2020

ADOPTION: April 28, 2020

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Ron Feinsod, 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 28th day of April, 2020, a quorum being present.

WITNESS my hand and the official seal of said City this 28th day of April, 2020.

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Lori Stelzer, MMC, City Clerk

Approved as to form:

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City Attorney