Prepared by: Engineering Department and City Clerk

ORDINANCE NO. 2010-10

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF VENICE, FLORIDA CHAPTER 106, NATURAL RESOURCES, ARTICLE II, BEACH AREA OUTDOOR LIGHTING RESTRICTIONS FOR PROTECTION OF SEA TURTLES, PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Florida, as a peninsular state, has a delicately balanced ecological system of aquatic life, wildlife, coral reefs, beaches, wetlands, bays, estuaries and marshes; and

WHEREAS, preservation and conservation of Florida's natural resources are critical to its environmental and economic future; and

WHEREAS, the marine turtle population has been declining and sea turtles are an endangered species; and

WHEREAS, Venice has experienced a large number of disorientations and false crawls of marine turtles and their hatchlings; and

WHEREAS, Venice desires to protect threatened and endangered marine turtles that nest along the beaches of Venice, by safeguarding nesting female and hatchling marine turtles from the adverse effects of artificial light and by protecting adult and hatchling marine turtles from injury or harassment by prohibiting activities disruptive to marine turtles; and

WHEREAS, the Environmental Task Force has held a public workshop on the ordinance and has considered the information received at said public workshop and are recommending adoption of the ordinance; and

WHEREAS, City council has received and considered the report of the Environmental Task Force recommending approval.

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

SECTION 1. Chapter 106, Natural Resources, Article II, Beach Area Outdoor Lighting Restrictions for Protection of Sea Turtles, is amended as follows.

CHAPTER 106
NATURAL RESOURCES
ARTICLE II. ~~BEACH AREA OUTDOOR LIGHTING RESTRICTIONS FOR PROTECTION OF SEA TURTLES~~

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

MARINE TURTLE PROTECTION

Sec. 106-31. 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:

Artificial light or "artificial lighting" means any source of light emanating from a manmade device. ~~including but not limited to incandescent mercury vapor, metal halide or sodium lamps, flashlights, spotlights, streetlights, vehicular lights and construction or security lights~~.

Beach means ~~that~~ the area ~~whether public or private, lying between the low-water line of the Gulf of Mexico and the inshore grass line, boulders or seawall.~~ of unconsolidated material that is contiguous with the waters of the Gulf of Mexico and extends landward from the mean low water line to the place where there is a marked change in material or physiographic form, or to the line of permanent vegetation.

Beach access point means any path through or over the dune used by the general public or private property owners for the purpose of gaining access to the beach.

Beachfront properties with seawalls means beachfront properties having protective seawalls and protective boulders (on the gulf side of seawalls) and not more than five feet of sandy beach.

Coastal construction means the carrying out of any activity on the beach or within direct line-of-sight of the beach to modify or improve site conditions including, but not limited to, building, clearing, filling, excavation, or the presence of equipment or materials.

Cumulatively illuminated means illuminated by multiple artificial light sources that as a group illuminate any portion of the beach.

~~*Diffused light* means low-intensity light which spreads on seawalls and boulder areas only.~~

Directly illuminated means illuminated as a result of a glowing element(s), lamp(s), globe(s), or reflector(s) of an artificial light source which is visible from the beach.

Dune means a mound or ridge of loose sediments, usually sand-sized, lying landward of the beach and deposited by a natural or artificial mechanism.

Existing development means a building or structure for which a building permit has been issued prior to the adoption of this article.

FDEP means the Florida Department of Environmental Protection or successor agency.

Floodlight means a reflector-type light fixture which is free standing or attached directly to a building or other structure and which is unshielded.

Frontal dune means the first natural or manmade mound or bluff of sand which is located landward of the beach and which has sufficient ground vegetation, height, continuity, and configuration to offer protective value.

FWC means the Florida Fish and Wildlife Conservation Commission or successor agency.

FWS means the United States Fish and Wildlife Service or successor agency.

Ground level barrier means any vegetation, natural feature or artificial structure rising from the ground which prevents beachfront lighting from shining directly onto the beach or dunes.

Hatchling means any species of marine turtle, within or outside of a nest, that has recently hatched from an egg.

Illuminated means exposed to light from an artificial light source that does not meet the approved specification of this article in a way that produces brightness visible from the beach.

Indirectly illuminated means illuminated as a result of the glowing element(s), lamp(s), globe(s) or reflector(s) of an artificial light source which is not visible from the beach.

Inspector means a designated city employee or an inspector that has been designated through an agreement with another entity to perform inspections required pursuant to this article.

Light emitting diode (LED) means miniature lamps that emit pure red or amber light that do not vary in color over the life of the lamp. These lamps may be used in multiples to form strips of small lamps within a light fixture.

Light fixture means the structural mechanism which, or within which, the point source of light is attached.

Low-pressure sodium (LPS) luminaire means an electric discharge lamp, containing sodium, neon and argon that when illuminated appears amber-yellow.

Low-profile luminaire means a light fixture set on a base which raises the source of the light no higher than 48 inches off the ground and designed in such a way that light is directed downward from a hooded light source.

Low wattage means no greater than 25 watt incandescence.

Luminaire means a complete lighting system, including a lamp or lamps and a fixture.

Marine turtle means any marine-dwelling reptile of the families Cheloniidae or Dermochelyidae found in Florida waters or using the beach as nesting habitat, including the species: *Caretta caretta* (loggerhead), *Chelonia mydas* (green), *Dermochelys coriacea* (leatherback), *Eretmochelys imbricata*

(hawksbill), and *Lepidochelys kempii* (Kemp's ridley). For purposes of this article, marine turtle is synonymous with sea turtle.

Motorized vehicle means, but is not limited to, any self-propelled, wheeled, tracked or belted conveyance.

Nest means an area where marine turtle eggs have been naturally deposited or subsequently relocated.

Nesting season means the period from May 1 through October 31 of each year.

New development includes new construction and remodeling of existing structures when such remodeling includes the alteration of exterior lighting or the repair or replacement of any glass or glazing.

Nighttime means the locally effective time period between sunset and sunrise.

Outdoor lighting means the nighttime illumination of an outside area or object by any fixed luminaire. Vehicle lights and flashlights are not included in this definition.

Person means any individual, firm, association, joint venture, partnership, estate, trust, syndicate, fiduciary, corporation and all other groups or combinations.

Point source of light means the actual light source such as the bulb, fluorescent tube, lamp, etc., from which light emanates.

Pole lighting means a light fixture set on a base or pole which raises the source of the light higher than 48 inches off the ground.

Shield means a non-reflective covering, canopy or other such device fitted over, around and extended below a light source preventing light from illuminating the beach.

Shielded means fitted with a non-reflective opaque hood, or other covering or device, which prevents the light fixture and luminaire from producing direct or indirect illumination visible from the beach.

Temporary structure means any manmade structure or object with a location or arrangement that is temporary or transient in nature.

Tinted or filmed glass means any glass treated to achieve an industry-approved, inside-to-outside light transmittance value of 45 percent or less. Such transmittance is limited to the visible spectrum (400 to 700 nanometers) and is measured as the percentage of light that is transmitted through the glass.

True red neon means a tubular lamp containing neon gas that emits pure red light. True red neon does not include tubular fluorescent lamps, which may appear as various colors.

Visible from the beach means visible to a person standing on the beach.

Sec. 106-32. Purpose of article.

The purpose of this article is to protect ~~the~~ threatened and endangered ~~sea~~ marine turtles ~~which~~ that nest along the beaches of the city, by safeguarding the nesting female and hatchling~~s~~ ~~from sources of~~ marine turtles from the adverse effects of artificial light and from injury or harassment by prohibiting activities disruptive to marine turtles.

Sec. 106-3~~2~~ 3. ~~Penalty; jurisdiction of code enforcement board~~. Civil and administrative enforcement powers; criminal penalties.

~~Any private property owner who has violated or who has been cited for a violation of any of the provisions of this article shall be punished in accordance with all provisions regarding the enforcement of ordinances contained in this Code, including but not limited to referring the violation to the code enforcement board~~.

(a) The city shall have the power to enforce the provisions of this article by administrative proceedings, including code enforcement proceedings in accordance with chapter 2 article VI of the Code of Ordinances, City of Venice, Florida, and by equitable or legal judicial proceedings. Each day of any such violation shall constitute a separate and distinct offense.

(b) A violation of any of the provisions of this article shall be punishable as a misdemeanor of the second degree and subject to the penalty provided by Florida Statute 775.082 and the fine provided by Florida Statute 775.083. Each day of any such violation shall constitute a separate and distinct offense.

(c) No permit shall be issued by the city for any property which is in violation of this article or for which a fine imposed in accordance with this article remains unpaid.

Sec. 106-34. Lighting standards for ~~N~~ new development

~~It is the policy of the city that no artificial light illuminate any area of the incorporated beaches of the city. Therefore, building and electrical plans for construction of single-family or multifamily dwellings, commercial structures or other structures, including electrical plans associated with parking lots, dune walkovers or other outdoor lighting for real property, if lighting associated with such construction or development can be seen from the beach, shall be in compliance with the following:~~

~~(1) Beach-aimed floodlights are prohibited. Wall-mounted light fixtures shall be fitted with hoods so that no light illuminates the beach.~~

~~(2) Pole lighting shall be shielded in such a way that light will be contained within an area of three to 73 degrees on the land side of the pole. Outdoor lighting shall be held to the~~

~~minimum necessary for security and convenience.~~

~~(3) Low-profile luminaries shall be used in parking lots, and such lighting shall be positioned so that no light illuminates the beach.~~

~~(4) Dune crosswalks, if lighted, shall utilize low-profile shielded luminaires.~~

~~(5) Temporary security lights at construction sites shall not be mounted more than 15 feet above the ground. Illumination from the lights shall not spread beyond the boundary of the property being developed, and in no case shall these lights illuminate the beach.~~

In order to provide the highest level of protection for nesting marine turtles and their hatchlings, the following standards are adopted for artificial light sources on all new coastal construction:

(1) Exterior artificial light fixtures shall be designed and positioned so that:

(a) The point source of light or any reflective surface of the light fixture is not directly visible from the beach.

(b) Areas seaward of the frontal dune are not directly, indirectly or cumulatively illuminated.

(2) Exterior artificial light fixtures within direct line-of-sight of the beach are considered appropriately designed if:

(a) Completely shielded downlight-only fixtures or recessed fixtures having low wattage bulbs and non-reflective interior surfaces are used. These fixtures must have LPS, LED or true red neon light sources. Other fixtures that have appropriate shields, louvers, or cut-off features may also be used if they are in compliance with paragraphs 1(a) and (b), above or approved by FWC; and

(b) All fixtures are mounted as low in elevation as possible through use of low-mounted wall fixtures, step lights, low bollards, low-profile luminaires and ground-level fixtures.

(3) Floodlights, up-lights, or spotlights for decorative, recreational and accent purposes that are directly or indirectly visible from the beach, or which directly, indirectly or cumulatively illuminate the beach, are prohibited.

(4) Exterior lights used expressly for safety or security purposes shall be limited to the minimum number and configuration required to achieve their functional role(s). The use of motion detector switches that keep lights off except when approached and that switch lights on for the minimum duration possible are required for any exterior lights used expressly for safety or security. Lights incorporating motion detector switches shall be downward directed, shielded and utilize low wattage LPS, LED or true red neon light sources.

(5) Dune crosswalks may be lighted. If lighted, dune crosswalks shall utilize low-profile shielded luminaires directed and positioned so that the point source of light or any reflective surface of the light fixture is not directly visible from the beach. All light fixtures on dune crosswalks must utilize low wattage LPS, LED or true red neon light sources. Dune crosswalk lighting seaward of the frontal dune, or on beach areas where the frontal dune no longer exists, shall be turned off during nesting season.

(6) Parking areas within direct line-of-sight of the beach shall be designed with the minimum lighting necessary to provide safety and security and lighting shall be:

(a) Downward directed, shielded and utilize low wattage LPS, LED or true red neon light sources; and

(b) Utilize low-profile luminaires and bollards to the maximum extent possible. Any pole lights determined to be necessary to provide safety and security shall be fully shielded and installed at a maximum height of 15 feet in travel ways and 12 feet in other areas; or

(c) Included in a lighting plan approved by FWC to minimize the impacts to nesting marine turtles.

(7) Parking areas and roadways, including any paved or unpaved areas upon which motorized vehicles will park or operate, shall be designed and located to prevent vehicular headlights from directly or indirectly illuminating the beach.

(8) Vehicular lighting, parking area lighting, and roadway lighting shall be cut-off, downward shielded from the beach through the use of ground-level barriers. Ground-level barriers must not interfere with marine turtle nesting or hatchling emergence, or cause short- or long-term damage to the beach/dune system.

(9) Tinted or filmed glass shall be installed on all windows and glass doors of single or multi-story structures within line-of-sight of the beach.

(10) Use of appropriately shielded low LPS, LED lights and fixtures shall be required for high-intensity lighting applications such as parking areas and travel ways, providing security and similar applications.

(11) Lights illuminating signs and internally illuminated signs shall be shielded or screened such that they do not directly, indirectly or cumulatively illuminate the beach and that the light shall not be visible from the beach.

(12) Temporary lighting of construction sites during nesting season shall be restricted to the minimal amount necessary and shall incorporate the standards of this section. Said lighting shall be:

(a) Mounted no more than eight feet above existing grade;

(b) Positioned or shielded so that the light is cast downward and the source of light or any reflective surface of the light fixture is not visible from the beach; and

(c) Positioned or shielded to not directly, indirectly or cumulatively illuminate the beach.

(13) Upon completion of the construction activities and prior to issuing a certificate of occupancy for any new development within direct line-of-sight of the beach, compliance with the beachfront lighting standards set forth in this article shall be inspected as follows:

(a) An inspector shall conduct a site inspection which includes a night survey with all exterior lighting turned on.

(b) The inspector shall prepare and report the inspection finding in writing, identifying;

1. The date and time of initial inspection;

2. The extent of compliance with the lighting standards;

3. All areas of observed noncompliance, if applicable;

4. Any action(s) taken to remedy observed noncompliance, if applicable.

The inspector, in cases where remedial action is necessary, shall notify the owner or developer of the results of the inspection and shall schedule a date and time for a subsequent inspection.

Sec. 106-35. Lighting standards for ~~E~~existing development.

~~It is the policy of the city that no artificial light illuminate any area of the incorporated beaches of the city. Therefore, lighting of structures existing on February 9, 1988, which can be seen from the beach, shall be in compliance with the following:~~

~~(1) Lights illuminating buildings or associated grounds for decorative or recreational purposes shall be shielded or screened in such a way as not to project a beam of light directly onto the beach area, or turned off between sunset and sunrise during the period of May 1 to October 31 of each year.~~

~~(2) Security lighting, including parking area lighting, shall be permitted throughout the night, so long as low-profile luminaires are used and screened in such a way that those lights do not illuminate the beach.~~

~~(3) Lights illuminating dune crosswalks of any area ocean-ward of the dune line shall be turned off between sunset and sunrise during the period of May 1 and October 31 of each year.~~

~~(4) Beachfront properties with seawalls and protective boulders on the gulf side of seawalls with~~

~~less than five feet of sandy beach will be permitted to have diffused light extending on the seawall and protective boulders for the protection and security of people.~~

Upon the date of the adoption of this ordinance all light sources or reflective surfaces illuminated by such sources that are visible from the beach shall be brought into compliance with the following:

(1) Existing artificial light fixtures shall be repositioned, modified, replaced, or removed so that:

a. The point source of light or any reflective surface of the light fixture is not directly visible from the beach;

b. Areas seaward of the frontal dune, or the beach in areas where the frontal dune no longer exists, are not directly or indirectly illuminated; and

c. Areas seaward of the frontal dune, or the beach in areas where the frontal dune no longer exists, are not cumulatively illuminated.

(2) Internally illuminated signs and lights illuminating signs shall be shielded or screened such that they do not directly, indirectly or cumulatively illuminate the beach and the light shall not be visible from the beach.

(3) One or more of the following measures shall be taken to reduce or eliminate the negative effects of existing exterior artificial lighting so that all existing development is in full compliance with subsection (1) of this section;

(a) Reposition fixtures so that the point source of light or any reflective surface of the light fixture is not visible from the beach;

(b) Replace fixtures having an exposed light source with fixtures containing recessed light sources or shields;

(c) Replace nondirectional fixtures with directional fixtures that point down and away from the beach;

(d) Replace fixtures having transparent or translucent coverings with fixtures having opaque external shields designed to be in compliance with subsection (1) of this section and extending an appropriate distance below the bottom edge of the fixture on all visible sides so that the light source or any reflective surface of the light fixture is not visible from the beach;

(e) Replace pole lamps with low-profile, low-level luminaires so that the light source or any reflective surface of the light fixture is not visible from the beach;

(f) Replace incandescent, fluorescent, and high intensity lighting with low wattage LPS, LED or true red neon;

(g) Exterior lights used expressly for safety or security purposes shall be limited to the minimum number and configuration required to achieve their functional role(s). The use of motion detector switches that keep lights off except when approached and that switch lights on for the minimum duration possible are required for any exterior lights used expressly for safety or security. Lights incorporating motion detector switches shall be downward directed, shielded and utilize low wattage LPS, LED or true red neon light sources;

(h) Plant or improve native vegetation buffers between the light source and the beach sufficient to screen light from the beach;

(i) Construct a ground level barrier to shield light sources from the beach. Ground-level barriers must not interfere with marine turtle nesting or hatchling emergence or cause short- or long-term damage to the beach or dunes; and

(j) Permanently remove, disable or lock in the off position during nesting season any fixture which cannot be brought into compliance with the provisions of this article.

(4) One or more of the following measures shall be taken to reduce or eliminate the negative effects of interior light emanating from doors and windows within direct line-of-sight of the beach:

(a) Upgrade windows within line-of-sight of the beach to tinted or filmed glass;

(b) Rearrange lamps and other moveable fixtures away from windows;

(c) Use window treatments (e.g. blinds, curtains) to shield interior lights from the beach;

(d) Turn off unnecessary lights; and

(e) Provide educational materials to renters stating the importance of closing the window treatments at night during nesting season, if the windows do not have tinted or filmed glass.

(5) Lights illuminating buildings or associated grounds for decorative or recreational purposes shall be shielded or screened in accordance with subsections (1) and (2) above or turned off between sunset and sunrise during nesting season.

(6) If existing dune crosswalks are lighted, replace existing lighting with low-profile shielded luminaires directed and positioned so that the point source of light or any reflective surface of the light fixture is not visible from the beach and that utilize low wattage LPS, LED or true red neon light sources or turn off lighting during nesting season. Dune crosswalk lighting

seaward of the frontal dune or on beach areas where the frontal dune no longer exists shall be turned off during nesting season.

(7) Beachfront properties with seawalls and protective boulders on the gulf side of seawalls with less than five feet of sandy beach will be permitted to have diffused light extending on the seawall and protective boulders for the protection and security of people.

(8) City council is authorized to grant variances to the date of compliance where lighting installed before the adoption of this ordinance would be in violation of this article. Requests for variances must be submitted in writing to the city clerk. The variance will be considered by city council at a regularly scheduled meeting. Such variances may be granted only where the applicant has demonstrated that the application of these standards to lighting will cause such an undue and unique hardship to the property and that more time is needed to amortize the owner's reasonable investment in the lighting. In granting a variance, city council shall specify a schedule to attain compliance. Violation of the terms of the schedule shall constitute a violation of this article.

Sec. 106-36. ~~Streetlights and lighting at parks and beach access points.~~ Standards for publicly owned lighting.

~~Streetlights and lighting at parks and other publicly owned beach access areas shall be subject to the following:~~

~~(1) Whenever possible, streetlights shall be located so that the bulk of their illumination will travel away from the beach. These lights shall be equipped with shades or shields that will minimize backlighting and reduce their visibility from the beach.~~

~~(2) Lights at gulf shore parks or other public beach access points shall be shielded or shaded during nesting season.~~

All publicly owned lighting with light sources that are visible from the beach or that illuminate reflective surfaces that are visible from the beach, including but not limited to streetlights, parking lot lights, and beach access lighting, shall be:

(1) Fitted with a shield or positioned so that the light source or any reflective surfaces illuminated by such sources are not visible from the beach and do not directly or indirectly illuminate the beach; or

(2) Extinguished between sunset and sunrise from May 1 to October 31 of each year; or

(3) Included in a lighting plan approved by FWC to minimize the impacts to nesting marine turtles.

Sec. 106-37. Compliance inspections.

Periodic nighttime lighting inspections will be performed during nesting season from the beach to determine the extent of compliance with all sections of this article. These inspections will be conducted as needed until existing beachfront lighting has been brought into compliance.

Sec. 106-38. Prohibition of activities disruptive to marine turtles.

The following activities and situations are prohibited on the beach from sunset to sunrise during nesting season:

(1) The operation of all motorized vehicles, except emergency and law enforcement vehicles or persons who have authorization or a permit to engage in marine turtle conservation or research issued by FWS, FDEP, FWC or the city, and who are acting in conformance with such authorization or permit.

(2) Horseback riding.

(3) The building of campfires or bonfires.

(4) Any transient lighting which purposely and flagrantly illuminates nesting sea turtles or hatchlings. This prohibition does not apply to persons who have authorization or a permit to engage in marine turtle conservation or research issued by FWS, FWC, FDEP or the city, and who are acting in conformance with such authorization or permit.

(5) Any temporary structures, including but not limited to beach chairs, umbrellas and cabanas which have the potential for entrapment of marine turtles and which may interfere with the use of the natural beach environment for nesting habitat. All temporary structures shall be removed from the beach nightly or stored in areas situated to minimize interference with marine turtles.

Sec. 106-39. Education and information.

The city and/or a private not-for-profit organization shall prepare and distribute brochures to coastal establishments and residents and make presentations about the effects of light on endangered sea turtle reproduction and about sea turtle biology generally. The city has the authority to notice first-time violators of this ordinance by sending a letter to the offender describing the violation and enclosing a brochure and summary of the ordinance. Subsequent offenses will be treated with enforcement measures as described in this article.

Sec. 106-40. Local approval not exclusive.

Approval required pursuant to this article shall be in addition to and not in lieu of any federal, state, regional or other local approvals which may be required for the same or similar activities.

Similarly, compliance with provisions of this article does not excuse any person from having to comply with other applicable federal, state, regional or local laws.

SECTION 2. Severability. If for any reason provisions of this ordinance or the application thereof to any person, group or persons, or circumstances are held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of the ordinance are severable.

SECTION 3. This ordinance shall take effect immediately upon its approval and adoption, as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA, THIS 8TH DAY OF JUNE 2010.

First Reading: May 25, 2010
Final Reading: June 8, 2010

Adoption:

Ed Martin, Mayor

Attest:

for 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 City of Venice Council, a meeting thereof duly convened and held on the 8th day of June 2010, a quorum being present.

WITNESS my hand and the official seal of said City this 9th day of June 2010.

Lori Stelzer, MMC, City Clerk

Approved as to form:

Robert Anderson, City Attorney

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