

## **ORDINANCE NO. 2020-10**

**AN ORDINANCE OF THE CITY OF VENICE, FLORIDA, AMENDING THE CODE OF ORDINANCES, CHAPTER 2, ADMINISTRATION, ARTICLE III, OFFICERS AND EMPLOYEES, DIVISION 2, CODE OF CONDUCT AND ETHICS TO ADOPT THE FLORIDA ETHICS CODE AS THE CITY'S CODE OF ETHICS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE**

WHEREAS, the City adopted a Code of Conduct and Ethics in 2006 ("City Ethics Code") as a result of a Compliance Agreement entered into with the U.S. Environmental Protection Agency (EPA) related to Clean Water Act violations; and

WHEREAS, the City Ethics Code applies to "every employee, official, contractor, volunteer, and others who participate in the city's governance whether they are elected, appointed, hired, or otherwise selected to an office or position with the city, or any subdivision thereof, whether such individual is paid or unpaid" and is supplemental to the Florida Code of Ethics in Chapter 112, Part III, Florida Statutes ("Florida Ethics Code"); and

WHEREAS, the Florida Ethics Code addresses prohibitions on dual public employment, solicitation or acceptance of gifts, doing business with one's agency, and misuse of public position as well as post-employment restrictions and voting conflicts, and provides a well-recognized process for handling complaints; and

WHEREAS, the City Ethics Code contains subjective standards, standards that overlap the Florida Ethics Code, and a separate complaint process from the Florida Ethics Code; and

WHEREAS, the Compliance Agreement expired in 2009; and

WHEREAS, in recognition of the well established and recognized standards and complaint process contained in the Florida Ethics Code, the city desires to adopt it as its ethics code.

**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 III, Officers and Employees, Division 2, Code of Conduct and Ethics of the City of Venice Code of Ordinances (the "Code") is hereby amended as follows:

### **DIVISION 2. CODE OF CONDUCT AND ETHICS**

**Sec. 2-170. Purpose.**

- (a) It is the policy of the city to uphold, promote, and demand the highest standards of ethics from all of its employees, officials, contractors, volunteers and others who participate in the city's governance. These individuals shall maintain the highest standards of personal integrity, truthfulness, honesty, and fairness in carrying out their public duties, avoid any improprieties in their roles as public servants including the appearance of impropriety, and never use their city position or powers for improper personal gain.
- ~~(b) It is the intention of council that this policy is liberally construed to accomplish its purpose of protecting the public against decisions that are affected by undue influence, conflicts of interest, or any other violation of this code. In construing this code of conduct and ethics (hereinafter referred to as "code"), it is understood that one should be guided by common sense and practicality. This code is supplemental to state and federal law.~~
- ~~(c) All employees, officials, contractors, volunteers and others who participate in the city's governance are required to subscribe to this code, understand how it applies to their specific responsibilities, and practice its and the city's core values and principles.~~
- ~~(d) The code is promulgated under the authority of F.S. § 112.326, imposing additional requirements and standards to compliment the Code of Ethics for Public Officers and Employees established in F.S. ch. 112, pt. III.~~
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**Sec. 2-171. Definitions, Adoption of Florida Code of Ethics.**

The city adopts the Florida Code of Ethics for Public Officers and Employees found in F.S. ch. 112, pt. III, as it may be amended from time to time, as the city's code of conduct and ethics.

The following words and phrases as used in this policy, unless the context clearly indicates otherwise, shall have the following meaning:

*Affected individual* means every employee, official, contractor, volunteer, and others who participate in the city's governance whether they are elected, appointed, hired, or otherwise selected to an office or position with the city, or any subdivision thereof, whether such individual is paid or unpaid.

*Compensation* means payment in any form for real or personal property or services of any kind.

*Gift* means a voluntary transfer of real or personal property of any kind or the voluntary rendition of services of any kind without consideration of equal or greater value, but not including any reasonable hosting, including travel expenses, entertainment, meals, or

~~refreshments furnished in connection with appearances, ceremonies, and occasions reasonably relating to official city business, where otherwise permitted by law.~~

~~Person means any individual or corporation, business, or other entity, however constituted, organized, or designated.~~

~~Sec. 2-172. — Appropriate conduct.~~

~~(a) In order to achieve the city's adopted core values to serve with PRIDE, all individuals subject to this code of conduct and ethics shall be productive, responsible, innovative, dedicated and ethical. In order to achieve these values, the following provides a summary of the appropriate practices necessary for effective implementation and as an individual, a member of a work group or team, a member of an advisory board, or as a participant in city service, each affected individual will:~~

~~(1) Productive.~~

~~a. Apply their knowledge and expertise to their assigned responsibilities and activities, and to the interpersonal relationships that are part of providing service to the community in a consistent, confident, competent and productive manner.~~

~~b. Approach service to the community and the responsibilities of their position with a positive attitude.~~

~~c. Provide friendly, receptive and courteous service to everyone.~~

~~d. Be attuned to the needs and issues of citizens, public officials and co-workers.~~

~~e. Be interested, engaged and responsive in their interactions with constituents and co-workers.~~

~~(2) Responsible.~~

~~a. Make decisions after prudent consideration of their financial impact, taking into account the long-term financial needs of the city, especially its financial stability.~~

~~b. Demonstrate concern for the proper use of city assets, including personnel, time, property, equipment and funds.~~

~~c. Act in an efficient manner, making decisions and recommendations based upon an evaluation of facts that takes into consideration short and long-term goals.~~

~~d. Follow through in a responsible way, keeping others informed, and responding in a timely fashion.~~

~~e. Be respectful of city processes and guidelines.~~

~~f. Comply with all applicable local, state and federal rules, regulations and laws, especially, but not limited to, all federal environmental laws and regulations.~~

~~(3) Innovative.~~

~~a. Exhibit a proactive, innovative approach to setting goals and conducting city business.~~

~~b. Display a style that maintains consistent standards, but that is also sensitive to the need for compromise, "thinking outside the box," and improving existing policies and practices when necessary.~~

~~c. Promote intelligent and thoughtful innovation in order to forward the city's strategic goals and services.~~

~~(4) Dedicated.~~

~~a. Convey the city's care and commitment to its citizens, communicating in ways that demonstrate being approachable, open minded, and willing to participate in constructive dialog.~~

~~b. Engage in two-way communication by listening carefully, asking questions and determining an appropriate response that adds value to the conversation.~~

~~c. Act in a cooperative manner with groups and other individuals, working together in a spirit of tolerance and understanding.~~

~~d. Work toward consensus building.~~

~~e. Consider the broader regional, statewide and national implications of their decisions and issues.~~

~~(5) Ethical.~~

~~a. Be trustworthy, acting with the utmost integrity.~~

~~b. Be truthful and dependable.~~

~~c. Make impartial decisions, free of bribes, unlawful gifts, and financial or other personal interests that impair judgment or action.~~

~~d. Be fair, extending equal opportunities and due process to all parties in matters under consideration.~~

~~e. Demonstrate respect for all persons.~~

~~(b) All affected individuals have an obligation to attend to their work and assignments as required and perform their official duties honestly, faithfully and efficiently, respecting the rights of the public and their colleagues.~~

~~(c) There are obligations on all affected individuals to properly perform the duties for which they are employed including:~~

~~(1) Obeying the law.~~

~~(2) Obeying all lawful and reasonable instructions from supervisors and to work as directed.~~

~~(3) Being competent and efficient in the performance of assigned duties.~~

~~(4) Refraining from conduct which might impair work performance.~~

~~(5) Showing reasonable care, and neither use nor allow the use of the city's property, resources, or funds for anything other than authorized purposes.~~

~~(6) Incurring no liability on the part of the city without proper authorization.~~

~~(d) As well as being responsible for their own conduct, affected individuals have a duty to contribute to the smooth running of the workplace by treating their colleagues and the public with courtesy and respect. This means that they are expected:~~

~~(1) To avoid behavior which might endanger or cause distress to their colleagues, or otherwise contribute to disruption of the workplace.~~

~~(2) To respect the privacy of individuals when dealing with sensitive information.~~



~~(3) To not harass, bully or otherwise intimidate colleagues or customers.~~

~~(4) To have due regard for the safety, health and welfare of others in the use of city property and resources.~~

~~(e) Affected individuals are expected to be aware of and fulfill all regulatory and statutory obligations of the city within their areas of responsibility and enforce them in fair, responsible and consistent manner acting within the legal authority given to them.~~

~~(f) Affected individuals must respect the individuals with whom they deal and ensure that the needs of the customer are met insofar as it is legally and economically possible. In accordance with the city's core values, affected individuals have a duty to deal with customers with integrity, diligence and impartiality and with courtesy, consideration, fairness and promptness.~~

~~(g) All affected individuals are expected to respect the principle of non-discrimination and equal treatment for all customers.~~

#### ~~Sec. 2-173. Prohibited conduct.~~

~~(a) Beneficial interests in contracts. No affected individual shall participate in his or her capacity as an affected individual in the making of a contract in which he or she has a financial interest, direct or indirect, or performs in regard to such a contract some function requiring the exercise of discretion on behalf of the city. Except, that this prohibition shall not apply where the affected individual has only a remote interest in the contract, and where the fact and extent of such interest is disclosed and noted in the official minutes or similar records of the city prior to formation of the contract, and thereafter the governing body authorizes, approves, or ratifies the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer(s) having the remote interest. For purposes of this section, a "remote interest" means:~~

~~(1) That of a non-salaried officer of a nonprofit corporation;~~

~~(2) That of a landlord or tenant of a contracting party; or~~

~~(3) That of a holder of less than five percent of the shares or units of a corporation, limited liability company, or other entity that is a contracting party.~~

~~(b) Beneficial influence in contract selection. No affected individual shall influence the city's selection of, or its conduct of business with, a corporation, person, or firm having or proposing to do business with the city if the affected individual has a financial interest in or with the corporation, person, or firm, unless such interest is a remote interest and where the fact and extent of such interest is disclosed and noted in the official minutes or similar records of the city prior to formation of the contract, as defined in the preceding section.~~

~~(c) Representation of private person at city proceeding. No affected individual shall appear on behalf of a private person, other than himself or herself or an immediate family member or except as a witness under subpoena, before any regulatory governmental agency or court of law in an action or proceeding to which the city or a city officer or employee in an official capacity is a party, or accept a retainer or compensation that is contingent upon a specific action by the city.~~

~~(d) Certain private employment. No affected individual shall engage in or accept private employment, or render services for, any private interest when such employment or service is~~

~~incompatible with the proper discharge of official duties or would tend to impair independence of judgment or action in the performance of official duties.~~

~~(e) Beneficial interest in legislation. No affected individual, in appearing before the city council or when giving an official opinion before the city council, shall have a financial interest in any legislation coming before the city council and participate in discussion with or give an official opinion to the city council, unless such interest is a remote interest and where the fact and extent of such interest is disclosed and noted on the record of the council, or similar records of the city, prior to consideration of the legislation by the city council.~~

~~(f) Disclosure of confidential information. No affected individual shall disclose or use any confidential, privileged, or proprietary information gained by reason of his or her official position for a purpose which is for other than a city purpose; provided, that nothing shall prohibit the disclosure or use of information which is a matter of public knowledge, or which is available to the public on request.~~

~~(g) Improper use of position. No affected individual shall knowingly use his or her office or position to secure personal benefit, gain or profit, or use his or her position to secure special privileges or exceptions for himself, herself, or for the benefit, gain, or profits of any other persons.~~

~~(h) Improper use of city personnel. No affected individual shall employ or use any person under the officer's or employee's official control or direction for the personal benefit, gain, or profit of the officer or employee, or another.~~

~~(i) Improper use of city property. No affected individual shall use city-owned vehicles, equipment, materials, money, or property for personal or private convenience or profit. Use is restricted to such services as are available to the public generally, for the authorized conduct of official business, and for such purposes and under such conditions as are approved by administrative order of the city manager or through contract by city council.~~

~~(j) Acceptance of compensation, gifts, favors, rewards, or gratuity. No affected individual may, directly or indirectly, give or receive, or agree to give or receive, any compensation, gift, favor, reward, or gratuity for a matter connected with or related to the affected individuals services with the city, except this prohibition shall not apply to:~~

~~(1) Attendance of an affected individual at a hosted meal when it is provided in conjunction with a meeting directly related to the conduct of city business or where official attendance by the affected individual as a city representative is appropriate;~~

~~(2) An award publicly presented in recognition of public service; or~~

~~(3) Any gift valued at \$50.00 or less, which cannot reasonably be presumed to influence the vote, action, or judgment of the affected individual, or be considered as part of a reward for action or inaction.~~

~~(k) Environmental compliance. Any affected individual who knowingly violates environmental laws, regulations or ordinances applicable to the city and its operations will be subject to termination. The city manager shall serve as the designated ethics compliance officer in all matters relating to the Federal Environmental Protection Agency.~~

**Sec. 2-172. ~~2-174~~ Impermissible conduct after leaving city service.**

(a) Disclosure of privileged, confidential, or *proprietary* information prohibited. No former city officer or employee affected individual shall disclose or use any privileged, confidential, or proprietary information gained because of his or her city employment.

(b) *Participation* in city matters prohibited. No former city officer or employee affected individual shall, during the period of two years after leaving city office or employment:

(1) Assist any person in matters involving the city if, while in the course of duty with the city, the former city officer or employee affected individual was officially involved in the matter, or personally and substantially participated in the matter, or acted on the matter;

(2) Represent any person as an advocate in any matter in which the former city officer or employee affected individual was involved while a city officer or employee an affected individual; or

(3) Participate as or with a bidder, vendor, or consultant in any competitive selection process for a city contract in which he or she assisted the city in determining the project, or work to be done, or the process to be used.

(c) *Duty to inform*. Whenever an city employee or employee affected individual wishes to contract with a former city officer or employee affected individual for expert or consultant services within two years of the latter's leaving city service, advance notice shall be given to the city manager and city attorney about the proposed agreement for their consideration and authorization if determined to be in the interests of the city.

(d) *Exceptions*. The prohibitions of subsections (b)(1) and (b)(2) of this section shall not apply to a former city officer or employee affected individual acting on behalf of a governmental agency, unless such assistance or representation is adverse to the interest of the city or for the purposes of collective bargaining.

#### **Sec. ~~2-173~~. ~~2-175~~ Enforcement Complaint process.**

The Florida Commission on Ethics enforces the Florida Code of Ethics for Public Officers and Employees.

~~(a) Filing. Anyone alleging a violation of this code shall file a written complaint signed under oath or affirmation with the ethics compliance officer.~~

~~(b) Determination of appropriate forum. Upon receipt of a complaint, the ethics compliance officer shall determine the appropriate forum for the processing of the complaint. If the ethics compliance officer determines that the state commission on ethics is the appropriate forum, the ethics compliance officer shall direct the complainant to the commission on ethics for the processing of the complaint. If the ethics compliance officer determines that this code is the appropriate forum, the ethics compliance officer shall process the complaint as provided for herein.~~

~~(c) Investigation. The director of administrative services or designee shall investigate the complaint. The director or designee shall prepare written findings of fact and conclusions of law and submit them to the ethics compliance officer.~~

~~(d) Recommended disposition. Based upon the written findings of fact and conclusions of law submitted by the director or designee, the ethics compliance officer shall prepare a written recommended disposition of the complaint. A copy of the written findings of fact and~~



~~conclusions of law and the written recommended disposition of the complaint shall be served upon the complainant and the alleged violator.~~

~~(e) Disposition. The written recommended disposition of the complaint shall be implemented unless the alleged violator files a written request for a formal evidentiary hearing in accordance with section 1.21a of the personnel procedures and rules within ten days of service of a copy of the written findings of fact and conclusions of law and the written recommended disposition of the complaint.~~

~~Sec. 2-176. Penalties for noncompliance.~~

~~Any affected individual found, by a preponderance of the evidence, to have violated any provision of this code may be subject to any combination of the following penalties which are hereby declared supplemental to those penalties as provided in F.S. ch. 112:~~

- ~~(1) A cease and desist order as to violations of this code;~~
- ~~(2) An order to disclose any reports or other documents or information requested by the city manager or city attorney, as applicable;~~
- ~~(3) An order to pay to the city a civil penalty of up to \$10,000.00;~~
- ~~(4) Discipline, up to and including termination or removal from any position whether paid or unpaid, excluding elected positions, only after notice and hearing as provided by law. The pre-disciplinary procedure set forth in the provisions of the city policies and procedures shall be followed for employees of the city.~~
- ~~(5) Exclusion from bidding on city contracts for a period of up to five years; and/or~~
- ~~(6) Termination or invalidation of contract(s) entered into in violation of the Code, if such contract(s) provide for termination in the event of a violation of this Code.~~

~~Sec. 2-177. Where to seek review.~~

~~(a) Discipline or removal. If an affected individual is disciplined or removed from office, then the affected individual disciplined or removed from employ or office may seek whatever remedies exist at law or in equity.~~

~~(b) Exclusion from public bidding. If ordered to be excluded from bidding on public contracts and the exclusion actually occurs, the person excluded may seek whatever remedies exist at law or in equity.~~

~~(c) Termination of contract(s). If termination of contract(s) is ordered, the person whose contract(s) was/were terminated may seek whatever remedies exist at law or in equity.~~

~~Sec. 2-178. Severability.~~

~~If any section, subsection, paragraph, sentence, clause, or phrase of this Code is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Code.~~

~~Sec. 2-179. Whistle blower protection.~~



~~All affected individuals are strictly prohibited from taking retribution against another affected individual for reporting a violation of this Code or for reporting a violation of any local, state or federal law. Anyone who has a concern about what constitutes appropriate or inappropriate conduct or whether a certain course of action violates this Code is expected to raise the concern with his or her supervisor, department director or the city's ethics compliance officer.~~

~~Any actual, possible or suspected violation should be reported. Questions about this Code normally should be addressed to an employee's supervisor or department director who is then required to relay them to the appropriate individual and the city's ethics compliance officer. If an employee is not comfortable raising questions to his or her supervisor or department director, they should be addressed to the city's ethics compliance officer.~~

~~Sec. 2-180. Administration.~~

~~(a) Required acknowledgements. Each affected individual is required to sign a certified statement attesting that he or she has been provided with a copy of this Code and that he or she fully understands its contents. Each new affected individual shall be provided with a copy of this Code and required to sign a certified statement attesting that he or she has been provided with a copy of this Code and that he or she understands its contents. Failure to sign such acknowledgement shall be grounds for immediate termination of employment by the city or removal from his or her appointed position.~~

~~(b) Fraud, waste and abuse hotline. Employees may report violations of environmental laws and the compliance agreement between the city and the Federal Environmental Protection Agency to the federal government's toll free fraud, waste and abuse hotline. Calls can be made confidentially and the matters reported will be investigated to the extent sufficient information is received to conduct an investigation. However, persons who report allegations are encouraged to identify themselves in the event additional questions arise as the investigator evaluates or pursues their allegations.~~

~~Contact by mail:~~

~~U.S. Environmental Protection Agency  
Office of Inspector General Hotline (2443)  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460.~~

~~Telephone and fax:~~

~~Toll free: 1-888-546-8740 (nationwide)~~

~~Long distance charges may apply: 202-566-2476~~

~~Fax: 202-566-2549 (not to exceed 20 pages, including coversheet and/or contact info.)~~

~~Sec. 2-181. Employment contract.~~

~~This code of conduct and ethics is not an employment contract. No employee should interpret this Code or any city policies stated in this Code as a contract for any purpose, including a promise for continued employment.~~

Secs. 2-174~~182~~—2-190. - Reserved.

**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 31ST DAY OF MARCH, 2020.**

First Reading: March 10, 2020

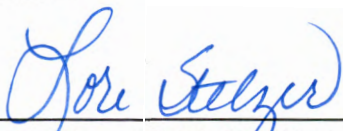
Final Reading: March 31, 2020

ADOPTION: March 31, 2020

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Ron Feinsod, Mayor

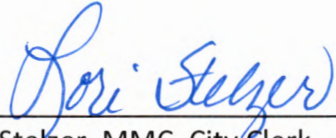
ATTEST:

A handwritten signature in blue ink, appearing to read 'Lori Stelzer', written over a horizontal line.

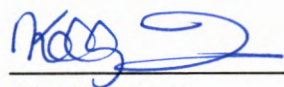
Lori Stelzer, MMC, City Clerk

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 31st day of March, 2020, a quorum being present.

WITNESS my hand and the official seal of said City this 31st day of March, 2020.

  
\_\_\_\_\_  
Lori Stelzer, MMC, City Clerk

Approved as to form:

  
\_\_\_\_\_  
City Attorney