

**CITY OF MARCO ISLAND**  
**ORDINANCE NO. 09- 01**

**AN ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA, AMENDING CHAPTER 54, ARTICLE IV, ENTITLED "BOAT DOCKING FACILITIES," SECTION 54-111, ENTITLED "DIMENSIONAL STANDARDS," SECTION 54-115 ENTITLED "BOAT DOCK EXTENSIONS; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR REPEAL OF CONFLICTS AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, in 2004, the City Council adopted Ordinance 00-04, codified as Chapter 54, Article IV, to establish regulations and standards for new boat dock facilities; and

**WHEREAS**, since that time it has become necessary to make certain changes to Chapter 54, Article IV, to more clearly reflect regulations and standards that are consistent with current trends in the marine industry; and

**WHEREAS**, the Marco Island Planning Board, sitting as the Local Planning Agency, held a duly advertised public hearing on September 5, 2008 and determined the proposed changes contained in this Ordinance are consistent with the City of Marco Island Comprehensive Plan and Florida law, and recommended adoption of this Ordinance to the City Council; and

**WHEREAS**, after reviewing the City of Marco Island Planning Board's recommendation, the recommendation of City staff, and comments from the public, the City Council finds the proposed amendments to its Code of Ordinances are in compliance and consistent with Florida law and its adopted Comprehensive Plan.

**WHEREAS**, the City Council further finds adoption of this Ordinance is in the best interest of the residents of the City of Marco Island.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA, AS FOLLOWS:**

**SECTION 1. Recitals.**

The foregoing "WHEREAS" clauses are ratified and confirmed as being true, correct and reflective of the legislative intent underlying this Ordinance and are hereby made a specific part of this Ordinance.

NOTE:

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## SECTION 2. Amendment and Adoption.

The amendments to the Code of Ordinances contained in this Ordinance are hereby amended or created and adopted as follows:

### 1. Sec. 54-111. Dimensional Standards.

#### a. Protrusion limitations for boat docking facilities:

(1) On waterfront lots ~~on a~~ located on waterways which is are 100 feet or greater in width the combination of a boat docking facility and moored vessel(s) shall not protrude more than ~~20~~ 30 feet into the waterway, provided the combination of a boat docking facility and moored vessel(s) does not protrude more than 25% of the platted width of the waterway in order to ensure reasonable width for navigation. The protrusion of boat docking facilities, which are located at the intersection of two waterways or in areas where the waterway widens may in cases exceed 25 feet but not more than 30 feet into the waterway. Boat docking facilities located at the end of a canal shall not protrude more than 25% of the platted width of the waterway. See Exhibits One and Three.

(2) On waterfront lots ~~on a~~ located on waterways which is are less than 100 feet in width the combination of a boat docking facility and moored vessel(s) shall not protrude more than 20 percent of the ~~surveyed~~ platted width of the waterway width, except that on waterfront lots with a marginal dock as defined in Section 54-101 the combination of the dock and moored vessel(s) shall not exceed 25 percent of the platted width of the waterway or 25 feet, whichever is more restrictive. The protrusion of boat docking facilities, which are located at the intersection of two waterways or in areas where the waterway widens may in cases exceed 20 feet but not more than 30 feet into the waterway. Boat docking facilities located at the end of a canal shall not protrude more than 20% of the platted width of the waterway. See Exhibits Two and Three.

(3) No piling, boatlift, or other structure necessary to moor a vessel shall be permitted unless that structure meets the protrusion requirements set forth herein or a boat dock extension has been approved.

~~(3) On any property with only a five-foot wide or smaller dock parallel to the seawall, the combination of the dock and moored vessel(s) shall not exceed 25 percent of the waterway width or 25 feet, whichever is more restrictive. No piling, boatlift, or other structure necessary to moor a vessel will be permitted unless that structure meets the protrusion requirements set in paragraph (a) or a boat dock extension has been approved.~~

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(4) Protrusion shall be measured from the face of the seawall. On lots where the property line extends into the water, the protrusion shall be measured from the property line.

(5) The platted width of the waterway shall be defined by the recorded plat.

(6) Staff shall determine whether or not the proposed location and design of the boat docking facility and moored vessel(s) in combination is such that it may infringe upon the use of neighboring properties, including any existing boat docking facilities.

(7) Protrusion measurement into a waterway from a waterfront lot shall include the combination of the boat docking facility, mooring piles, and moored vessel(s). Outboard motor(s), inboard propeller(s), lower unit transmission(s) propeller(s), bow pulpit(s), navigational light(s), ladder(s), and other vessel appurtenances attached to the moored vessel shall also be included in the protrusion measurement.

(8) Boat dock decking and dock area shall comply with any other applicable local, state, or federal law, rule, regulation or policy.

(9) Waterfront lots located within multi-family and commercial zoning districts may provide a parallel waterfront walkway along the waterway side of the seawall from lot line to lot line (riparian lines) not to exceed a maximum width of 6 feet. Staff shall determine whether or not the waterfront walkway interferes with adjacent boat docking facilities.

(10) Wet slip mooring may be provided in the side yard setback adjacent to side yard property lines/riparian lines in multi-family and commercial zoning districts, provided boat docks, mooring piles, and access piers comply with side yard setbacks set forth herein.

(11) If the platted width of a waterway is unclear from available information, a waterfront property owner may, at the waterfront property owner's expense, provide a survey, which is dated no later than 3 months from the date of the waterfront property owner's boat dock extension application, to staff as additional information regarding the actual width of the waterway.

(b) Side yard setback requirements for boat docking facilities and swivel PWC lifts:

(1) Boat docking facilities shall have a side yard setbacks equivalent to 15 percent of the seawall length, as measured along the waterfront ~~regardless of location, as measured and~~ from each applicable riparian lines.

a. The minimum required setback shall be 7.5 feet.

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b. The maximum required setback shall be 15 feet.

c. Waterfront corner lots that have less than 80 feet of water frontage shall have required setbacks of 7.5 feet from each riparian line. Lots located adjacent to waterfront corner lots, regardless of their waterfront length, shall have a 7.5 foot setback, but only from the riparian line shared with the waterfront corner lot. A waterfront corner lot is a “Lot, corner” on the “waterfront” as defined in Section 30-10 and is also known as a “Lot, shoulder” as defined in Section 30-10.

d. The setback shall apply to that portion of the boat dock facility and moored vessel waterward of the property line.

(2) Boat docking facilities which are constructed in an existing cut-in boat slip shall have a minimum side yard setback of ten feet.

(3) Any decked area which is extended or located past the waterward side of the seawall shall be considered part of the boat docking facility. All height limitations and setback requirements contained herein shall apply to such decked area, terrace or patio extensions.

(4) Any boat, accessory attached to a boat, or PWC stored on the decking of a boat docking facility must meet the setback requirements set forth in this section 54-111 of this article.

(5) Seawall support pilings which are not part of a boat docking facility and meet the height limitations set forth in this article shall not be required to comply with side yard setback requirements.

(c) Height:

(1) The decking on a dock may not exceed 12 inches in height above the seawall cap. Railings and fish cleaning tables may not exceed 48 inches in height above the decking of a dock. The railing may be no more than 25 percent opaque in any ten-foot increment.

(2) Mooring piles and dolphins may not exceed 12 feet in height above mean high water.

(3) Boatlifts and pilings used to anchor a boatlift shall not exceed 12 feet in height above mean high water.

(4) Davits located on a boat docking facility shall not exceed 12 feet in height above the decking of a dock. Davits located on land shall not exceed 15 feet in height above the seawall.

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(5) Seawall support pilings may not exceed 4 feet in height above the seawall cap.

## 2. Sec. 54-115. Boat Dock Extensions.

(a) Property owners may request a boat dock extension to provide for additional length or protrusion beyond the respective distances specified in section 54-111.

(b) General requirements.

(1) Petitioner must demonstrate justification for extension requested and/or special conditions relative to the subject property, in addition to compliance with applicable review criteria.

(2) Notice of public hearing(s) shall be provided to all property owners within 300 feet of the subject petition. In the case of multi-family, commercial, PUD and/or DRI extension requests, the petitioner shall be responsible for, and bear such costs for, all public notification requirements, including newspaper advertisements and mailing public notices to all property owners within 300 feet. Proof of advertising and mailing shall be presented to city staff prior to placing the subject boat dock extension on the planning board and city council agendas.

(3) Required public hearing(s) will not be scheduled until the boat dock extension application package has been deemed by staff to be complete. The following items must be included with a boat dock extension petition submittal:

- a. Completed application, including signed and notarized Owner/Agent affidavit.
- b. A site plan, drawn to scale, illustrating each of the following:
  1. Location map.
  2. Lot dimensions of subject property.
  3. Riparian line(s).
  4. Required boat docking facility setbacks.
  5. Configuration and dimensions of proposed boat docking facility, including decking, boatlifts, boat mooring areas, etc.

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6. Configuration and dimensions of existing boat docking facility, including decking, boatlifts, boat mooring area, etc., if applicable.
  7. Configuration and dimensions of existing boat docking facilities on adjacent properties.
  8. Water depth survey, completed by a professional Florida engineer, licensed marine contractor, registered surveyor, or other person deemed to be qualified by the community development director or his designee, using the format attached to the application form provided by the city, if relative to the boat dock extension request.
- c. Permit number and certificate of completion date for the original construction of any existing boat docking facility, if applicable.
  - d. Resolution number and date of previous boat dock extension, if applicable.
  - e. Receipt of application fee.

(c) An approval of a boat dock extension shall be issued in the form of a resolution. In the event a resolution approving a boat dock extension incorporates a site plan, said site plan shall be binding upon the property. Any deviation from the approved site plan shall require petitioner to make application for a boat dock extension.

(d) Additional length or protrusion beyond the respective distances specified in section 54-111 of this article for boat docking facilities located in any single-family district shall require public notice and a hearing by the planning board, after which the planning board shall render a final decision.

(e) Additional length or protrusion beyond the respective distances specified in section 54-111 of this article for boat docking facilities in any multi-family, commercial, PUD or DRI district shall be require public notice and a hearing by the planning board and the city council acting as the board of zoning appeals. The planning board shall consider the application and make a recommendation to the board of zoning appeals for approval, approval with conditions, or denial based upon the criteria set forth herein. The board of zoning appeals shall consider the application and recommendation from the planning board and shall make a final decision for approval, approval with conditions, or denial based on the criteria set forth herein.

(f) The planning board and city council, acting as the board of zoning appeals, shall base its decision for approval, approval with conditions, or denial, on the following criteria:

- (1) Whether or not the proposed boat docking facility meets the other standards set forth in this article.
- (2) Whether or not the water depth where the proposed vessel(s) is to be located is sufficient (as a general guide, four (4) feet mean low water is deemed to be sufficient) to allow for safe mooring of the vessel, thereby necessitating the extension requested.
- (3) Whether there are special conditions related to the subject property or waterway which justify the proposed dimensions and location of the proposed boat docking facility.
- (4) Whether or not the proposed boat docking facility and moored vessel(s) protrude greater than 25 percent of the width of the navigable waterway, and whether or not a minimum of 50 percent of the waterway width between boat docking facilities and moored vessel(s) on the opposite side of the waterway is maintained in order to ensure reasonable waterway width for navigation.
- (5) Whether or not the proposed boat docking facility is of the minimum dimensions necessary in order to adequately secure the moored vessel while providing reasonable access to the boat for routine maintenance without the use of excessive deck area.
- (6) Whether or not the proposed boat docking facility is of minimal dimensions and located to minimize the impact of view to the channel by surrounding property owners.
- (7) Whether or not the proposed vessel(s) are in excess of 50 percent of the length of the water frontage on the subject property such that the extension of the boat docking facility may adversely impact the view to the channel by surrounding property owners. In the case of multi-family developments and public marinas, the 50 percent provision may be exceeded.
- (8) Whether or not the proposed location and design of the boat docking facility and moored vessel(s) in combination is such that it may infringe upon the use of neighboring properties, including any existing boat docking facilities.
- (9) Whether or not the seagrasses are located within 200 feet of the proposed boat docking facility.

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(10) Whether or not the proposed dock is subject to the manatee protection requirements set forth in section 54-117.

(g) The planning board and city council acting as the board of zoning appeals may impose conditions upon the approval of an extension request which it deems necessary to accomplish the purposes of this article and to protect the safety and welfare of the public. Such conditions may include, but are not limited to, requiring greater side yard setback(s), additional reflectors, reflectors larger than four inches, or prohibiting or restricting the amount of decking on the boat docking facility.

(h) As to any boat dock extension petition upon which the planning board takes action, any affected property owner may appeal such final action to the board of zoning appeals. The board of zoning appeals may affirm, affirm with conditions, reverse or reverse with conditions the action of the planning board. Such appeal shall be filed with the city manager within 14 days of the planning board's final decision and shall be noticed for public hearing with the city council acting as the board of zoning appeals pursuant to the procedures and applicable fees set forth in the land development code. Any appeal to a decision made by the city council acting as the board of zoning appeals must be made to the circuit court.

(i) Changes and/or amendments to existing boat dock extension approvals may be approved administratively if the proposed changes do not increase the protrusion into the waterway beyond provisions set forth in section 54-111(a), and/or increase the encroachment into the side yard setback beyond the provisions set forth in Section 54-111(b).

(j) All boat dock extension approvals shall be consistent with all regulations contained in Chapter 30 of the Land Development Code and the City of Marco Island Comprehensive Plan.

(k) In the event of a conflict between Chapter 30 of the Land Development Code or Comprehensive Plan and Chapter 54, the regulations and standards contained in Chapter 30 of the Land Development Code shall prevail.

(l) In the event of a conflict between the Comprehensive Plan and Chapter 54, the regulations and standards contained in Comprehensive Plan shall prevail.

### **SECTION 3. Inclusion in the Code of Ordinances.**

It is the intention of the City Council and it is hereby ordained that the amendments to the Code of Ordinances adopted by this Ordinance shall be included and become a part of the Code of Ordinances of the City of Marco Island. The sections of this Ordinance, as adopted, may be

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renumbered or relettered and that the word "ordinance" may be changed to "section," "article," or other appropriate word.

**SECTION 4. Conflicts and Severability.**

If any word, phrase, clause, subsection, or section of this Ordinance is for any reason held unconstitutional or invalid for any reason or cause, the remaining portion of this Ordinance shall remain in full force and effect and shall be valid as if the invalid portion was not included in the Ordinance. All sections or parts of sections of all existing ordinances in conflict with this Ordinance shall be and the same are hereby repealed to the extent of such conflict.

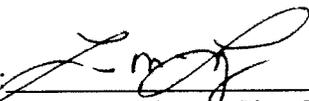
**SECTION 5. Effective Date.**

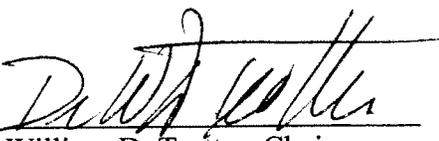
This Ordinance shall take effect immediately upon adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND THIS  
5<sup>th</sup> day of January, 2009.

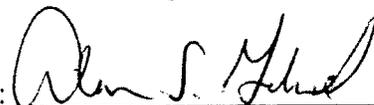
Attest:

CITY OF MARCO ISLAND, FLORIDA

By:   
Laura M. Litzan, City Clerk

By:   
William D. Trotter, Chairman

Reviewed for legal sufficiency:

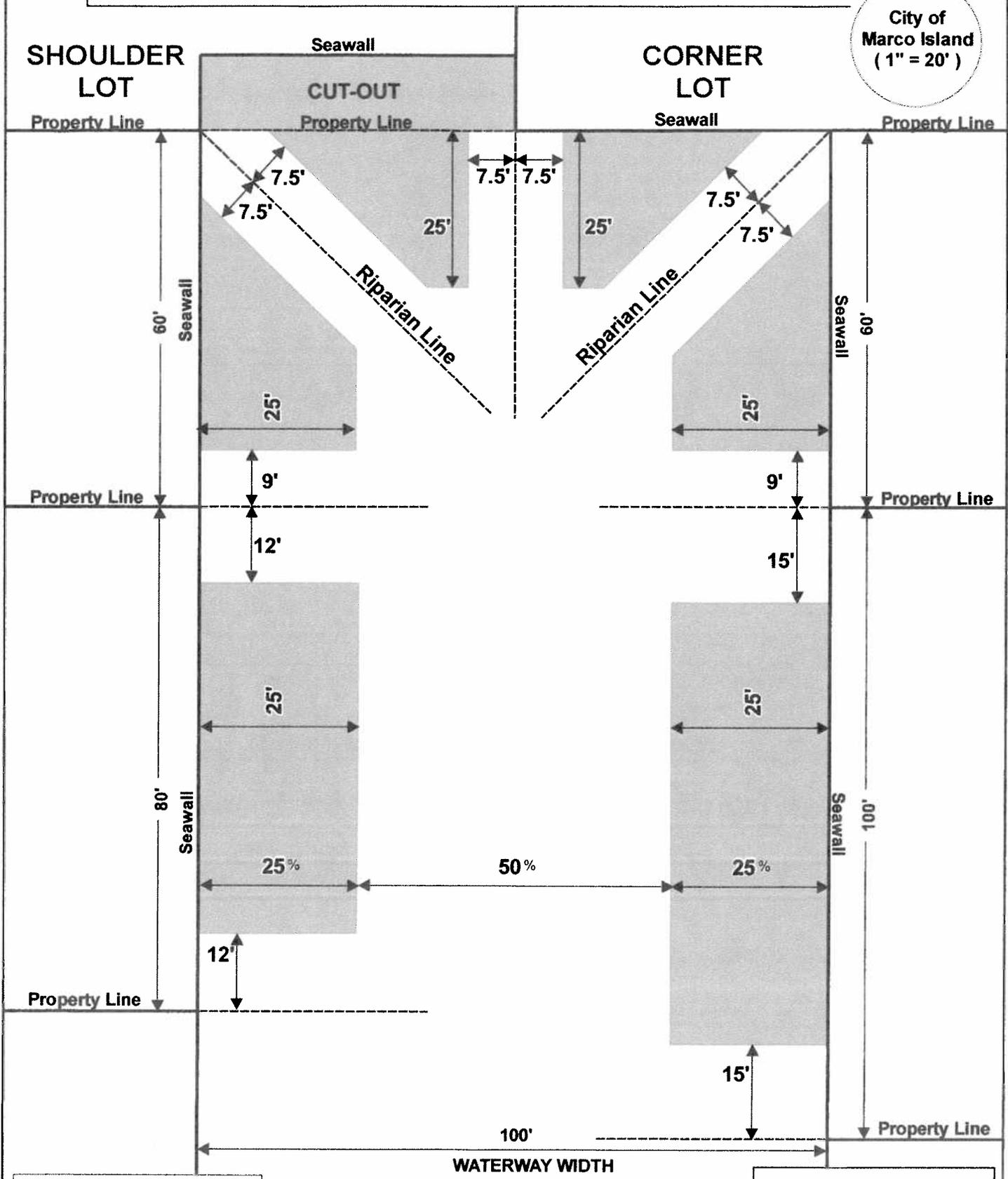
By:   
Alan L. Gabriel, City Attorney

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# PROTRUSION LIMITATIONS FOR BOAT DOCKING FACILITIES (Waterway Width 100 Ft and Greater)

City of  
Marco Island  
(1" = 20')



# PROTRUSION LIMITATIONS FOR BOAT DOCKING FACILITIES (Waterway Width Less Than 100 Ft)

City of  
Marco Island  
(1" = 20')

