

**CITY OF MARCO ISLAND  
ORDINANCE NO. 07-12**

**AN ORDINANCE AMENDING CHAPTER 30 "LAND DEVELOPMENT CODE," ARTICLE VI "SIGNAGE," SECTIONS 30-522(2) "OPEN HOUSE DIRECTIONAL SIGNS" AND 30-528 "DEFINITIONS"; PROVIDING FOR INCLUSION IN THE CODE, CONFLICT AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Article VIII of the State Constitution and Chapter 166 of the Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law; and

**WHEREAS**, Section 30-521 contains the purpose and intent of regulation of signage in the City of Marco Island; and

**WHEREAS**, the regulation of signage requires a delicate balance between the need to regulate and encourage fair competition and uniform business practices, the protection of First Amendment rights afforded individuals under the United States Constitution, and the minimization of secondary impacts of signage on residential neighborhoods, which can endanger the public safety or otherwise destroy or impair aesthetic or visual qualities of the City of Marco Island; and

**WHEREAS**, the City of Marco Island City Council has determined the proposed changes contained herein are consistent with the Marco Island Comprehensive Plan and further the intent and purpose of signage regulation in the City of Marco Island; and

**WHEREAS**, the Marco Island Planning Board, as the Local Planning Agency, has conducted all required public hearings related to this Ordinance, and has forwarded this Ordinance to City Council with a recommendation for approval.

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

**Section 1. City Code Amended.** Chapter 30 "Land Development Code," Article VI "Signage" of the City Code of Ordinances of Marco Island is hereby amended to read as follows:

**Section 30-521. Purpose and Intent, Substitution and Severability.**

- (a) **Purpose and Intent.** It is the purpose and intent of this article to provide specific signage development standards and design regulations to ensure the orderly and appropriate installation, ~~providing~~ for ~~appropriately designed and constructed~~ **construction** of individual signs, and to balance desired communication with the interests of the public health, safety, convenience, aesthetics, and general welfare.

It is further the intent of this code that the June 15, 2001 compliance deadline for nonconforming on-premises permanent signs shall not be enlarged, expanded, or stayed except in full compliance with the provisions of this code.

- (b) **Substitution of Non-commercial Speech for Commercial Speech.** **Notwithstanding any provisions of this Article to the contrary, to the extent that this Article permits a sign containing commercial copy, it shall permit a non-commercial sign to the same extent. The non-commercial message may occupy the entire sign area or any portion thereof, and may substitute for or be combined with the commercial message. The sign message may be changed from commercial to non-commercial or from one non-commercial message to another, as frequently as desired by the sign's owner, provided that the sign is not prohibited and the sign continues to comply with all requirements of this Article.**

(c) **Severability**

- (1) **Generally, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Article is declared unconstitutional by the final and valid judgment or decree of any court of competent jurisdiction, the declaration of unconstitutionality or invalidity shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this article.**
- (2) **Severability Where Less Speech Results. This Section shall not be interpreted to limit the effect of Section (c) (1) or any other applicable severability provision in the Code of Ordinances or adopting ordinance. The City Council specifically intends that severability shall be applied to these sign regulations even if the result would be to allow less speech, whether by subjecting currently exempt signs to permitting or by some other means.**

- (3) Severability of Provisions Pertaining To Prohibited Signs. This Section shall not be interpreted to limit the effect of Section (c) (1), or any severability provision in the Code of Ordinances or any adopting ordinance. The City Council specifically intends that severability shall be applied to Section 30-527 concerning prohibited signs so that each of the prohibited sign types listed in that Section shall continue to be prohibited irrespective of whether another sign prohibition is declared unconstitutional or invalid.
- (4) Severability of Prohibition on Bill Board Off Premises Signs. This Section shall not be interpreted to limit the effect of Section (c) (1) above, or any other applicable severability provision in the Code of Ordinances or any adopting ordinance. If any or all of Article VI Signage or other provision of the City's Code of Ordinances is declared unconstitutional or invalid by the final and valid judgment of competent jurisdiction, the City Council specifically intends that the declaration shall not affect the prohibition on bill board off-premises signs contained herein in Section 30-527.

#### **Section 30-522. Temporary Signs.**

(2) Open House Directional Signs. ~~One~~ **Three** right-of-way directional signs is ~~are~~ allowed during a supervised open house. Said off-site directional signs shall comply with the standards of subsections (1) a.1. and (1) b. of this section. ~~and~~ **Off-site directional signs** shall be placed at the intersection of ~~the arterial or collector~~ **any** streets providing access to ~~the street on which the open house is being conducted~~ **and may only be placed in the right-of-way (along the sidewalk or in the swale) of the intersection of said streets.** No other off-site signs shall be permitted. Such sign shall be removed at the completion of the open house, and during non-supervised hours **and no later than 6:00 p.m. or sunset, whichever occurs earlier.** **No intersection shall contain more than one directional sign for each supervised open house.**

#### **Section 30-528. 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.

**Sign, open house directional. A sign displaying direction to a residential open house. Residential open house directional signs shall comply with Section 30-522 (2) of this Code.**

**Section 2. Incorporation, Conflict and Severability**

- (a) It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Marco Island, Florida, and that the word "ordinance" may be changed to "section", "articles", or other appropriate words.
- (b) All sections or parts of section of the Code of Ordinances of the City of Marco Island, all City Ordinances or parts of Ordinances, and all City Resolutions or parts of Resolutions in conflict herein are hereby repealed to the extent of such conflict.
- (c) In the event this Ordinance conflicts with any other Ordinance of the City of Marco Island or other applicable law, the more restrictive shall apply. If any phrase or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion.

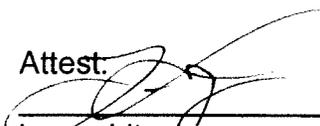
**Section 3. Effective Dates.**

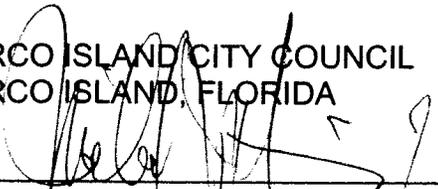
This Ordinance shall take effect immediately upon adoption by the Marco Island City Council. The amendments to Section 30-522 of the Code of Ordinances shall remain in effect until June 1, 2010 after which period the requirements and regulations of Section 30-522 as they existed prior to the effective date of this Ordinance shall be fully reinstated.

Passed in open and regular session on First Reading through roll call vote by the City Council of the City of Marco Island, Florida, this 3<sup>rd</sup> day of December, 2007.

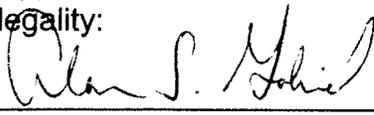
Passed in open and regular session on Second Reading through roll call vote by the City Council of the City of Marco Island, Florida, this 7<sup>th</sup> day of January, 2008.

Attest:

  
\_\_\_\_\_  
Laura Litzan  
City Clerk

MARCO ISLAND CITY COUNCIL  
MARCO ISLAND, FLORIDA  
By:   
\_\_\_\_\_  
Michael F. Minozzi, Jr., Chairman

Approved as to form and  
legality:

  
\_\_\_\_\_  
Alan L. Gabriel, Esq.  
City Attorney