

CITY OF MARCO ISLAND
ORDINANCE NO. 06 - 04

AN ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA, REGARDING PROPERTY MAINTENANCE UNDER CONDITIONS OF HURRICANE PREPAREDNESS; PROVIDING FOR NOTICES OF VIOLATION, STOP WORK ORDERS ON CONSTRUCTION PROJECTS, AND APPEALS TO THE BOARD OF ADJUSTMENTS AND APPEALS; PROVIDING FOR PENALTIES; PROVIDING FOR INCORPORATION, CONFLICT, AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Marco Island City Council has determined that property throughout the City should be maintained in a orderly manner in preparation of a hurricane; and

WHEREAS, the City Council believes adequate enforcement mechanisms and procedures to sufficiently protect the health, welfare, and safety of the residents and visitors of the city should exist; and

WHEREAS, the City Council finds that maintaining property not only affects the appearance of the City, but also affects the health, welfare, and safety of individuals and property within the City; and

WHEREAS, the City is geographically located in an area prone and vulnerable to the threat of hurricanes; and

WHEREAS, unsecured roof tiles, other construction materials, and debris can pose a threat to the health, welfare, and safety of individuals and property in the event of and during the course of a hurricane.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF MARCO ISLAND, FLORIDA:

SECTION ONE. TITLE

This ordinance shall be referred to as the Marco Island Hurricane Preparedness Property Maintenance Ordinance.

SECTION TWO. WEATHER EMERGENCIES

- a) *Declaration*. The provisions of this ordinance apply when the National Weather Service, National Hurricane Center or appropriate weather agency declares a hurricane warning for any portion of the Collier County.

b) *Construction sites.*

- (1) All construction materials, including roof tiles, within the city shall be secured, stored or removed so as not to create a safety hazard because of hurricane force winds.
- (2) Media broadcasts or notices issued by the National Weather Service or National Hurricane Center of a hurricane warning shall be deemed sufficient notice to the owner of real property upon which construction is occurring or any contractor responsible for the construction to secure, store or remove loose construction debris and loose construction materials against the effects of high wind.
- (3) Materials stockpiled on top of any structure under construction shall be permanently installed by the property owner or contractor upon issuance of a hurricane warning. However, if such installation cannot be timely completed, then the property owner or contractor shall:
 - (a) Band together the construction materials and mechanically fasten them to the top of the structure in such a manner so a threat of becoming airborne during a tropical storm or hurricane is not experienced;
 - (b) Remove the construction materials from the top of the structure and mechanically tie them down to the ground; or
 - (c) Remove the construction materials from the job site; or
 - (d) Store the construction materials inside a protected structure.
- (4) Interiors of structures under construction shall be secured to prevent materials from becoming airborne.
- (5) All debris on a construction site shall be stored in commercial containers and shall be properly secured.
- (6) Commercial containers and portable toilets must be removed from a construction site or mechanically tied to the ground.

- (7) Piles of dirt, sand, and stone on a construction site shall be located away from the canals, right of ways, adjoining properties, swales, culverts, and inlet grates.
- (8) All construction materials or debris required to be secured, stored or removed shall remain secure, stored or removed hereunder from the property until the National Weather Service, National Hurricane Center or other appropriate weather agency has removed all portions of Collier County from those areas included in a hurricane warning.
- (9) In the event of a violation of this section, in addition to all other remedies provided in this code or otherwise by law, the city may take whatever emergency action it deems necessary to secure, store or remove all loose construction materials and debris, including, but not limited to, roof tiles and roofing materials. In such circumstances, the city shall bill the property owner or his/her agent for all charges and expenses incurred to eliminate these potentially unsafe conditions by any means necessary. The securing of an outside contractor to perform these services shall be deemed to be the securing of emergency services and shall not require the city to utilize a competitive bid process to select a contractor. A notice of violation shall be posted at the job site and mailed to the property owner or contractor. The written notice shall constitute a stop work order and shall remain in effect until the bill is paid. Upon receipt of payment, the building official or his designee shall allow resumption of work. If the bill for such services remains unpaid for a period of 30 days or more, the city may record a claim of lien encumbering the property and thereafter proceed according to law to enforce the lien.
- (10) The owner of the property and the contractor shall be jointly and severally responsible for compliance with the provisions of this section.
- (11) The owner or contractor, personally or through their agent or representative, shall have the right to appeal the decision of the city ordering the cessation of all work and appear before the Board of Adjustments and Appeals at a specified time and place to show cause why they should not be responsible for weather emergency code compliance.

c) Developed sites.

- (1) On all developed property, all household furnishings including, but not limited to furniture and lawn equipment, not secured by a fence or screen

enclosure, shall be secured, stored or removed so as to not create a safety hazard due to hurricane force winds.

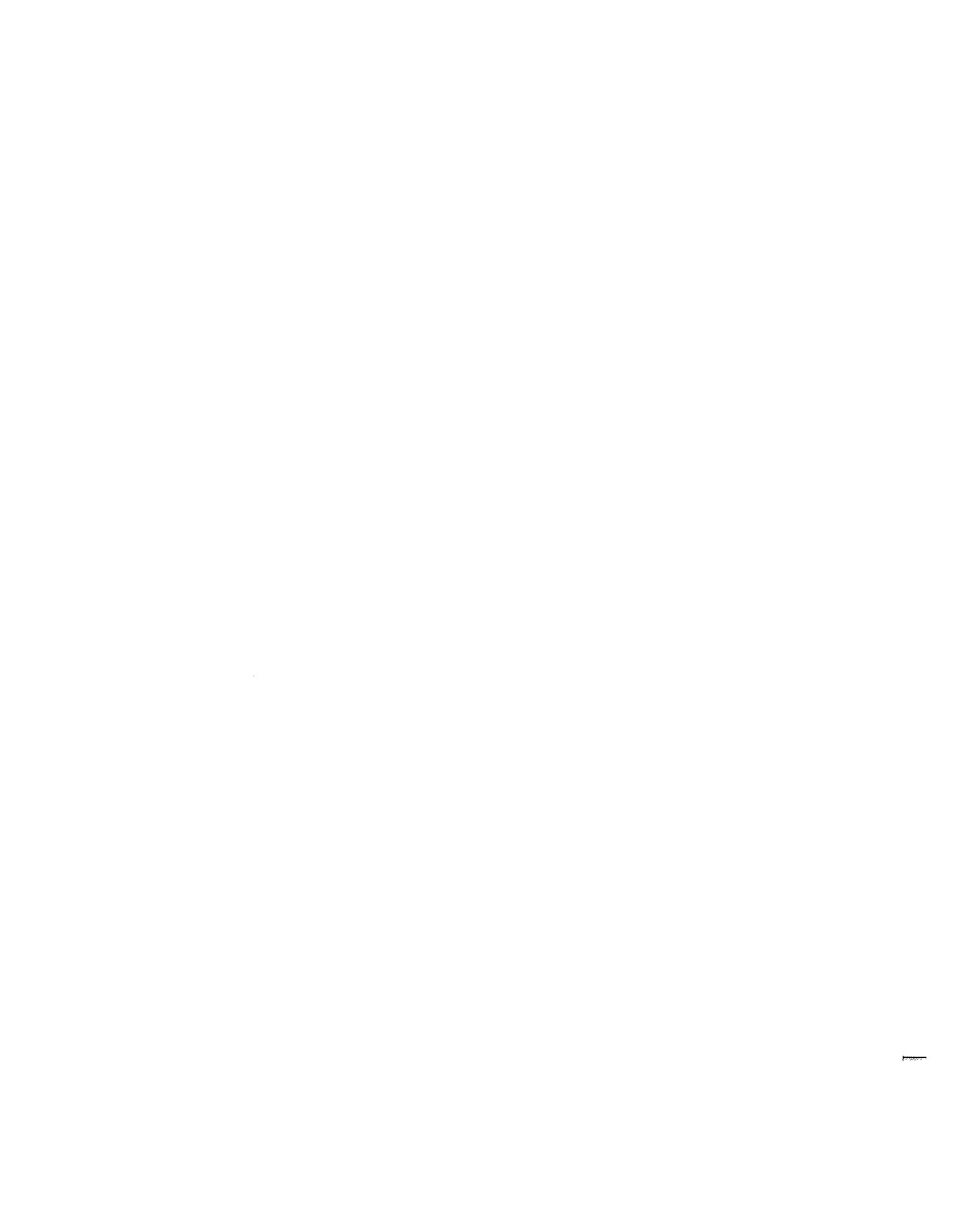
- (2) All materials and household furnishings required to be secured, stored or removed shall remain secure, stored or removed hereunder from the property until the National Weather Service, National Hurricane Center or other appropriate agency has removed all portions of Collier County from those areas included in a hurricane warning.
- (3) Media broadcasts or notice issued by the National Weather Service or National Hurricane Center of a hurricane warning shall be deemed sufficient notice to the owner of developed real property to store or secure furnishings or to remove furnishings not secured or stored from the property.

SECTION THREE. PENALTIES

- a) *Penalty.* The violation or failure to comply with any provision of this Code shall constitute an offense against the City. Penalties shall be assessed in accordance with Section 1-14 of the City's Code of Ordinances or its successor.
- b) *Stop work order; order to abate.* Additionally, where a violation related to any construction or condition for which a permit has been issued; or is subject to issuance, the violation may be enforced by the building official or designee through the issuance of a stop work order in accordance with the procedures set forth in the Florida Building Code; or an order to repair, restore or demolish the work; to vacate the premises; or otherwise to abate the violation enforceable.
- c) *Nuisance.* Any violation of this article is subject to abatement as a public nuisance.
- d) The provisions of this article are cumulative with and in addition to any other remedy provided by law.

SECTION FOUR. 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 made 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 appropriate words.
- b) All sections or parts of sections of the Code of Ordinances of the City of Marco Island, Florida, all City Ordinances or parts of ordinances, and all City Resolutions in conflict are hereby repealed to the extent of such conflict.



- c) In the event this Ordinance conflicts with any other Ordinances of the City of Marco Island, Florida 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 shall not affect the validity of the remaining portion.

SECTION FIVE. EFFECTIVE DATE

This Ordinance shall take effect immediately upon adoption by the Marco Island City Council.

Passed in open and regular session through roll call vote by the City Council of the City of Marco Island, Florida, this 3rd day of April, 2006.

Attest:

CITY OF MARCO ISLAND, FLORIDA

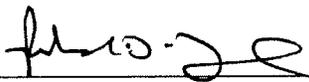


Laura Litzan
City Clerk

BY: 

Terri Di Sciullo, Chair

Approved as to form and
legal sufficiency:



Richard Yovanovich, Esquire
City Attorney