

CITY OF MARCO ISLAND

ORDINANCE 05- 03

AN ORDINANCE PERTAINING TO THE BOARD OF ZONING APPEALS; ADDING SECTIONS 30-68 THROUGH 30-76 TO THE LAND DEVELOPMENT CODE PORTION OF THE CITY OF MARCO ISLAND CODE OF ORDINANCES; ESTABLISHING A PURPOSE; ESTABLISHING POWERS AND DUTIES OF THE BOARD OF ZONING APPEALS; ESTABLISHING BOARD MEMBERSHIP; PROVIDING FOR TERMS OF OFFICE, REMOVAL AND VACANCIES; PROVIDING FOR STAFF; PROVIDING FOR OPERATING PROCEDURES; ESTABLISHING MEETINGS; ESTABLISHING QUORUM AND VOTING; PROVIDING FOR INCORPORATION, 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, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, following a public hearing, the Planning Board has considered the recommendation of staff and the public input and has recommended by a vote of 5 to 0 that the proposed text amendments to the City's Land Development Code relating to the Board of Zoning Appeals be adopted; and

WHEREAS, after considering the recommendation of the Planning Board and the City Staff and following a public hearing on the subject, the City Council has determined it is in the best interest of the City of Marco Island to adopt the proposed text amendments to the City's Land Development Code relating to the Board of Zoning Appeals.

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

Section 1. That new Sections 30-68 through 30-76 are hereby created and added to Chapter 30 of the Code of Ordinances of the City of Marco Island, which shall read as follows:

Sec. 30-68. BOARD OF ZONING APPEALS

Sec. 30-69. Establishment and purpose.

There is hereby established a Board of Zoning Appeals. As provided herein, the City Council may act as the Board of Zoning Appeals or appoint a Board of Zoning Appeals.

Sec. 30-70. Powers and duties.

The Board of Zoning Appeals shall have the following powers and duties:

- (1) To hear, review and approve, approve with conditions, or deny zoning variances, conditional uses, nonconforming use amendments, certain boat dock extension petitions or appeals of certain boat dock extension petitions,

flood variances and off-street parking and shared parking agreements in accordance with the terms of the Code.

- (2) To hear, review and approve, approve with conditions, or deny appeals from interpretations made by the Community Development Director or administrative decisions pertaining to the growth management plan, the future land use map, the land development code, or the official zoning atlas by the Community Development Director or his/her designee(s).
- (3) To make its special knowledge and expertise available upon written request and authorization of the City Council to any official, department, board, or commission of the City.
- (4) To recommend to the City Council additional or amended rules of procedure not inconsistent with this division to govern the Board of Zoning Appeals' proceedings.

Sec. 30-71. Board membership.

- (1) Appointment. The City Council may appoint a Board of Zoning Appeals or may designate itself by resolution to act as the Board of Zoning Appeals. The Board of Zoning Appeals shall have seven (7) members.
- (2) Qualifications of Members. Qualifications of members of the Board of Zoning Appeals shall be in accordance with Section 2-202 of the Code.

Sec. 30-72. Terms of office, removal, and vacancies.

Unless the City Council acts as the Board of Zoning Appeals, then terms of members, attendance of members, removal of members and vacancies shall be treated in the manner set forth in Chapter 2, Article IV of the Code of Ordinances.

Sec. 30-73. Staff.

The Community Development Department shall be the professional staff of the Board of Zoning Appeals.

Sec. 30-74. Quorum and voting.

No meeting of the Board of Zoning Appeals shall be called to order, nor may any business be transacted by the Board of Zoning Appeals without a quorum meeting the requirements of Section 2-206 of the Code of Ordinances. All actions of the Board of Zoning Appeals shall require a simple majority of the members of the Board of Zoning Appeals then present and voting when a quorum is present.

Sec. 30-75. Meetings.

Meetings of the Board of Zoning Appeals shall be held as needed to dispose of matters properly before the board and may be called by the chairman or in writing by three members of the Board of Zoning Appeals.

Section 30-76. Operating Procedures.

The Board of Zoning Appeals may, from time to time, adopt and amend bylaws and rules of procedure for the transaction of business, which rules and bylaws shall not be inconsistent with any rules or procedures established by City Council or established pursuant to Section 2-207 of the Code of Ordinances.

Section 2. It is the intention of the City Council and it is hereby ordained that the provisions of the Ordinance shall become and be made a part of the Code of Ordinances of the City of Marco Island, Florida, and that the sections of this Ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section", "article" or other appropriate word.

Section 3. All sections or parts of sections of the Code and Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

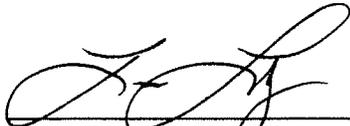
Section 4. In the event this Ordinance conflicts with any other Ordinance of the City of Marco Island or other applicable law, the more restrictive shall apply. If any phrase or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion.

Section 5. The ordinance shall become effective immediately upon adoption.

Passed in open and regular session through roll call vote by the City Council of the City of Marco Island, Florida this 1ST day of AUGUST, 2005.

Attest:

CITY OF MARCO ISLAND, FLORIDA



Laura Litzan, City Clerk

By: 

Vickie Kelber, Chairwoman

Approved as to form and
legal sufficiency:



Richard D. Yovanovitch, Esquire
City Attorney

