

CITY OF MARCO ISLAND
ORDINANCE 03- 15

AN ORDINANCE TO AMEND CHAPTER 54, ARTICLE IV (BOAT DOCKING FACILITIES) OF THE MARCO ISLAND CITY CODE BY AMENDING SEC. 54-100 PURPOSE AND INTENT; AMENDING SEC. 54-101 DEFINITIONS; AMENDING SEC. 54-110 PERMITTED ACCESSORY USE; AMENDING SEC. 54-111 DIMENSIONAL STANDARDS; AMENDING SEC. 54-112 ADDITIONAL REQUIREMENTS; AMENDING SEC. 54-113 PERMIT AND CONSTRUCTION REQUIREMENTS; AMENDING SEC. 54-114 MINOR AFTER-THE-FACT ENCROACHMENTS, AMENDING SEC. 54-115 BOAT DOCK EXTENSION; AND AMENDING SEC. 54-116 BOATHOUSES; PROVIDING FOR INCORPORATION 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, City Council adopted Ordinance 00-04 (codified as Chapter 54, Article IV) to establish new boat dock facility regulations and standards; and

WHEREAS, Section 1.01 of the Marco Island City Charter empowers the City to adopt, amend, or repeal ordinances, resolutions, and codes as may be required for the good governing of the City; and

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

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

SECTION ONE: That Chapter 54, Article IV, of the Marco Island City Code be amended to read as follows:

Sec. 54-100. Intent and purpose.

It is the intent and purpose of this Ordinance to provide for the adequate securing of moored vessels and to provide safe access by users for routine maintenance and use while minimizing the impact on the navigability of the

waterway, native marine habitat, manatees, and the use and view of the waterway by surrounding property owners. It is further the intent of this Ordinance to provide reasonable access for vessel, seawall, and dock maintenance.

It is recognized that specific waterway locations warrant special consideration due to severe access and navigational challenges, and community character and aesthetic impacts. City Council may authorize the establishment of overlay districts, with district specific dimensional standards and regulations, to address boat docking facilities within the overlay area(s).

Sec. 54-101. Definitions.

Associated infrastructure means seawalls, revetments, caps, support piles, whalers, riprap, and like physical improvements which supports a boat dock facility in conjunction with the upland host property.

Boat cover means a portable or fixed aluminum, PVC, galvanized or similar structure which is attached to a dock or boatlift and covered with canvas, vinyl, aluminum or similar materials and utilized for protecting a vessel over or contiguous to navigable water. A boat cover shall not be considered or qualify as a boathouse and shall not be installed, repaired or reconstructed. A covering, commonly referred to as a mooring cover, which is fixed to the vessel for the purpose of protecting the vessel shall not be considered a boat cover.

Boat docking facility means any structure, whether fixed in position or floating, constructed on or over a waterway for the primary purpose of mooring a boat and that provides access to a vessel from the adjacent upland property. This includes docks, walkways, piers, boatlifts, personal watercraft lifts, davits, mooring piles, dolphins, boathouses and the like.

Boathouse means a structure with a trussed roof which is constructed of palm fronds, cedar shakes, or the same material and color of the principal structure on the property, accessory use to a residential structure over or contiguous to navigable water, open on all sides and providing covered protection to a boat and accessories customary thereto.

Boatlift means any mechanical structure, including a davit, capable of lifting or raising a vessel clear of the water.

Live-aboard vessel shall have the same meaning as used in Section 327.02, Florida Statutes, as may be subsequently modified or amended from time to time.

Marginal dock means a dock which protrudes 5 feet or less into the waterway.

Moored vessel, for the purposes of this article, shall refer to the overall length of the vessel, including the pulpit, motor, and any other accessories attached to the vessel.

Personal watercraft (PWC) means a watercraft vessel less than 44 16 feet in length which uses ~~a motor~~ an inboard motor powering a water jet pump as its primary source of power and which is designed to be operated by a person sitting, standing or kneeling on, rather than the conventional manner of sitting or standing inside the vessel.

Personal watercraft (PWC) lift means any mechanical structure capable of lifting or raising a PWC clear of the water.

Riparian line means an imaginary line beginning at the point at which property lines intersect the mean high water line of a waterway and continuing into the waterway indefinitely. The purpose of the riparian line, as employed by this article, is to provide a point of reference from which to measure setbacks for docking facilities. Riparian lines shall be established according to the following unless contradicted or approved by the State of Florida Board of Trustees of the Internal Improvement Trust Fund:

1. Lots at the end or side end of a waterway with a regular shoreline are established by a line extending from the corner of an end lot and side end lot into the waterway bisecting equidistantly the angle created by the two intersecting lots.
2. Riparian lines for all other lots should be established by generally accepted methods, taking into consideration the configuration of the shoreline, and allowing for the equitable apportionment of riparian rights. Included, but not limited to, are lines drawn perpendicular to the shoreline for regular (linear) shorelines, or lines drawn perpendicular to the centerline (thread) of the waterway, or perpendicular to the line of deep water (line of navigability or edge of navigable channel) as appropriate for irregular shorelines. No boat docking facility shall be constructed so as to encroach upon the riparian rights of other property owners.

Riparian rights shall have the same meaning as used in Section 253.141, Florida Statutes, as may be subsequently modified or amended from time to time. This term is currently defined as follows: Riparian rights are those incidental to land bordering upon navigable waters. They are rights of ingress, egress, boating, bathing, and fishing and such others as may be or have been defined by law. Such rights are not of a proprietary nature. They are rights inuring to the owner of the riparian land but are not owned by him or her. They are appurtenant to and are inseparable from the riparian land. The land to which the owner holds title must extend to the ordinary high watermark of the navigable

water in order that riparian rights may attach. Conveyance of title to or lease of the riparian land entitles the grantee to the riparian rights running therewith whether or not mentioned in the deed or lease of the upland.

Seawall support pilings means pilings which are installed against the waterward side of a seawall for the purpose of providing additional support to the seawall and/or providing protection to the seawall from vessels.

Setback means a line marking the minimum open space distance between a property line, right-of-way line, bulkhead line, shoreline, seawall, mean high water mark, access easement line, or other defined location, whichever is most restrictive, and the beginning point of a required yard or the buildable area.

Sovereign submerged lands shall have the same meaning as used in Section 18-21.003, Florida Administrative Code, as may be subsequently modified or amended from time to time.

Sovereign submerged land lease shall have the same meaning as used in Section 18-21.003, Florida Administrative Code, as may be subsequently modified or amended for time to time.

Swivel PWC lift means any mechanical structure capable of lifting or raising a PWC clear of the water and which swivels so that the vessel is stored on the property or on top of a boat docking facility.

Sec. 54-102 – 109. Reserved.

DIVISION 2. REGULATIONS

Sec. 54-110. Permitted accessory use.

Boat docking facility(s) shall be permitted as an accessory use on any waterway lot in any single-family district, except as otherwise provided, subject to the criteria set forth in this article. Boat docking facility(s) shall be permitted as an accessory use on any waterway lot in any multi-family district subject to the criteria set forth in this article. Boat docking facility(s) shall be permitted as an accessory use on any waterway lot in any commercial zoning district for which the boat dock facility is customary and incidental to the established principle use of the property. All boat docking facilities are subject to, and shall comply with, all federal and state requirements and permits, including but not limited to the requirements and permits of the Florida Department of Environmental Protection, the US Army Corps of Engineers, and the US Environmental Protection Agency.

Sec. 54-111. Dimensional Standards.

(a) Protrusion limitations for boat docking facilities:

- (1) On lots on a waterway which is 100 feet or greater in width the combination of a boat docking facility and moored vessel(s) shall not protrude more than 20 feet into the waterway.
- (2) On lots on a waterway which is 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 waterway width.
- (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 section 54-111(a) or a boat dock extension has been approved.
- (4) Protrusion shall be measured from the face of the seawall. On shoulder lots where the property line extends into the water, the protrusion shall be measured from the property line.
- (5) The width of the waterway shall be defined by the recorded plat.

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

- (1) Boat docking facilities shall have a side yard setback equivalent to 15 percent of the seawall length, regardless of location, as measured from applicable riparian lines.
 - a. The minimum required setback shall be seven and one-half feet.
 - b. The maximum required setback shall be 15 feet.
 - c. The minimum required setback from the riparian lines on shoulder lots shall be 7.5 feet. The common shared riparian line between the shoulder lot and the adjacent lot shall be 7.5 feet.
 - d. The setback shall apply to that portion of the boat dock facility and moored vessel waterward of the property line or seawall, whichever is more restrictive, except in the case of shoulder lots which shall have the setback apply

to that portion of the boat dock facility and moored vessel waterward of the property line only.

(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 dock. All height limitations and setback requirements contained herein shall apply to such terrace or patio extensions.

(2) 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 section 54-111 of this article.

(3) 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 ~~33~~ 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.

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

Sec. 54-112. Additional requirements.

(a) All boat docking facilities are subject to, and shall comply with, all federal and state requirements and permits, including but not limited to the requirements and permits of the Florida Department of Environmental

Protection, the US Army Corps of Engineers, and the US Environmental Protection Agency.

(b) Any proposed expansion of or addition to (excluding boatlifts) an existing nonconforming boat docking facility, whether attached to or detached from an existing boat docking facility, shall require the entire boat docking facility be brought into conformance with the requirements of this article. Any repair or replacement of the structure within the existing footprint shall not require that the facility be brought into compliance with the standards set forth in this article.

(c) All boat docking facilities, regardless of length or protrusion, shall have blue or white reflectors installed facing the water at the outermost end of the boat docking facility on both sides. Red and green reflectors are prohibited.

(d) All boat dock facilities, regardless of length or protrusion, shall have house numbers, which are a minimum of four inches in height and a contrasting color from the area of installation, installed facing the water at the outermost end of the boat docking facility on both sides.

(e) Live-aboard vessels may not anchor or tie up in waters under the jurisdiction of the city except at anchorage sites identified on official National Oceanographic and Atmospheric Administration (NOAA) navigational charts or at facilities located in zoning districts permitting such use and at facilities within such districts designated for such use and meeting city, county, and state health standards for such use.

(f) Use of boat docking facilities to moor boats for boat rentals, boat repair, boat sales, associated boat supplies storage, or the rental of boat docking facilities in all single and multi-family districts is expressly prohibited.

(g) Any outside lighting on a boat docking facility shall comply with the lighting regulations set forth in Chapter 6, Article V. Further, the use of red or green lights or lights that emit red or green light due to a lens or other method are prohibited.

(h) No owner shall allow the boat docking facility and/or associated infrastructure located at the owner's lot to become dilapidated, deteriorated, structurally unsound, unsightly or a safety hazard.

(i) A crane or barge may not sit idle for more than 15 business days. An extension of up to an additional 15 business days may be approved administratively if the barge or crane cannot be moved within the initial 15 business days due to mechanical problems.

(j) Seagrass bed protection:

- (1) Where new boat docking facilities or boat dock extensions are proposed, the location and presence of seagrass or seagrass beds within 200 feet of any proposed dock facility shall be identified on an aerial photograph having a scale of 1": 200' when available, or a scale of 1": 400' when such photographs are not available. The location of seagrass beds shall be verified by a site visit by the community development director or his designee prior to the approval of any boat dock extension or the issuance of any building permit.
- (2) All proposed boat docking facilities shall be located and aligned to stay at least ten feet from any existing seagrass beds, except where a continuous bed of seagrasses exists off the shore of the property and adjacent to the property, and shall minimize negative impacts to seagrasses and other native shoreline, emergent and submerged vegetation and hard bottom communities.
- (3) Where a continuous bed of seagrasses exists off the shore of the property and adjacent to the property, the applicant shall be allowed to build a boat docking facility across the seagrasses or within ten feet of seagrasses. Such boat docking facilities shall comply with the following conditions:
 - a. The dock shall be at a height of at least 3.5' NGVD.
 - b. The terminal platform of the dock shall not exceed 160 square feet.
 - c. The access dock shall not exceed a width of four feet.
 - d. The boat docking facility shall be sited to impact the smallest area of seagrasses possible.
- (4) The applicant or petitioner shall be required to demonstrate how negative impacts to seagrasses and other native shoreline vegetation and hard bottom communities have been minimized prior to the approval of any boat dock extension or the issuance of any building permit.

Sec. 54-113. Permit and construction requirements.

(a) A City of Marco Island building permit must be obtained prior to the construction, installation, modification or replacement of a boat docking facility.

(b) Applications for a building permit must include the following:

- (1) Drawing of currently existing conditions at the proposed site including the property lines, length of the seawall, waterway width, location of seagrasses within 200 feet of the subject site (if applicable) mangrove prop root line (if applicable), and location of navigation channels (if applicable).
- (2) Plans showing the height, width, length and distance from the property lines of all existing and proposed structures to include pilings, boatlifts, decking, detail and construction specifications and all other information deemed necessary by the community development director or his designee.
- (3) The community development director or his designee may require this information to be furnished on a certified survey if information is conflicting.
- (4) If state or federal permission is required for the construction, installation, modification or replacement of any boat docking facility, such permission shall be presented in writing to the community development director or his designee prior to the issuance of any building permit for a boat docking facility.
- (d) A certificate of use may be issued upon approval of all required inspections except for the final survey. A certificate of use shall only be valid for a period of 90 days after date of issuance.
- (e) A certificate of completion may be issued upon submission and approval of a final survey prepared and certified by a Florida registered engineer or surveyor, showing the as-built location and depicting compliance with the standards set forth.
 - (1) A certificate of completion must be issued within 90 days of the issuance of a certificate of use or the permit will become invalid.
 - (2) The installation of a PWC lift which swivels and stores a PWC onto an existing dock or the installation of seawall support pilings shall be exempt from the final survey requirement.

Sec. 54-114. Minor after-the-fact encroachments.

- (a) Minor after-the-fact encroachments may be approved administratively by the community development director or his designee. Encroachments of up to 0.5 feet into the required setback for a boat docking facility for which a certificate of occupancy has not been issued, and encroachments of up to 1.0 feet into the required setback for a boat docking facility for which a certificate of occupancy has been issued may

be granted administratively.

- (b) In order to apply for an administrative variance for a boat docking facility, the property owner or his agent shall submit the following to the community development director or his designee:
 - (1) A survey prepared and certified by a Florida registered engineer or surveyor identifying the exact location and size of the encroachment.
 - (2) A statement of how and when the encroachment was created.
 - (3) A statement of current ownership and ownership at the time the encroachment was created.
 - (4) A letter of no objection from each adjacent property owners.
 - (5) Any other factors which may show that the encroachment was not intentionally created.
 - (6) Applicable fee as listed in the schedule of fees.

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 of this article.
- (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:

- i. Completed application, including signed and notarized Owner/Agent affidavit.
 - ii. A site plan, drawn to scale, illustrating each of the following:
 - a. Location map.
 - b. Lot dimensions of subject property.
 - c. Riparian line(s).
 - d. Required boat docking facility setbacks.
 - e. Configuration and dimensions of proposed boat docking facility, including decking, boatlifts, boat mooring areas, etc.
 - f. Configuration and dimensions of existing boat docking facility, including decking, boatlifts, boat mooring area, etc., if applicable.
 - g. Configuration and dimensions of existing boat docking facilities on adjacent properties.
 - h. 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 requested.
 - iii. Permit number and certificate of completion date for the original construction of any existing boat docking facility, if applicable.
 - iv. Resolution number and date of previous boat dock extension, if applicable.
 - v. 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, -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.
 - (10) Whether or not the proposed dock is subject to the manatee protection requirements set forth in section 54-117 of this article.
- (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.

Sec. 54-116. Boathouses.

- a) The City of Marco Island shall not permit the construction of new boathouses, boat covers, gazebos, or similar covered structures extending over navigable waterways in any zoning district.
- b) Boathouses which were existing prior to September 21, 1998, may be repaired or rebuilt subject to the following:
 - (1) Approval of the community development director or his designee will be required prior to the issuance of a building permit to repair or rebuild within the existing footprint including the overhang of a structure that was lawfully permitted and for which a certificate of completion was issued.
 - (2) Boathouses which were legally permitted but did not receive a certificate of completion shall require public notice and public hearing by the planning board prior to the issuance of a building permit to repair or rebuild within the existing footprint.
 - (3) Boathouses which were not issued a building permit shall require public notice and a hearing by both the planning board and the city council acting as the board of zoning appeals prior to the issuance of a building permit to repair or rebuild within the existing footprint.
 - (4) The community development director, 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:
 - a. Boathouse must have a minimum side yard setback of 15 feet, this setback requirement will not apply to boathouses located over a cut-in boat slip.
 - b. Boathouses may not protrude more than 25 percent of the waterway width or 20 feet into the waterway, whichever is less.
 - c. Boathouses may not be more than 15 feet in height as measured from the top of the decking to the top of the roof.
 - d. Boathouses must be completely open on all four sides except that the header board can be covered with decorative finishing materials or lattice board no more than 12 inches below the bottom of the header board. Roofing material and roof color must be:
 - i. Same as the material and color which are used on the principal structure; or,
 - ii. Palm frond "chickee" style; or,
 - iii. Cedar shake style.

- iv. Roof must be hip, gable, mansard, or flat style roof, consistent with the roof style of the principal structure. When the roof must be changed to conform, the roof overhang shall not project more than 36 inches into the required side yard setbacks or more than 36 inches beyond the allowed protrusion.
 - v. A roof shall not be utilized as a viewing platform, sunning deck, gathering place or similar use.
- e. No boathouse may be used for the purpose of human habitation or storage of materials other than recreational supplies.

Sec. 54-117. Manatee protection.

(a) The following are for the purpose of manatee protection and will be applicable to all multi-slip docking facilities with ten slips or more, and all marina facilities.

(b) Manatee protection.

(1) Proposed developments will be reviewed for consistency with the Manatee Protection Plan (MPP) adopted by the Collier County Board of County Commissioners and approved by the Florida Department of Environmental Protection. If the location of the proposed development is consistent with the MPP, then the developer will submit a "Manatee Awareness and Protection Plan", which shall address, but not be limited to, the following categories:

- a. Education and public awareness;
- b. Posting and maintaining manatee awareness signs;
- c. Information on type and destination of boat traffic that will be generated from the facility;
- d. Monitoring and maintenance of water quality to comply with state standards;
- e. Marking of navigational channels may be required.

(c) Marina siting.

(1) The purpose of the marina site rating system is to help determine the maximum wet slip densities in order to improve existing manatee protection. The marina site rating system gives a ranking based on three criteria: water depth, native marine habitat, and manatee abundance. In evaluating a parcel for a potential boat facility, a minimum sphere of

influence for the boat traffic must be designated. For this plan an on-water travel distance of five miles is considered the sphere of influence.

(2) Rating criteria.

- a. A preferred rating is given to a site that has or legally create adequate water depth and access, will not impact native marine habitats, and will not impact a high manatee use area (see Table 1)
- b. A moderate ranking is given to a site where: there is an adequate water depth and access, no impact to a high manatee use area, but there is an impact to native marine habitat; there is adequate water depth, no impact to native marine habitat, but impacts a high manatee use area; and when the water depth is less than four feet mean low water (MLW), no impact to native marine habitat, and no impact to a high manatee use area.
- c. A protected ranking is given to a site where: there is adequate water depth and access, but there is an impact to native marine habitat and there is an impact to a high manatee use area; there is not adequate water depth, there is impact to or destruction of native marine habitat and there is impact to a high manatee use area; there is not adequate water depth, no impact to marine habitat, but there is impact to a high manatee use area; or there is not adequate depth, there is impact to marine habitat and no impact to a high manatee use area.
- d. The exact areas will depend on site specific data gathered during the site development process.

Table 1

	Water Depth		Native Marine Habitat		Manatee Use	
	Greater than 4' MLW	Less than 4' MLW	No Impact*	Impact	Not High	High
Preferred	X		X		X	
Moderate	X		X			X
Moderate	X			X	X	
Moderate		X	X		X	
Protected	X			X		X
Protected		X		X		X
Protected		X	X			X

Protected		X		X	X	
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*For shoreline vegetation such as mangroves, no impact is defined as no greater than five percent of the native marine habitat is disturbed. For sea grasses, no impact means that no more than 100 square feet of sea grasses can be impacted.

(3) Allowable wet slip densities.

(1) Preferred sites:

- a. New or expanded wet slip marinas and multi-family facilities shall be allowed at a density of up to 18 boat slips for every 100 feet of shoreline. Expansion of existing and construction of new dry storage facilities is allowed. Expansion of existing and construction of new boat ramps is allowed.

(2) Moderate development sites:

- a. New or expanded wet slips and multi-family facilities shall be allowed at a density of up to ten boat slips for every 100 feet of shoreline. Expansion of existing dry storage facilities is allowed. Construction of new dry storage facilities is prohibited. Expansion of existing boat ramps is allowed. Construction of existing boat ramps is allowed. Construction of new boat ramps is prohibited.

(3) Protected site:

- a. New or expanded wet slip marinas and multi-family facilities shall be allowed at a density of one boat slip for every 100 feet of shoreline. Expansion of existing dry storage facilities or construction of new dry storage facilities is prohibited. Expansion of existing boat ramp or construction of new boat ramps is prohibited.

(4) Mitigation.

- a. If a potential boat facility site is ranked as moderate or protected because of its proximity to a high use manatee area its ranking can be increased if slow speed zones are established that account for a significant portion of the expected travel route of the boats using the proposed facility. In that case, the manatee criteria in the three-way test (see Table 10.3) would not affect the outcome of the ranking. If such slow speed zones are not existing, the city or county may establish, with DEP approval, additional slow speed zones in order to mitigate the proposed additional boat traffic.

(5) Implementation.

- a. This rating system does not preclude the existing zoning and density regulations required by the current land development code. This system shall be used to determine the allowable maximum powerboat wet slip densities within future marina sites for the purpose of manatee protection. These criteria will be applied at the appropriate point in the city permitting process.
- (6) Exemption.
- a. Existing facilities and facilities which had state or federal permits prior to adoption of the county manatee protection plan shall be exempt from these provisions, but will be subject to all other requirements of the LDC.

Sec. 54-118. Penalties for violation.

- (a) Pursuant to Section 162.22, Florida Statutes, a person found to be in violation of this article may be charged with a fine, not to exceed \$500.00, and may be sentenced to a definite term of imprisonment not to exceed 60 days. Each violation or noncompliance shall be considered a separate and distinct offense. Further, each day of continued violation or noncompliance shall be considered as a separate offense.
- (b) Violations of this article may also be prosecuted before the Marco Island Code Enforcement Board.

SECTION TWO: Incorporation, conflict and severability.

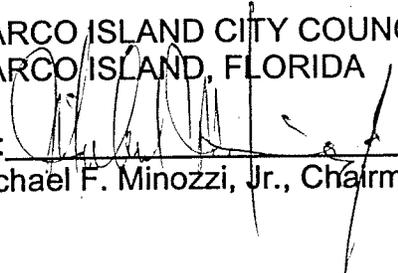
- a. It is the intention of the City Council and it is hereby ordained that the provisions of the Ordinance shall become and be made part of the Code of Ordinances of the City of Marco Island, Florida, and that the section of this Ordinance may be renumbered or relettered and that the word "ordinance" may be changed to "section", "article" or other appropriate word.
- b. All sections or parts of sections of the Marco Island City Code of Ordinances, all City of Marco Island resolutions or parts of resolutions made applicable by City Charter in conflict herewith are hereby repealed to the extent of such conflict.
- c. If any word, phrase, clause, subsection or section of this Ordinance is for any reason held unconstitutional or invalid by any court of competent jurisdiction, the invalidity thereof shall not affect the validity of any remaining portions of this Ordinance.

SECTION THREE: Effective date.

This ordinance shall take effect immediately upon the 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 September, 2003.

MARCO ISLAND CITY COUNCIL
MARCO ISLAND, FLORIDA

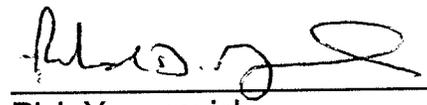
By: 
Michael F. Minozzi, Jr., Chairman

ATTEST:



Laura Litzan
City Clerk

Approved as to form and legality:



Rich Yovanovich
City Attorney