

**CITY OF MARCO ISLAND
ORDINANCE 2003-20**

AN ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA ESTABLISHING REGULATIONS AND PROCEDURES FOR THE OPERATION OF A WATER, WASTEWATER, AND RECLAIMED WATER UTILITY WITHIN THE URBAN SERVICE AREA; PROVIDING DEFINITIONS, RATES, FEES AND CHARGES FOR CONSUMERS, REGULATIONS FOR WATER SERVICE CONNECTION AND MAIN EXTENSIONS, CROSS CONNECTION CONTROL REGULATIONS, WASTEWATER REGULATIONS, RECLAIMED WATER REGULATIONS; PROVIDING CONSERVATION REGULATIONS, DELETING CHAPTER 18, ARTICLE III, WATER IRRIGATION RESTRICTIONS; AND PROVIDING FOR A SEVERABILITY CLAUSE, A REPEALER PROVISION, AND AN EFFECTIVE DATE.

WHEREAS, Chapter 180, Florida Statutes, empowers municipalities with certain powers and authority to control and regulate municipal public works; and

WHEREAS, Section 180.02, Florida Statutes, allows a municipality to execute all powers granted under Chapter 180, Florida Statutes within its corporate limits; and

WHEREAS, Chapter 180, Florida Statutes, also permits a municipality to execute all of its corporate powers for the accomplishment of said Chapter outside of its corporate limits, as provided in said Chapter, and as may be desirable or necessary for the promotion of the public health, safety, and welfare or for the accomplishment of the purposes of said Chapter; and

WHEREAS, Chapter 18, Article III, Water Irrigation Restrictions shall be replaced by Conservation Regulations contained herein.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Marco Island, Florida:

ARTICLE I. IN GENERAL

Sec. 1. Generally.

(a) *Compliance.* All water, wastewater, and/or reclaimed water service users are required to comply with all regulations and ordinances of the city governing such use.

(b) *Responsibility of city.* The city shall only be responsible for a good faith effort to provide reasonable water, wastewater, and reclaimed water service. Water service is subject to the continuing availability of raw water supply, and water, wastewater, and reclaimed water service is subject to the availability of the respective treatment plants capacity and all requirements of the law.

(c) *Service not guaranteed.* Location within the service areas of the city does not guarantee water or wastewater service. In the event that service or service capacity is not available for any reason, the property affected may be removed by ordinance from the service area without any liability attaching to the city.

(d) *Promulgation and Enforcement of Procedures and Regulations.* The city manager shall have the power to promulgate procedures and regulations relative to the water, wastewater, and reclaimed water system. Such procedures and regulations shall be provided in the *Utilities Department Manual of Standards and Specifications*. Said Manual will be adopted by City Council and amended when necessary, by resolution. Water, wastewater, and reclaimed water construction improvements, rehabilitation, and repairs shall meet or exceed the requirements of the *Manual*.

Sec. 2. Definitions.

The following words and phrases as used in this chapter shall have the following meanings:

Biochemical oxygen demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius, expressed in milligrams per liter (mg/l).

City. The City of Marco Island, a Florida municipality. As used interchangeably, it means the city, the Marco Island Utility Department, and the water, wastewater, and reclaimed water systems owned and operated by the city.

Cross Connection. Any physical arrangement whereby a public water supply is connected directly or indirectly with any other water supply system, wastewater, drain, conduit, pool, storage reservoir, plumbing fixture, or any other device, facility or system which contains or may contain contaminated water, sewage, waste material, or other material or substance of unknown or potentially unsafe quality which may be capable of imparting contamination to the public water supply as a result of backflow. Bypass arrangements, jumper connections, changeable devices, or other devices through which or because of which backflow could occur are deemed to constitute cross connections.

Customer. Any person, firm, corporation, or government entity, using or receiving water, reclaimed water, or wastewater collection services from the city.

Department. The Marco Island Utilities Department of the City of Marco Island.

Director. The director, or designated representative, in charge of the Department, who is hereby invested with the authority and responsibility to administer and operate the water, wastewater, and reclaimed water systems of the city, and implement and enforce the provisions of this chapter.

Discontinuation of Service. The cessation of a service.

Engineering Manager. The individual or firm who approves technical specifications and drawings relating to the installation, construction, and rehabilitation of city utilities.

Equivalency Factor. A factor used to represent the relative relationship between service connections based on water meter size. The equivalency factor is determined by dividing the continuous flow criteria per meter size by the continuous flow criteria of a 5/8-inch meter as

published by the American Water Works Association, and incorporated in Chapter 25-30.055 of the Florida Administrative Code.

Living Unit. Any place of abode, which is suitable for permanent or transient family or individual residential use. Each such living unit shall be considered as single and separate.

Lot. Any place, division or parcel of land.

Master Control Valve. The manually operated valve, located immediately downstream after the meter, which controls total flow to the customer's property.

Multifamily Residence. All places of dwelling other than single-family residences and duplexes having three or more living units.

Persons. Any individual, firm, company, association, society, partnership, corporation, or group.

Reclaimed Water. Water, treated wastewater or wastewater effluent that has been appropriately treated and which, as a result of the treatment of wastes, is suitable and usable for direct beneficial uses or a controlled use by and for public agricultural, commercial, residential, or industrial developments, projects or purposes including, but not limited to, irrigation purposes in green areas of developments or other appropriate areas; water that has received at least secondary treatment and is reused after flowing out of a wastewater treatment plant.

Residence with Guesthouse Occupying the Same Premises. A residence with a guest house occupying the same premises shall be considered as a single-family residence if served by a single water connection and meter.

Sanitary Sewer. Used interchangeably with sewer line and wastewater line. Means a pipe which carries sewage and to which storm waters, service waters, and ground waters are not intentionally admitted.

Service Line. That conduit for utility service directly after the meter or delivery box fittings.

Significant Industrial User. Any individual user of the City's wastewater disposal system who:

- (1) Has a discharge flow of 25,000 gallons or more per average workday; or
- (2) Has a flow greater than five percent of the flow in the city's wastewater treatment system; or
- (3) Has in his wastes toxic pollutants as defined pursuant to Federal or Florida Statutes and rules; or
- (4) Is found by the city, the state control agency, or the U.S. Environmental Protection Agency (EPA) to have significant impact, either singly or in combination with

other contribution industries, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or air emissions generated by the system.

Single-family Residence. Any single-family dwelling; interchangeable with the word household. In the case of a duplex, each unit shall be regarded as a single-family dwelling.

System. Used interchangeably with utility system. Means all water, wastewater, and reclaimed water mains, transmission lines, storage and pumping facilities, valves, service connections, meters, and treatment facilities.

Urban Service Area. The geographic area served by the Marco Island Utilities as defined by Ordinance No. 03-13, as amended.

Utility Agreement. A written agreement between the City and a property owner that establishes the terms and conditions pursuant to which the City will provide water, wastewater, and/or reclaimed water service.

Wastewater. Used interchangeably with sanitary sewage and means a combination of any type of water-carried waste from residences, business buildings, institutions, industrial establishments, and any and all customer facilities together with such ground, surface, and storm waters as may be present, but does not mean nor include hazardous or toxic waste.

Sec. 3. Illegal Utility System Connections.

(a) It shall be unlawful to make or cause to be made any connection with the city water, wastewater, and/or reclaimed water system for providing water, wastewater, or reclaimed water service to users; to use or be supplied with water or reclaimed water from the city without the water passing through a meter provided by the city; or in a manner so as to serve or connect any existing or additional dwelling units or commercial developments without paying all systems development charges, connection user fees, and all other required charges for said additional dwelling units or commercial development; or in a manner so as to enable a user to discharge into the wastewater collection system of the city without paying all system development charges, connection fees, user fees, and all other required charges for said wastewater service.

(b) Any person who is found by the city to have made or caused to have made any connection prohibited by paragraph (a) above shall be required by the city, in addition to any penalties imposed by this Code for violation of the above, to pay the following to the city:

(1) An amount equal to three times the unpaid plant capacity fees, connection fees and utility service charges imposed by the city for such connection and water and/or wastewater service provided. Said fees and charges shall be computed using the rates in effect at the time of the discovery of said illegal connection. For residential connections, the utility service charges shall be estimated by using the average water, wastewater, and/or reclaimed water use for similar types and sizes of residential users during the entire period from the date a certificate of occupancy was issued for any dwelling unit found illegally connected to the system until the date of collection. For commercial connections, water, wastewater, and/or reclaimed water service charges

shall be estimated by using the average water and/or wastewater use for similar types and sizes of commercial users during the entire period from the date a certificate of occupancy was issued for any portion of the project served until the date of collection.

(2) All costs of investigation and collection, including time, labor, material, attorneys' fees, court costs, and professional fees of any kind necessitated to determine that such illegal connection existed.

(c) All persons making or causing said connection to be made and/or receiving the benefit of the utility services shall be jointly and severally liable for the payment of the above-described amounts to the city. Water service shall be discontinued to such persons, firms, contractors, corporations, associations or partnerships until said amount is paid in full. In the event that any corporation is found to be liable for such sums and is not solvent or is without assets to make appropriate payment, the individual officers, directors and shareholders of such corporation shall be liable for such payment to the city.

Sec. 4. Easements, Planting Shrubbery Therein.

Any persons planting shrubbery, trees, or other plants in dedicated utility easements within the city does so at their own peril. Tree plantings or shrubbery shall not be placed so as to destroy any water, reclaimed water, or wastewater utility lines. Whenever plantings obstruct the ingress and/or egress for the purposes of the easement they shall be removed upon request by the city, and in the event of failure by the owner to so move them, the city shall do so and the expense of same charged to the property owner. When plantings placed over utility lines cause damage to the utilities systems, the property owner shall bear the cost of repair or replacement of the damaged utilities.

Sec. 5. Connections.

(a) The owner of each lot or parcel of land within the city's exclusive Urban Service Area, upon which lot or parcel of land any improvement is now situated or shall hereafter be situated, shall connect or cause such improvement to be connected with the public water, wastewater, and/or reclaimed water facilities of the city and use such facilities within 90 days following notification to do so by the city. All such connections shall be made in accordance with the *Utilities Department Manual of Standards and Specifications*.

(b) All connections to the water, wastewater, and reclaimed water system shall be approved by the city manager, or his designee. The fee to connect for utility services shall consist of the capital facilities fee (impact fee), tapping fee, meter or delivery box cost, connection charges, hydrants, lift stations, equipment, and when required, plan review fee, and line extensions. Such fees shall be paid upon issuance of a building permit unless otherwise provided by a utility agreement.

(c) No person, unless expressly authorized by the city manager or designee, shall tamper with, work on, or in any way alter or damage any part of the utility system. Tampering or work shall include, but is not limited to, opening or closing of valves, turning on hydrants, or causing of any water to flow from the system.

(d) Connections to the City's water, wastewater, and/or reclaimed water system for any purpose whatsoever are to be made only by city employees or contractors in full approval of the director. No connection of any description, temporary or otherwise, is permitted on the customer's installation between that portion of the customer's installation for domestic water and reclaimed water service and that portion of the customer's installation for fire protection purposes. That portion of the customer's installation for domestic water and reclaimed water service shall be metered. The customer's fire protection service shall be installed with a detector check type of meter or any metering device approved by the director. No temporary pipes, nipples, or connections are permitted except during construction as authorized by the director, and under no circumstances are connections allowed which may permit water to bypass the meter or metering equipment.

Sec. 6. Utility Agreements.

The city manager shall be authorized to negotiate and execute utility agreements for the provision of water, wastewater, and/or reclaimed water. The utility agreement may provide for the allocation of service capacity, responsibilities for the construction and installation of utility systems, a schedule of payments for capacity charges, the obligation to provide easements, the obligation by a developer to install systems at its expense, inspections, transfer of reserved service capacity, payment of service charges, and other provisions as may be required.

Sec. 7 Extensions.

Extensions. The city manager is authorized to extend utility mains and provide utility service to customers within the boundary of the Urban Service Area.

ARTICLE II. WATER

DIVISION 1. GENERALLY

Sec. 8. Water Service.

(a) *Private Water Systems.*

(1) It shall be unlawful for any person to connect directly or indirectly any private water supply or system of pipes or connections thereof, with any part or pipes or other connection to the city water system which will permit directly or indirectly any intermingling of water from any other source with that of the city water system.

(b) *Public Water System Connection Required.*

(1) Any lot within 200 feet of the city water system and within the city's Urban Service Area shall be required to connect to the city water system.

Sec. 9. Materials for Water Transmission and Distribution.

The materials and construction of water transmission and distribution systems shall be in accordance with the established design criteria and procedures, required material specifications, and construction procedures as described in the *Utilities Department Manual of Standards and Specifications*.

DIVISION 2. CONSERVATION LANDSCAPE IRRIGATION REGULATIONS

Sec. 10. Water Conservation and Shortages – Definitions.

For purposes of this division, the following terms, phrases, words and their derivations shall have the meanings given herein:

District. The South Florida Water Management District (SFWMD).

Enforcement Officer. Any authorized agent or employee of the city whose duty it is to enforce the city's codes, and state statutes.

Impervious Surfaces. Any surfaces that do not allow penetration of water, including, but not limited to, paved or concrete roads, paved or concrete sidewalks, paved or concrete driveways, paved or concrete parking lots, or highly compacted areas including shell or clay.

Irrigation. The application of water by means other than natural precipitation.

Irrigation Systems. Equipment and/or devices which deliver water to landscaping being irrigated, including, but not limited to, pumping stations and controls, control structures, ditches, public or private wells, piping, hoses, valves, fittings, and emitters.

Landscape. All residential, commercial, institutional, industrial, and governmental areas which are considered as lawns or ornamentally planted, including, but not limited to, sod, grasses, turf, ground covers, flowers, shrubs, trees, mulch, hedges, and other similar plant materials.

Low Volume Hand Watering. Watering by one hose attended by one person, fitted with a self-canceling or automatic shutoff nozzle.

Low Volume Irrigation Systems. The use of equipment and devices specifically designed to deliver a volume of water consistent with the water requirement of the plant being irrigated and which delivers the water with a high degree of efficiency directly to the root zone of the plant.

Low Volume Mobile Equipment Washing. The washing of mobile equipment with a bucket and sponge, a single hose with a self-canceling or automatic shutoff nozzle, low volume pressure cleaning equipment, or any combination of the preceding methods of washing.

Low-volume Pressure Cleaning. Pressure cleaning by means of equipment that is specifically designed to reduce the inflow volume as accepted by industry standards.

Pervious Surface. Every improved or unimproved surface that allows water to readily soak into or recharge the water aquifer under such surface.

Water Resource. Any and all water on or beneath the surface of the ground, including without limitation natural or artificial watercourses, lakes, ponds, or diffused surface water; and water percolating, standing or flowing beneath the surface of the ground.

Water Shortage. Occurs when sufficient water is not available to meet present or anticipated needs, or when conditions are such as to require temporary reduction in total water usage within a particular area.

Water Shortage Emergency. That situation when the powers which can be exercised under part II of Chapter 40E-21 of the Florida Administrative Code are not sufficient to protect the public health, safety, or welfare, or the health of animals, fish or aquatic life, or a public water supply, or commercial, industrial, agricultural, recreational or other reasonable uses.

Sec. 11. Same – Applicability.

This section shall be in full force and effect throughout the City of Marco Island urban service area. The provisions of this section shall apply to all persons using the water resource, whether from public or privately owned water utility systems, private wells, or private connections with surface water bodies. This section shall not apply to persons using treated effluent or salt water. This section shall apply to all such persons using the water resource within the geographical areas subject to the water shortage or water shortage emergency as determined by the district.

Sec. 12. Chapter 40E-21, Florida Administrative Code, Adopted by Reference.

Chapter 40E-21, Florida Administrative Code, as amended from time to time, is incorporated herein by reference as a part of this section.

Sec. 13. Declaration of Water Shortage; Water Shortage Emergency.

(a) The declaration of a water shortage or water shortage emergency within all or any part of the City of Marco Island by the city manager or the executive director of the South Florida Water Management District shall invoke the provisions of this Section. The district shall determine the appropriate phase of water shortage or water shortage emergency and the duration of the water shortage or water shortage emergency. Upon such declaration, all water use restrictions or other measures contained in Chapter 40E-21, Florida Administrative Code, which chapter constitutes the Water Shortage Plan, shall be subject to enforcement action pursuant to the enforcement and penalties set forth in this Article. Any violation of the provisions of Chapter 40E-21, Florida Administrative Code as may be amended from time to time, or any order issued pursuant thereto, shall be a violation of this Section.

(b) Chapter 40E-21, Florida Administrative Code, establishes four phases of water shortage as a function of the estimated percent reduction in overall demand required to reduce estimated present and anticipated demand to estimated present and anticipated

available water supply. The water shortage phase determines the type of water use restrictions which will be ordered in a declared water shortage.

The following are the four phases as established by the district:

- (1) Moderate;
- (2) Severe;
- (3) Extreme;
- (4) Critical.

(c) The district may, from time to time, issue a "warning" which is an alert that water restrictions are imminent if existing conditions do not change. When a warning is issued, the city manager may implement specific restrictions governing the use of potable water from the city's water system for lawn and landscape irrigation.

(d) Specific restrictions. Upon declaration of a water shortage or water shortage emergency it shall be prohibited to use water in a manner inconsistent with the restrictions specified in Part II and V of Chapter 40E-21, Florida Administrative Code. The restrictions shall apply based on the level of phase declared by the District and described in Part V, Chapter 40E-21.

Sec. 14. Mechanical Failure; Inadequate Facilities.

(a) The following rules and regulations are hereby established governing the use of potable water from the city's water system in the event of mechanical failure or inadequate facilities. The city manager may implement water restrictions when a mechanical failure exists or facilities are inadequate to meet demands, which necessitates the implementation of said rules and regulations. Said implementation shall be predicated upon a finding by the city manager that said mechanical failure or inadequate facilities may affect the health, safety, welfare or comfort of the customers of the city water system.

(b) The city manager will evaluate each incident of mechanical failure or inadequate facilities to determine the specific restrictions to be implemented. To assure equitable distribution of available water resources among all city water customers during the affected period Part V, Chapter 40E-21, Florida Administrative Code, will be used as a guideline to establish specific restrictions. Upon such declaration, all water use restrictions or other measures shall be subject to enforcement action pursuant to Article. Anyone using the city's reclaimed water for the purpose of irrigating lawns shall be exempt from the restrictions set forth herein.

Sec. 15. Year Round Landscape Irrigation Restrictions.

(a) Purpose and Applicability.

(1) The primary purpose of this article is to provide the regulatory framework to assist in conservation of water resources through consistent and uniform application of restrictions on use of water for irrigation in the city.

(2) This article shall be applicable notwithstanding any other city ordinance.

(b) Irrigation; operational requirements.

(1) All water irrigation activities within the city, and which are not exempted by section 16(e), shall be restricted to the days and hours specified as follows:

City of Marco Island Water Irrigation Restrictions	
Landscaping Irrigation--Established	
Odd numbered addresses	3 days each week; Monday, Wednesday, Saturday; 12:01 a.m. to 8:00 a.m. for irrigation systems
Even numbered addresses	3 days each week; Tuesday, Thursday, Sunday; 12:01 a.m. to 8:00 a.m. for irrigation systems
Landscaping Irrigation--New (in place less than 60 days)	
All addresses	5 days each week; Monday through Friday, 12:01 a.m. to 8:00 a.m. for irrigation systems
Irrigation System Maintenance	
Existing systems	10 minutes per zone per week; person must be present in zone and working on the system during each such operation
New systems	30 minutes per zone, one time only; person must be present in zone and working on the system during such operation
Pesticide, Fungicide, Herbicide, Fertilizer Application	
All addresses	Application shall be coordinated with the scheduled day/time for landscaping irrigation; if applied outside of the allowed hours, and "watering in" is specified by the manufacturer of the applied material, a licensed application technician must be on the premises
Other Outdoor Water Uses	
All other outdoor water uses	Other outdoor water uses, including low volume hand watering, car, truck, and boat washing and the washing of exterior home surfaces and roofs, shall be allowed anytime with the use of low volume pressure cleaning equipment, low volume mobile equipment washing and/or water hose equipped with an automatic self-canceling or automatic shutoff nozzle; in all cases, the water used must drain to a pervious surface or to a water recycling/reuse system

(2) All water irrigation activities must and shall be operated in an efficient manner so as to not allow water to be applied to travel lanes on adjacent roadways.

(3) All water irrigation systems shall be equipped with a properly installed rain sensor switch.

a. A rain sensor switch shall be required on all new installations of irrigation systems.

b. A rain sensor switch shall be retrofitted on existing systems, installed after May 1, 1991, within one year of the effective date of the ordinance from which this article derives.

c. The rain sensor switch shall be maintained in fully operational condition at all times by the owner/operator of the irrigation system.

(c) Exemptions; variances.

(1) The following are exempt from all provisions of this article:

a. Landscaping irrigation from which the source of the water is 100 percent reclaimed water.

b. Landscaping irrigation from which the source of the water is 100 percent saltwater.

c. Irrigation wholly from a low volume irrigation system.

d. Use of low volume mobile equipment washing provided all unused water drains into only a pervious ground surface.

e. Water use to the extent authorized by a specific consumptive use permit, or similar permit, issued to the respective water user by the South Florida Water Management District.

(2) Any individual's or entity's irrigation that is affected by this article may make application to the city manager, or designee, to request a variance if strict compliance with the restrictions of this article will impose a unique, unnecessary, and inequitable hardship on such irrigation. Variance relief may be granted only upon a written application applying for the variance, which application contains proof that the irrigation hardship is peculiar to that individual, entity, or that affected property; that the hardship is not self-imposed; that the granting of the variance would be consistent with the general intent and purpose of this article; that the variance is necessary to eliminate an inequitable irrigation hardship; and that each variance shall vary the irrigation restrictions only to the minimum extent required to resolve the unreasonableness of the irrigation hardship that would exist but for the variance. No variance shall be granted unless the applicant is able to persuade the city manager or designee of the necessity for the variance. If the initial decision is made by the designee, the only appeal shall be to the city manager, and the city manager's decision upon appeal to grant or deny the requested variance shall be further reviewable only as specified in subsection (a) below.

a. The city manager, or designee, shall be the only individual(s) authorized to grant or deny these variances. A decision to grant or deny the variance should be made within ten days after actual receipt of a complete application for the variance. Denial of a variance request by the designee of the city manager may be appealed to the city manager not later than ten days of actual receipt by the

applicant of the decision on the initial request. The city manager's decision upon appeal shall be final.

b. An application for variance and/or the granting of a variance shall operate prospectively and shall not affect any then pending enforcement action pursuant to this article or otherwise.

(f) Penalties.

(1) Violators of this article shall be issued a verbal or written warning, or a "notice of violation" with a special period to correct violation. Persons who violate this article after receiving a warning or notice, or refuse to comply with such warning or notice, shall be issued a citation and fine of \$75.00. Persons who commit repeat violations may also be punished pursuant to F.S. § 162.21, as a civil infraction with a maximum civil penalty not to exceed \$500.00. Any person who violates any provision of this article shall also be subject to the city's remedies as authorized the city's Code of Ordinances, or as otherwise then allowed by law. The applicable penalties shall be determined by the forum selected to enforce the violation.

a. Each day, or part thereof commencing at noon of the respective day, that a violation of this article occurs by the same individual or entity may be deemed by the finder of fact to constitute a separate violation.

DIVISION 3. CROSS CONNECTION CONTROL

Sec. 16. Cross Connections.

Cross connections shall be governed by the *Utilities Department Manual of Standards and Specifications*.

ARTICLE III. WASTEWATER

Sec. 17. Wastewater Collection in General.

The part of a wastewater sewage system that receives and transports sewage is referred to as a wastewater collection system.

Sec. 18. Owner's Responsibility for Wastewater Lines.

(a) All sanitary sewer lines from the wastewater collection main to the building are the property and responsibility of the property owner.

(b) All stoppage in the sanitary sewer line from the wastewater collection main to the building are the responsibility of the property owner.

(c) No stoppage complaint will be accepted for investigation by the department, unless all sanitary sewer lines between the gravity main and the building have been examined by a licensed plumber.

Sec. 19. Use of Public Wastewater System Required.

- (a) All premises shall be provided, by the owner thereof, with at least one toilet. All toilets shall be kept clean and in a sanitary working condition.
- (b) No person shall dispose of human excrement except in a toilet.
- (c) It shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of said city, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provision of these regulations.
- (d) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.
- (e) All structures used for human occupancy, and all sinks, dish washing machines, lavatories, basins, shower baths, bathtubs, laundry tubs, washing machines, and similar plumbing fixtures or appliances shall be connected to a public or private wastewater system.

Sec. 20. Public Wastewater System.

- (a) At such time as a public wastewater becomes available to a property served by a private wastewater disposal system, a direct connection shall be made to the public wastewater within ninety (90) days after notice. Any septic tanks, cesspools, and similar private wastewater disposal facilities shall then be cleaned of sludge and filled with suitable materials, according to the closure procedures described in Chapter 10D-6, Florida Administrative Code or latest revision thereof, of the Department of Health and Rehabilitation Services.
 - (1) Wastewater system shall be considered available to an existing single-family dwelling when the dwelling can be connected to a sanitary sewer line in any public right-of-way or easement which passes the property at any point.
 - (2) Wastewater system shall be considered available to any new single-family dwelling when the dwelling can be connected by the installation of 200 linear feet of gravity flow sanitary sewer line from the nearest point of the property.
 - (3) Wastewater system service charges shall be in effect ninety (90) days following notification of the availability of wastewater service.

Sec. 21. Private Wastewater Disposal.

- (a) Where a public sanitary sewer is not available under the provisions of this subsection, the building sewerage shall be connected to a private wastewater disposal system complying with the provisions of this subsection. No person shall construct a septic tank or other wastewater disposal facility without prior approval from the director and city manager.

- (b) Septic tanks shall be constructed, repaired, altered, enlarged, and maintained in accordance with Chapter 10D-6, Florida Administrative Code and plans and specifications approved by the Florida Health Department.
- (c) No person shall construct, repair, alter, or enlarge any septic tank unless he receives approval by the director or designee and shall hold a valid permit for such work issued by the Florida Health Department.
- (d) The type, capacities, location, and layout of a private wastewater disposal system shall comply with all regulations of the Florida Department of Environmental Protection (FDEP) and the State of Florida. No septic tank shall be permitted to discharge to any natural resource.
- (e) No septic tank or other subsurface disposal facility shall be installed where a public wastewater is accessible to the premises involved.
- (f) The owner(s) shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the city.
- (g) No pit privy shall be installed.
- (h) Discharge of septic tanks into wastewater system:
- (1) *Restricted.* It shall be unlawful to empty, dump, throw or otherwise discharge, into any manhole, catch basin or other opening, into the city wastewater system, or any system connected with and discharging into the wastewater system, the contents of any septic tank, sludge, sewage or other similar matter or material, except as provided in the paragraph below.
 - (2) *Permits.* The director is hereby authorized to grant permits to discharge the contents of septic tanks (from domestic sources only) at locations specified by him and under his supervision. Such permits may be revoked at any time if, in the opinion of the director, continued dumping of such matter into the sewers will be injurious to the wastewater system or treatment or treatment processes.
 - (3) *Charges.* A charge shall be made for the privilege of dumping contents of septic tanks, as provided in separate rules. A record shall be kept of such dumping and statements shall be payable within ten days after rendition. Failure to pay the amounts due within such ten-day period shall be cause for revoking the permit and employing all penalties, as described in this article.
- (i) Any premises that has a septic tank, privy or any other sewage, industrial waste or liquid waste disposal system, located thereon that does not function in a sanitary manner shall be corrected within 30 days from the receipt of written notification from the Florida Health Department that said system is not functioning in a sanitary manner, and order that said system be corrected.
- (j) Premises with private water systems shall not be connected to the public wastewater system unless approved by the city manager or designee.

(k) No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the Florida Health Department.

Sec. 22. Building Sewers and Connections.

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public wastewater or appurtenance thereof without first obtaining a written permit from the utilities permit coordinator as provided in the *Utilities Department Manual of Standards and Specifications*.

Sec. 23. Restricted Use of Public Sanitary Sewers.

No person shall discharge or cause to be discharged any unpolluted waters such as stormwater, groundwater, roof runoff, subsurface drainage, swimming pool drains and filter discharge, or cooling water to any sanitary sewer unless otherwise provided in the *Utilities Department Manual of Standards and Specifications*.

Sec. 24. Malicious Damage.

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the wastewater facilities. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct and shall be responsible for any loss of revenue or monetary expenditures needed for repairs brought about by their actions.

Sec. 25. Powers and Authority of Inspectors.

(a) Duly authorized employees of the city bearing proper credentials and identification shall be admitted with permission from proper authorities to all properties for the purposes of inspection, observation, measurement, sampling and testing pertinent to discharge to the wastewater system in accordance with the provisions of these regulations.

(b) While performing the necessary work on private properties referred to herein, the authorized employees of the city shall observe all safety rules applicable to the premises established by the company, and the company shall, to the extent permitted by law, be held harmless for injury or death to the employees, and the city shall, to the extent permitted by law, indemnify the company against loss or damage to its property by city employees and against liability claims and demand for personal injury or property damage asserted against the company, except as such may be caused by negligence or failure of the company to maintain safe conditions as required by these regulations.

(c) Duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds an easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

Sec. 26. Pretreatment of Industrial Wastewater.

There shall be pretreatment of wastewater by industrial users discharging into the city wastewater collection and treatment systems and enables the city to comply with all applicable state and federal laws required by the Clean Water Act of 1977 and the General Pretreatment Regulations (40 CFR, Part 403) and shall be regulated by the *Utilities Department Manual of Standards and Specifications*.

Sec. 27. Compliance with Regulatory Requirements.

The provisions of these regulations shall not be deemed as alleviating compliance with applicable state and federal regulations. Specific user charge and industrial cost recovery requirements, promulgated pursuant to Public Law 92-500, shall be considered as a part of these regulations upon official adoption. All nonresidential users will be required to comply with pretreatment standards as outlined in Title 40 of the Code of Federal Regulations, Part 403, as provided in the *Utilities Department Manual of Standards and Specifications*.

Sec. 28. Violations.

(a) Violation of these regulations shall be a misdemeanor punishable under the laws of the State of Florida.

(b) The director may suspend the wastewater treatment service and/or a wastewater contribution permit when such suspension is necessary, in the opinion of the director, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference to the wastewater system or causes the city to violate any condition of this NPDES permit.

(c) Any person notified of a suspension of the wastewater treatment service and/or the wastewater contribution permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the director shall take such steps as deemed necessary including initiation of legal action by the city attorney and immediate severance of the wastewater connection, to prevent or minimize damage to the wastewater system or endangerment to any individuals. The director shall reinstate the wastewater contribution permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the utility director or designee within 15 calendar days of the date of occurrence.

(d) Any user who violates the following conditions of these regulations, or applicable state and federal regulations, is subject to having his permit revoked in accordance with the procedures of this subsection:

- (1) Failure of a user to report factually the wastewater constituents and characteristics of his discharge.

- (2) Failure of the user to report significant changes in operations, or wastewater constituents and characteristics.
 - (3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring.
 - (4) Violation of conditions of the permit.
- (e) Whenever the department finds that any user has violated or is violating these regulations, wastewater contribution permit, or any prohibition, limitation or requirements contained herein, the department may serve upon such person a written notice stating the nature of the violation. Within 30 days of the date of the notice, a plan for satisfactory correction thereof shall be submitted to the department by the user.
- (f) In the event of violation of these regulations, the authorized employees may verbally instruct the owner as to the necessary corrective action. If the owner fails to carry out verbal instructions in a timely manner or if a serious violation or hazard to public health exists, the director may issue to the owner a written order stating the nature of the violation, the corrective action, and the time limit for completing the corrective action. This time limit will be not less than 24 hours nor more than 120 days depending upon the type and severity of the violation. The offender shall, within the period of time stated in such notice, permanently cease all violations. The record of the mailing of said notice or order shall be prima facie evidence thereof and failure of said owner or owners to receive same shall in no way affect the validity of any proceedings conducted pursuant to these regulations.
- (g) If any person discharges sewage, industrial wastes or other wastes into the city's wastewater disposal system contrary to the provisions of these regulations, federal or state pretreatment requirements, or any order of the city, the city's attorney may commence an action for appropriate legal and/or equitable relief in the appropriate court.
- (h) A person violating any provisions of this Section authorizing the aforementioned action by the designated employee shall be charged the normal and usual charges for discontinuance and disconnection of said water and wastewater services and the usual charges for recommencing said water and wastewater services.

Sec. 29. Authority to Disconnect Service.

- (a) The city reserves the right to terminate water and wastewater disposal services and disconnect a customer from the system when:
- (1) Acids or chemicals damaging to wastewater lines or treatment process are released into the wastewater causing rapid deterioration of these structures or interfering with proper conveyance and treatment of wastewater; or
 - (2) A governmental agency informs the city that the effluent from the wastewater treatment plant is no longer of a quality permitted for discharge into a watercourse, and it is found that the customer is delivering wastewater to the city's system that cannot be

sufficiently treated or requires treatment that is not provided by the city as normal domestic treatment; or

(3) The customer:

- a. Discharges industrial waste or wastewater that is in violation of the permit issued by the approving authority;
- b. Discharges wastewater at an uncontrolled, variable rate in sufficient quantity to cause an imbalance in the wastewater treatment systems;
- c. Fails to pay monthly bills for water and sanitary wastewater services when due; or
- d. Repeats a discharge of prohibited wastes into the public wastewater system.

Sec. 30. Compliance by Dischargers.

It shall be unlawful to discharge without a city permit to the wastewater system any wastewater except as authorized by the director in accordance with the provisions of these regulations.

Sec. 31. Wastewater Contribution Permits.

(a) All significant industrial users proposing to connect to or to contribute to the wastewater system shall obtain a wastewater discharge permit before connecting to or contributing to the utility system.

(b) All existing significant industrial users connected to or contributing to the wastewater system shall obtain a wastewater contribution permit within 180 days after the effective date of these regulations.

Sec. 32. Materials.

The materials and construction of wastewater collection and treatment systems shall be in accordance with the established design criteria and procedures, required material specifications, and construction procedures as described in the *Utilities Department Manual of Standards and Specifications*.

ARTICLE IV. RECLAIMED WATER

Sec. 33. Reclaimed Water in General.

(a) *Generally.* When an application is received for connection to the city's water and/or wastewater systems and where the city offers to extend a reclaimed water transmission line to the applicant's parcel for purposes of irrigation, the applicant shall be required to connect to the reclaimed water system as a condition of connection to either the city's potable water or wastewater system. Reclaimed water service charges shall become effective and begin to accrue once the meter is installed.

(b) *Cross-connections.* No cross-connection between the reclaimed water system and any potable water system shall be permitted. Cross-connections between the reclaimed water system and other sources of irrigation water, including but not limited to, surface water and wells, shall be subject to approval by the director after review of the construction plans for such connection.

(c) *Materials for Reclaimed Water System.* The materials and construction of reclaimed water systems shall be in accordance with the established design criteria and procedures, required material specifications, and construction procedures as described in the *Utilities Department Manual of Standards and Specifications*.

Sec. 34. Discontinuance of Service.

The city may suspend or discontinue reclaimed water service to any customer who violates the provisions of this chapter, including delinquency of any amounts owed the city.

Sec. 35. Meters.

(a) All new connections to the water and reclaimed water system shall be individually metered to include all residential, business, and industrial premises. Master meters (serving more than one residential, business, or industrial premises) may be permitted upon the expressed approval of the city manager.

(b) Meters shall be placed just within the property line at the right or left boundary at the nearest point to the tap-in main or as otherwise may be designated in the *Utilities Department Manual of Standards and Specifications* or authorized by a utility agreement. The meter and service valve shall always remain accessible to utilities personnel for reading, inspection, testing, and maintenance. Landscape plants and trees shall not hinder visual identification or direct physical access to the meter. Landscape shrubs and ground cover shall remain at least 18 inches from the edges of the meter box. Trees shall not be planted within four feet of the meter. The property owner shall ensure that the meter is accessible.

(c) If a customer requests a test of the meter to determine accuracy, the city will charge a testing fee as provided in the utility rate ordinance. Whenever a tested meter is found to register fast, in excess of tolerance provided in the *Utilities Department Manual of Standards and Specifications*, the director shall return the fee, replace the meter at no cost to the

customer, and issue a credit for volume charges for the amount billed in error for the most recent billing cycle.

(d) In no event shall a refund or credit for utility service overcharges be granted for a period in excess of six months preceding.

(e) The property owner and/or customer shall be responsible for the installation and maintenance of a master control valve immediately downstream of the meter to isolate the customer's water system.

Sec. 36. Rates; Security Deposits.

(a) Rate schedules for water, wastewater, reclaimed water usage, fees, and charges shall be adopted by City Council through a Utility Rate Ordinance. Such ordinance may be amended by the adoption of a Resolution by City Council.

(b) The city reserves the right to establish differential rate structures for customers within the Urban Service Area, however, there shall not be imposed an additional surcharge of twenty-five percent (25%) as provided for in Chapter 180, F.S.

(c) Security Deposits. For utility accounts, security deposits are required as follows:

Meter Size	Deposit Amount
5/8" x 3/4"	\$125
3/4"	\$150
1"	\$200
1 1/2"	\$300
2"	\$450
3" and larger	As determined by the director

(1) For accounts in which the name of the account is the same as the owner, the deposit may, at the discretion of the City, be waived upon presentation by the customer of a statement from a previous utility verifying a history of timely payments by the customer.

(2) For accounts in which the name of the account is the same as the owner, and who make a deposit prior to receiving service, the deposit may be refunded after twelve (12) months without a delinquent payment.

(3) Whenever service is discontinued, said deposit shall be returned to the customer after first deducting all outstanding charges for service. Where any outstanding charges exceed the amount of the deposit the customer is liable for settlement of said charges under all applicable codes, statutes, laws, and ordinances, and payment of all costs incident to the enforcement thereof.

(4) At the discretion of the director, the City may require a deposit or increase the deposit for any customer who is delinquent three or more times.

(5) All deposits shall accrue interest as required by Florida Statutes.

(d) **Water Rate Structure.** The rate structure for water service as set forth in the Utility Rate Ordinance, is comprised of two distinct elements. Those elements and their definitions are:

(1) *Monthly Base Charge.* This is the cost of having the system in place and prepared to serve the customer. This charge is designed to recover all those capital expenses that are not recovered from separate charges and the debt service to pay the bond issues. This monthly base charge also recovers the costs associated with meter readings, billings, postage and related expenses.

(2) *Monthly Consumption Charges.* This is the cost of providing the water, such as chemicals, electricity, labor and other related costs. This cost is variable and depends on consumption.

(e) **Wastewater Rate Structure**

The rate structure for wastewater service is comprised of two distinct elements. Those elements and their definitions are:

(1) *Monthly base charge.* This is the cost of having the system in place and prepared to serve the customer. This charge is designed to recover all those capital expenses that are not recovered from separate charges and the debt service to pay the bond issues. This monthly base charge also recovers the costs associated with meter readings, billings, postage and related expenses.

(2) *Monthly consumption charge.* This is the cost of providing for the collection and treatment of sewage such as chemicals, electricity, labor and other related expenses. This charge is variable and depends on consumption.

(3) *Fees.* The city may adopt charges and fees which may include:

- a. Fees for reimbursement of costs of setting up and operating the city's pretreatment program;
- b. Fees for monitoring, inspection, and surveillance procedures;
- c. Fees for reviewing accidental discharge procedures and construction;
- d. Fees for permit applications;
- e. Fees for filing appeals;
- f. Fees for consistent removal (by the city) of pollutants otherwise subject to federal pretreatment standards; and

g. Other fees as the city may deem necessary to carry out the requirements contained herein.

(4) *Surcharge for abnormal strength waste discharge.* Abnormal strength wastes are those that do not meet the limitations set forth in this article.

a. *Computation.* The surcharge in dollars shall be computed by multiplying the total mg/L of BOD and suspended solids above 500 mg/L times the metered water used during the billing period in millions of gallons times a treatment surcharge factor. The surcharge factor shall be derived annually from the following formula:

Surcharge Factor	=	$\frac{\text{Cost of treatment permillion gallons}}{\div 500}$
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Where cost of treatment per million gallons equals operational costs of the city sewage treatment plant(s) for the preceding fiscal year (including pro rata administrative costs) divided by the total sewage flow through all plants in millions of gallons. 500 equals maximum normal BOD plus suspended solids content expressed in milligrams per liter. The surcharge in dollars for fats, waxes, grease, oil and solvent-soluble substances shall be computed by multiplying the total fats, waxes, grease, oil, and solvent-soluble substances above the legal limits as set forth in this Section times the metered water used during the billing period in millions of gallons times the treatment surcharge factor.

b. These fees relate solely to the matters covered by these regulations and are separate from all other fees chargeable by the city.

(f) **Reclaimed Water Rate Structure**

The rates for use of the city's reclaimed water system shall be based on a charge per 1000 gallons as provided in the Utility Rate Ordinance.

Sec. 37. Billing for Water, Wastewater, and Reclaimed Water Service.

(a) Billing shall begin upon installation of the water meter, reclaimed water meter, or connection to the wastewater system.

(b) All accounts shall be billed on a monthly basis. Bills are due when rendered and delinquent 21 days thereafter. Bills unpaid after 30 days of being rendered shall be assessed a delinquent fee equal to five percent of the unpaid balance. Service may be discontinued when delinquent for non-payment of bills. The city reserves the right to place liens on property due to non-payment of bills.

(c) Errors in billing or meter reading should be reported promptly to the Customer Service office, so as to facilitate the immediate correction of such bill.

(d) When water, wastewater, and/or reclaimed water services are provided, payment of the services shall be made concurrently. The City may discontinue service for non-payment of any portion of the service bill.

(e) Whether occupied or unoccupied, all existing structures once connected to the City's water, wastewater, and/or reclaimed water system, shall incur a monthly base charge unless such building is destroyed, condemned, or demolished.

(f) Whenever a customer discontinues service or vacates a dwelling or structure, the account will automatically revert to property owner of record and billing will resume.

Sec. 38. Reinstatement Following Discontinued Service.

(a) When service has been discontinued for nonpayment of bills, service will be restored upon payment of unpaid bills, plus a service fee as set forth in the rate ordinance. Said service fees shall also be payable in the event the city attempts to restore service but is unable to do so due to meter obstruction.

(b) The service line gate valve or curb stop valve may be locked in the off position or the meter removed from the premises. The monthly base facility charges shall continue. Should an applicant at a later time request renewal of service to said premises, service will be restored upon full payment of all bills due for service to the premises at the time of discontinuance and a reinstatement charge.

(c) Where service has been disconnected for a violation of an ordinance or regulation, such service shall not be reconnected until the city manager, or his designee, receives adequate assurances and guarantees that such a violation will not recur.

Sec. 39. Incorporation, Conflict and Severability.

(1) 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 sections of this Ordinance may be renumbered or relettered and that the word "ordinance" may be changed to "section," "article," or other appropriate word.

(2) All sections or parts of sections of the Code of Laws and Ordinances of Collier County, Florida, all Collier County Ordinances or parts of ordinances and all Collier County Resolutions or parts of resolutions made applicable by the City Charter in conflict herewith are hereby repealed to the extent of such conflict.

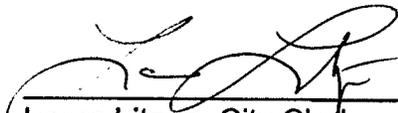
(3) If any word, phrase, clause, subsection, or section of this Ordinance is for any reason held unconstitutional or invalid by a court of competent jurisdiction, the invalidity thereof shall not affect the validity of any remaining portions of the Ordinance.

Sec. 40 Effective Date.

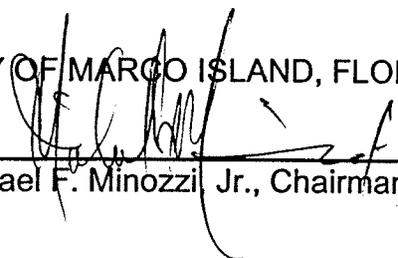
This Ordinance shall take effect immediately upon adoption by the Marco Island City Council, except that *Section 36, Rates; Security Deposits*, shall be in accordance with the Florida Water Services Corporation Policies and Tariff until the termination of the Transition Services Agreement (Billing and Customer Service) between the City of Marco Island and Florida Water Services Corporation.

Passed in open and regular session of the City Council of the City of Marco Island, Florida, this 5th day of January, 2004. (Ordinance originally passed November 10, 2003; ratified this date to comply with statutory requirements for advertising.)

Attest:

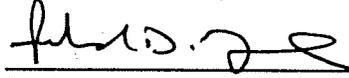


Laura Litzan, City Clerk

CITY OF MARCO ISLAND, FLORIDA
BY: 

Michael F. Minozzi, Jr., Chairman

Approved as to form and
legal sufficiency:



Richard D. Yovanovich, Esquire
City Attorney