

CITY OF MARCO ISLAND

ORDINANCE 02-15

**AN ORDINANCE TO ESTABLISH NEW TEMPORARY USE PERMIT STANDARDS AND REGULATIONS TO SUPERSEDE, SUPPLEMENT, AND/OR REPLACE STANDARDS AND REGULATIONS FOUND IN THE COLLIER COUNTY LAND DEVELOPMENT CODE (ORDINANCE 91-102, AS AMENDED), AND CURRENTLY APPLICABLE TO TEMPORARY USE PERMITS ON MARCO ISLAND; ESTABLISHING PURPOSE AND INTENT; ESTABLISHING GENERAL REQUIREMENTS; PROVIDING FOR CONSTRUCTION TEMPORARY USE PERMITS; PROVIDING FOR MODEL HOMES AND MODEL SALES CENTER PERMITS; PROVIDING FOR TEMPORARY SALES PERMITS; PROVIDING FOR COMMUNITY AND SPECIAL EVENTS PERMITS; PROVIDING FOR MOTION PICTURE/TELEVISION PRODUCTION PERMITS; PROVIDING FOR DEFINITIONS; PROVIDING FOR INCORPORATION, CONFLICT AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

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

WHEREAS, Chapter 163, Florida Statutes, requires municipalities to adopt Land Development Regulations within one year of Comprehensive Plan adoption; and

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

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

**SECTION ONE: PURPOSE AND INTENT**

Based upon the nature of some uses, their impact on adjacent uses, their compatibility with surrounding properties, and the length of time a use is intended to function, there is an identified need to allow certain temporary uses within a development site, and to provide for other types of temporary uses such as special events, sales and promotions. It is the intent of this ordinance is to classify temporary uses and to provide for their permitting.

## **SECTION TWO: GENERAL**

1. The Community Development Director, or his designee, may grant a temporary use permit for requests that demonstrate compliance with the intent of this ordinance. Approvals for such requests shall be based upon, but not limited to, the applicant's description of the temporary use, the intended duration of the use, hours of operation and the impacts of the proposed temporary use on adjacent properties. All requests for a temporary use permit shall submit a conceptual or site development plan (SDP) as provided for within this section.
2. Temporary uses and events held at places of worship, community centers, or other buildings designed for such events are exempt from this ordinance, subject to the following:
  - A. The event will be held indoors on the subject property only.
  - B. Parking for the event will be within the existing parking area and utilizing existing ingress and egress.
  - C. One banner not exceeding 32 square feet is allowed per street frontage without a temporary use permit. Banner may be displayed for a maximum of seven (7) days. Right-of-way signs are not permitted without an approved temporary use permit.

## **SECTION THREE: CONSTRUCTION TEMPORARY USE PERMIT**

During the construction of any development for which a site development plan has been approved or a building permit issued, the developer may request a temporary use permit subject to the following:

1. The temporary use permit shall be granted initially for a period not to exceed 24 months in length and may be renewed annually based upon demonstration of need. A request for renewal shall be submitted to the Community Development Director in writing 30 days prior to the expiration of the temporary use permit.
2. Temporary construction and development permits shall be allowed for the following uses:
  - A. Temporary offices to be used for construction and administrative functions within the development.
  - B. Temporary offices to be used for sales functions, including sales offices, allowing for the sale, resale, or marketing of dwellings, structures, or property within the development in which it is located, or adjacent developments under the same control.
  - C. On-site mobile home used as a temporary office or storage facility for persons engaged in the development of the site.
  - D. On-site mobile radio and television equipment antennae.

- E. On-site temporary use of structures and equipment for the building of roads, public utilities, and government projects.
  - F. Off-site temporary parking on property which is located contiguous to the subject development, or would be contiguous except for a roadway that is not designated as a collector or arterial in the transportation element of the comprehensive plan, with written authorization of the property owner.
  - G. Other on-site uses similar to the foregoing uses and determined to meet the intent of this ordinance.
3. All construction temporary use requests shall require the submission of a conceptual plan which demonstrates that provisions will be made to adequately address the following:
- A. Parking.
  - B. Landscaping.
  - C. Fire protection.
  - D. Handicapped access.
  - E. FEMA (Floodplain Management Ordinance).

#### **SECTION FOUR: MODEL HOMES AND MODEL SALES CENTER PERMIT**

Model homes and model sales centers shall be of a temporary nature and may be allowed in any residential zoning district or residential component of a PUD by the issuance of a temporary use permit. Model homes are intended to facilitate the sale of the model design, or of products similar in design to the model. Model homes located within residential zoning districts, or within a residential component of a PUD shall be restricted to the promotion of a product or products permitted within the residential zoning district or PUD in which the model is located and further subject to the following:

1. Model homes shall only be permitted for dwellings which have not been previously used as a residence.
2. A model home or model sales center is not intended to allow the full scope of real estate activities and shall be restricted primarily to the sale and marketing of the model, or products similar to the model.
3. Model homes may be "wet" or "dry". Model homes permitted as "dry" models shall be limited to a conditional certificate of occupancy allowing the use of the structure as a model only provided all required infrastructure is in place to service the unit. Model homes permitted as "wet models" shall not be occupied until such time as all required infrastructure is available to service the unit and a permanent certificate of occupancy has been issued.
4. A temporary use permit for a model home or model sales center shall be issued initially for a period of 24 months. Extensions beyond the initial two-year permit may be granted in accordance with this ordinance.

5. All temporary use requests for model homes shall require the submission of a conceptual plan which demonstrates that provisions will be made to adequately address the following:
  - A. Parking.
  - B. Landscaping.
  - C. Handicapped access.
  - D. FEMA (Floodplain Management Ordinance).
  - E. Signage.
6. Extension of a temporary use permit issued for a model home or for a model sales center
  - A. The extension of a temporary use permit for a model home or model sales center may be granted for a maximum of three years and shall require public notice and a hearing by the Planning Board. A request for an extension and scheduling on the Planning Board agenda shall be made within 30 days of the expiration of the initial temporary use permit issued for a model home or model sales center. Only one such extension may be granted and any additional requests for an extension shall be granted only in accordance with this ordinance. Notice of the public hearing shall be prominently posted on the property for which the extension is sought. Notice of the public hearing shall be advertised in a newspaper of general circulation at least once 15 days prior to the hearing. Notice of the time and place of the public hearing shall be sent at least 15 days in advance of the hearing by mail to all owners of property within 300 feet of the subject property. The Planning Board's action shall be based upon consideration of the following factors:
    1. The number of existing model homes or model sales centers within the immediate area of the extension request.
    2. The classification of the right-of-way(s) upon which the model home or model sales center fronts.
    3. The character or makeup of the area surrounding the model home or model sales center.
    4. The potential effect of the model home or model sales center on adjacent and surrounding properties.
    5. The existence of complaints relating to the use of the model home or model sales center which is the subject to the extension request.
  - B. When deemed necessary and based upon review of the above criteria, the Planning Board may impose such conditions upon the approval of the extension request it determines necessary to accomplish the purpose of this section and protect the safety and welfare of the public. Such conditions may include, but shall not be limited to, restrictions to the hour of operation, parking, signage, screening and buffering, and the length of the extension.

- C. Extensions of temporary use permits for model homes or model sales centers in excess of three years shall require submittal and approval of a conditional use permit in accordance with the Land Development Code.

## **SECTION FIVE: TEMPORARY SALES**

### **1. Temporary sales.**

- A. The Community Development Director, or his designee, may grant a temporary sales permit in the case of temporary sales, such as grand openings, going out of business sales, special promotional sales, or other similar uses (exclusive of garage sales, lawn sales and similar private home sales), subject to the following:
  - 1. Non-renewable permits of up to two weeks' duration, such that during any calendar year the sum total of all permits for such event does not exceed 28 days. Temporary permits may be allowed for up to an additional four weeks when approved by the City Council. Such special approval shall be subject to stipulations or additional constraints deemed necessary and appropriate to the request. Such stipulations or constraints deemed necessary by the City Council shall be noted as conditions to the issuance of said permits, and the permittee shall be required to sign a notarized agreement to said stipulations or constraints.
  - 2. Temporary sales permits may, in support of the use being permitted, include the placement of one sign, a maximum of 32 square feet, or two such signs for properties containing more than one street frontage, as well as merchandise, temporary structures and equipment. All temporary structures and equipment, merchandise, or placement and parking of vehicles in conjunction with the temporary sale shall conform to the minimum yard requirements of the district in which it is located. If the temporary use is not discontinued upon expiration of the permit, it shall be deemed a violation of the land development code and shall be subject to the penalties therein.
  - 3. Temporary sales permits may be issued to the owner(s) of a commercial establishment, or to the tenants(s) operating within a commercial establishment with the approval of the property owner or property manager, provided said tenants provides documentation of a current annual lease with the property owner. Uses permitted by an approved temporary sales permit shall be operated by the property owner or tenant(s), except as provided for in this ordinance.
  - 4. Temporary sales permits shall be restricted to those zoning districts in which the sale of the items would normally be permitted. Further, the sales activity permitted by the temporary use permit shall be related to the principal commercial activities in operation on the subject property except as provided for in this ordinance. The issuance of a temporary use permit shall not be issued for undeveloped properties.
  - 5. The Community Development Director, or his designee, may issue temporary use permits for satellite locations subject to the applicable restrictions set

forth in this ordinance, provided the applicant currently operates a business from a permanent approved commercial location within the City of Marco Island. Additionally, the purpose of the temporary sale shall be the same as the principal purpose of the existing commercial business of the applicant.

6. The Community Development Director may, in determining a specific benefit to the public, grant a temporary use permit to facilitate the sale of an item or items not generally available within the community, subject to the applicable restrictions set forth in this section.
  7. Prior to the issuance of a temporary sales permit, a complete application, along with a conceptual site plan, shall be submitted to the Community Development Director, or his designee. The conceptual plan, when reviewed in conjunction with the application, shall be of the appropriate scale and detail to adequately describe and define:
    - a) Vehicular and pedestrian traffic safety measures.
    - b) Additional parking requirements. A maximum of ten percent of the parking required by Ordinance 01-16 may be occupied or otherwise rendered unusable by the placement of temporary structures, equipment, signs and merchandise. The minimum required number of handicapped parking spaces pursuant to Ordinance 01-16 shall remain available for usage.
    - c) Limited activity hours.
    - d) Watchmen, fencing and lighting.
    - e) Fire protection measures.
    - f) Sanitary facilities.
    - g) If required, a financial guarantee assuring compliance with the conditions of the permit.
  8. In making such approval, the Community Development Director, or his designee, may stipulate requirements or restrictions as deemed appropriate.
2. Garage sales.
- A. Garage and yard sales are permitted in residential zoning districts as follows:
    1. A two (2) day permit may be issued for a garage sale, lawn sale, or similar private home sales every twelve (12) months.
      - a) The permitted garage/yard sale shall be valid for no more than two (2) days.
      - b) The permit shall authorize the use of a temporary sign located on the permitted property. No signage shall be placed off-site or upon the public right-of-way.
      - c) Items offered for sale shall be generally recognized as household goods and wares. Pre-packaged, bulk items, vehicles, construction

materials (i.e., doors, windows, fixtures) shall not be displayed or offered for sale.

3. Estate and demolition sales.

A. Estate and demolition sales are permitted in residential zoning districts as follows:

1. A special event permit application must be submitted at least seven (7) days in advance of the estate/demolition sale.
2. The applicant is responsible for notifying the City of Marco Island Police Department of the sale.
3. The permit shall be valid for no more than two (2) days.
4. The permit shall authorize the use of a temporary sign located on the permitted property. No signage shall be placed off-site or upon the public right-of-way.

4. Temporary seasonal sales.

A. A non-renewable five-week permit may be issued for seasonal and holiday related temporary sales subject to the following restrictions.

1. Temporary use permits for seasonal sales may be issued for the following season/holiday related items:
  - a) Christmas trees.
  - b) Pumpkins.
2. Temporary use permits for seasonal sales may be issued on improved or unimproved properties provided the applicant submits a conceptual site plan which demonstrates that provisions will be made to adequately address the following:
  - a) Vehicular and pedestrian traffic safety measures.
  - b) Adequate on-site, or additional off-site parking areas for unimproved properties. A maximum of ten percent of the parking required by Ordinance 01-16 may be occupied or otherwise rendered unusable by the placement of temporary structures, equipment, signs and merchandise. The minimum required number of handicapped parking spaces pursuant to Ordinance 01-16 shall remain available for usage.
  - c) Limited activity hours.
  - d) Watchmen, fencing, lighting.
  - e) Fire protection measures.
  - f) Sanitary facilities.

3. The applicant shall provide a notarized letter from the property owner or the property manager granting permission to utilize the subject property for the temporary seasonal sale.
4. Temporary use permits for seasonal/holiday sales may, in support of the use being permitted, include the placement of one sign, a maximum of 32 square feet, or two such signs for properties containing more than one street frontage, as well as merchandise, temporary structures and equipment. If the temporary use is not discontinued upon expiration of the permit, it shall be deemed a violation of the land development code and shall be subject to the penalties therein.

#### **SECTION SIX: COMMUNITY AND SPECIAL EVENTS**

1. In the case of sports events, religious events, community events, or other similar events sponsored by nonprofit, charitable, civic, or membership organizations within the City of Marco Island, the Community Development Director may grant non-renewable permits of up to two weeks' duration, such that during any calendar year the sum total of all permits for such events do not exceed 28 days. Temporary permits may be allowed for an additional period of up to four weeks when approved by the City Council. Such special approval shall be subject to stipulations or additional constraints deemed necessary and appropriate to the request. Such stipulations or constraints deemed necessary by the City Council shall be noted as conditions to the issuance of said permits; and the permittee shall be required to sign a notarized agreement to said stipulations or constraints.
  - A. Temporary permits may, in support of the use being permitted, include the placement of signs, merchandise, structures and equipment, and a mobile home as an office, but not for residency. If the temporary use is not discontinued upon expiration of the permit, it shall be deemed a violation of the Land Development Code and shall be subject to the penalties therein.
  - B. Temporary permits in this category shall be restricted to those zoning districts in which the use would normally be permitted, unless otherwise approved by the City Council via a public petition request.
  - C. The Community Development Director shall accept without fee, temporary use permit applications for sports events, religious events, community events, or other similar events, upon presentation of documentation that the sponsor of the event is a bona fide nonprofit organization and the event is intended to benefit the community at large, a specific group of individuals, or the nonprofit organization. Two such events per calendar year per organization are eligible for this exemption.
2. In the case of special events sponsored by a shopping center with more than 50,000 square feet of floor area, the Community Development Director may grant a non-renewable permit for all events planned for the calendar year such that the sum event days does not exceed 28 days. An additional 14 days of events may be approved by the Planning Board upon request by the applicant.

- A. Temporary permits may, in support of the use being permitted, include the placement of signs, merchandise, structures and equipment, and a mobile home (as an office but not for residency) upon the event site. If the temporary use is not discontinued upon expiration of the permit, it shall be deemed a violation of the Land Development Code and shall be subject to the penalties therein.
  - B. Temporary permits in this category shall be restricted to those zoning districts in which the use would normally be permitted, unless otherwise approved by the City Council via a public petition request.
3. In conjunction with an approved temporary use permit for a community or special event, off-premise directional signs, not to exceed 25 signs, may be placed within the right-of-way subject to the following criteria:
- A. A map indicating off-site directional sign locations must be included with the temporary use permit application.
  - B. Directional signs must be a minimum size of 18" x 24" and a maximum size of 24" x 32".
  - C. It is recommended that the signs be blue with white lettering, however, directional signs may be any single color background with any single color copy.
  - D. The signs shall be professional in appearance and shall include the special event permit number, which may be placed on back of sign.
  - E. Signs may not be erected prior to 5 days before the scheduled event and must be removed within 24 hours of the completion of the event.
  - F. Signs may not be located within medians, attached to traffic control signs or other authorized highway signs. Signs shall be located a minimum distance of 30 feet from street intersection and a minimum distance of 6 feet from the edge of pavement or 3 feet from the back of a curb. The bottom of all signs shall be a minimum of 12 inches above existing ground and the top of the sign shall not exceed a distance of 5 feet above the existing ground.

**SECTION SEVEN: MOTION PICTURE/TELEVISION PRODUCTION PERMIT**

- 1. A permit shall be required for the following: the use of set scenery, temporary structures, lighting equipment or other apparatus, special effects, or closure of public streets or accessways. This code shall not apply to bona fide newspaper, press association, newsreel or television news media personnel or for personal use.
- 2. Application for permit: Any person, firm, corporation, association or governmental entity desiring to obtain a permit shall apply to the Community Development Director; and said application shall include but not be limited to the following:
  - A. Name, address (including local address) and telephone number of applicant.

- B. Proof of comprehensive general liability insurance coverage in the amount of at least \$1,000,000.00 combined single limit, with the City of Marco Island listed as an additional named insured.
  - C. Special effects to be utilized, especially incendiary or explosive devices, with proof or [of] not less than \$5,000,000.00 comprehensive general liability insurance combined single limit with the City of Marco Island listed as an additional named insured. In addition, the application shall list the person in charge (pyrotechnician) of such special effects, together with his qualifications and licenser [licensing] by the applicable federal and/or state agencies, and authorization from the local fire district permitting the event.
  - D. Locations, dates and hour of filming scene to be filmed.
  - E. A description and sketch plan indicating the following:
    - 1. Location of film events and parking facilities provided.
    - 2. Plans for construction or utilization or [of] structures on subject site(s).
    - 3. Number, type and location of sanitation facilities to be provided. Plans for disposal of refuse and debris, and restoration of the site(s) to its original condition.
    - 4. Description of any lighting facilities that would be necessary and/or the need to disconnect any public lighting.
    - 5. Approximate number and type of vehicles and/or equipment to be used and any special parking requirements. The number of personnel to be on location with the production.
    - 6. Necessity for closures of public streets or sidewalks and for what duration and location.
    - 7. Indicate any utilization of aircraft/fixed-wing, helicopter, or balloons at the subject site(s).
    - 8. List of city personnel or equipment requested, and an agreement to pay for extraordinary services provided by the City of Marco Island.
    - 9. Provisions for traffic control, fire safety and security precautions.
  - F. If located on private property, not under the city's ownership or control, a written notarized agreement will be required from the property owner to allow the filming to occur on his property.
3. Insurance requirements. The applicant shall, as a prerequisite to the issuance of a permit, maintain in force at all times during the permit period a comprehensive general liability policy with limits other than those described in [subsections] (b) and (c) above [sic] as recommended by the director of the risk management division upon a review of the particular circumstances involved and determined by the City Council. Said applicant, as a prerequisite to the issuance of a permit, shall provide to the zoning director a certificate of insurance evidencing that said insurance is in existence and certifying that the City of Marco Island is a named insured and that the City of Marco Island be given 30 days' notice prior to the

expiration or cancellation of the policy. Any additional insurance requirements for filming on private property will be at the discretion of the affected property owner.

4. Indemnification. The applicant shall be required to indemnify and hold harmless the City of Marco Island, its officers, agents and employees from and against all claims, suits, actions, damages, liabilities, expenditures or causes of action arising out of or occurring during the activities of the applicant under a permit issued hereupon in the form and manner provided by the Community Development Director.
5. Issuance of permit. Upon presentation of the completed application, proof of insurance, payment of permit fee, surety bond or cash payment in lieu of the bond and review by the Community Development Director, the permit may be issued. If the Community Development Director determines that the use of public or private property could affect the public's use of the property, or have potential adverse impacts on surrounding properties, than he may require that the permit application be scheduled for a public hearing before the City Council. The special circumstances could include, but are not limited to, closure of a public street or accessway; use of special effects, including incendiary or explosive devices; a large production crew or crowd control; and increased liability insurance required. The notice for the public hearing shall be advertised in a newspaper of general circulation at least one time 15 days prior to the hearing.
6. Suspension of permit. Failure to comply with the terms and conditions of the temporary use permit once issued shall be grounds for immediate suspension of the permitted activity until such time as the noncompliance is remedied. The suspension shall be initially communicated orally, followed by a written suspension order; and continued failure to comply with the terms and conditions of the permit may result in revocation of the permit.
7. Costs for extraordinary services. The city shall recover direct costs for extraordinary services rendered in connection with a production. Such costs shall include, but not limited to, charges for personnel and/or equipment committed in support of the production which are outside the normal scope of government services. Based on the information contained in the permit application, an estimate of these costs will be provided to the applicant prior to issuance of this permit. The city may require prepayment of all or a portion of these estimated costs prior to issuance of the permit. At the conclusion of the production, actual costs below or in excess of the estimates will be refunded by the City or paid by the applicant, respectively.
8. Surety bond. A surety bond in the amount to be determined by the City of Marco Island will be required by a company authorized to issue bonds in Florida or cash payment in lieu of the bond to provide for cleanup and/or restoration of the subject site(s).

#### **SECTION EIGHT: INCORPORATION, CONFLICT AND SEVERABILITY**

- [A] It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and be made 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.

- [B] 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.
- [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 NINE: EFFECTIVE DATE**

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

Passed in open and regular session through roll call vote by the City Council of the City of Marco Island, Florida this 15th day of April, 2002.

Attest:

CITY OF MARCO ISLAND, FLORIDA

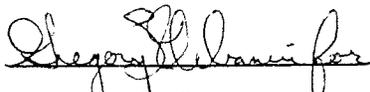


A. William Moss  
City Manager/City Clerk

By: 

E. Glenn Tucker, Chairman

Approved as to form and  
Legal sufficiency:



Kenneth B. Cuyler  
City Attorney