

**CITY OF MARCO ISLAND
ORDINANCE NO. 02-05**

AN ORDINANCE AMENDING CHAPTER 38, ARTICLE II, OF THE CITY CODE, ESTABLISHING THE MARCO ISLAND PLANNING BOARD, ADOPTED ON MARCH 2, 1998; RELATING TO MEMBERSHIP REQUIREMENTS, APPOINTMENTS, TERMS OF OFFICE, AND CRITERIA FOR REMOVAL FROM OFFICE OF PLANNING BOARD MEMBERS; AMENDING POWERS AND DUTIES; 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 exercise any power for municipal purposes, except when expressly prohibited by law; 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, Section 3.16 of the Marco Island City Charter provides for the establishment of a planning commission advisory board to City Council; and

WHEREAS, pursuant to Section 3.11 of the Marco Island City Charter, the City Council passed Emergency Ordinance 98-1 on January 5, 1998, establishing the Marco Island Planning Board; and

WHEREAS, the City Council repealed Emergency Ordinance 98-1 and passed Ordinance 98-2, establishing the Marco Island Planning Board on March 2, 1998; and

WHEREAS, Ordinance 98-2 has been codified in Chapter 38, Article II of the City Code; and

WHEREAS, the City Council desires to clarify language contained in Chapter 38, Article II relating to membership requirements, appointments, terms of office, and criteria for removal from office of planning board members, and amending powers and duties.

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

Section 1. Purpose and Intent.

The intent and purpose of this ordinance is to amend Chapter 38, Article II of the City Code, as shown on Exhibit A, attached hereto and incorporated herein by reference.

Section 2. 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.

Section 3. Effective Date.

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

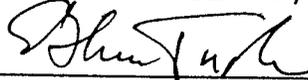
Passed in open and regular session of the City Council of the City of Marco Island, Florida, this 22nd day of January 2002.

Attest:



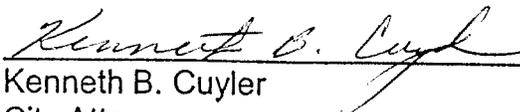
A. William Moss
City Manager/City Clerk

CITY OF MARCO ISLAND, FLORIDA

BY: 

E. Glenn Tucker, Chairman

Approved as to form and
legal sufficiency:



Kenneth B. Cuyler
City Attorney

EXHIBIT A

ARTICLE II. PLANNING BOARD

Sec. 38-31. Established.

The city planning board is hereby established, to serve as an advisory board (except in those limited areas where final action has been delegated) to the city council.

Sec. 38-32. Membership; appointment and qualifications of members.

(a) *Qualifications of members.* Members of the planning board shall be permanent residents and qualified electors of the city. Although no specific experience requirements shall be necessary as a prerequisite to appointment, consideration shall be given to applicants who have experience or who have shown interest in the area of planning, zoning and related fields. Further consideration in the appointment of planning board members shall be made so as to provide the planning board with the needed technical, professional, business and/or administrative expertise to accomplish the duties and functions of the planning board as set forth in this article, and as from time to time established by the city council. ~~The appointment of all members to the planning board shall be by resolution of the city council. If any member is no longer a qualified elector or is convicted of a felony or an offense involving moral turpitude while in office, the city council shall terminate the appointment of such person as a member of the planning board.~~

(b) *Number of members; appointment.* The planning board shall be composed of seven members to be appointed by the city council.

~~(c) *Initial appointments.* Initial members shall be appointed and designated pursuant to resolution of the city council.~~

(c) *Number of members; appointment.* The appointment, removal, and terms of members shall be in accordance with Section 2, Article IV of this code.

~~(d) *Reappointments.* All reappointments to the planning board shall be made, to the extent deemed appropriate by the city council, so as to achieve a diverse and balanced representation of professional, business and practical expertise available through the citizens of the city.~~

~~Sec. 38-33. Term of members.~~

~~(a) The initial terms of office of the planning board members shall be as follows:~~

~~(1) Four members shall be appointed for four years.~~

~~(2) Three members shall be appointed for three years.~~

~~Thereafter, each appointment or reappointment shall be for a term of four years.~~

~~(b) At the first official meeting of the planning board, the members of the planning board shall decide, by mutual consent, and thereafter recommend to the city council, a term for each of the members that shall address the requirements of board membership. After consideration and approval of the recommendations of the planning board, the city council may set forth the recommendations in the form of a resolution. If terms cannot be recommended for any reason, the city council shall adopt such resolution as it determines to be appropriate. The resolution adopted by the city council shall set forth the date of appointment and term for each member appointed.~~

~~(c) A member may be reappointed by the city council for only one successive term, unless there are no other qualified applicants for the member's position. Appointments to fill any vacancy on the planning board shall be for the remainder of the unexpired term of office.~~

~~Sec. 38-34. Removal of members; failure to attend meetings.~~

~~(a) Any member of the planning board may be removed from office by a vote of the city council, but such member shall be entitled to a public hearing and reconsideration of the vote if he so requests in writing within 30 days of the date on which the vote is taken.~~

~~(b) If any member of the planning board fails to attend two consecutive planning board meetings without cause, the planning board shall recommend that the member's seat be declared vacant and the vacancy filled by the city council. Such member shall continue to serve until the member's seat is declared vacant by the city council.~~

~~Sec. 38-35. Officers; quorum; rules of procedure.~~

~~(a) At its earliest opportunity, the membership of the planning board shall elect a chairman and vice chairman from among its members. Officers' terms shall be for one year, with eligibility for reelection.~~

~~(b) The presence of four or more members shall constitute a quorum of the planning board necessary to take action and transact business. In addition, a simple majority vote of at least four members present and voting shall be necessary in order to forward a formal recommendation of approval, approval with conditions, denial, or other recommendation to the city council.~~

~~(c) The planning board shall, by majority vote of the entire membership, adopt rules of procedure for the transaction of business, and shall keep a record of meetings, resolutions, findings and determinations. The planning board may provide for transcription of such hearings and proceedings, or portions of hearings and proceedings, as may be deemed necessary.~~

~~Sec. 38-36. Compensation of members.~~

~~The members of the planning board shall serve without compensation, but may be reimbursed for such travel, mileage, and/or per diem expenses as may be authorized by the city council.~~

~~Sec. 38-37. Location of meetings.~~

~~All meetings of the planning board shall be held at Marco Island Fire Station in the city, unless otherwise specified by the planning board.~~

Sec. 38-38. Staff.

The city manager or his designee shall be the professional staff of the planning board.

~~Sec. 38-39. Conduct of meetings; notice of public hearings.~~

~~(a) The planning board may, from time to time, adopt and amend bylaws and rules or procedure not inconsistent with the provisions of this article.~~

~~(b) All meetings of the planning board shall be open to the public.~~

~~(c) Public hearings shall be set for a time certain after reasonable public notice, or as otherwise required by law.~~

Sec. 38-40. Powers and duties.

The city planning board shall have the following powers and duties:

- (1) Serve as the local planning agency (LPA) and land development regulation commission as required by F.S. §§ 163.2137 and 163.3194.
- (2) Prepare or cause to be prepared the city growth management plan or element or portion thereof and submit to the city council an annual report recommending amendments to such plan, element or portion thereof.
- (3) Prepare or cause to be prepared the land development regulations and code to implement the city growth management plan, and submit to the city council an annual report recommending amendments to the land development code.
- (4) Initiate, hear, consider and make recommendations to the city council on applications for amendment to the text of the city growth management plan and development code.
- (5) Initiate, review, hear and make recommendations to the city council on applications for amendment to the future land use map of the city growth

management plan or the official zoning atlas of the land development code.

- (6) Hear, consider, and make recommendations to the city council on applications for conditional use permits.
- (7) Make its special knowledge and expertise available upon reasonable written request to and authorization of the city council to any official, department, board, commission, or agency of the city, other municipalities, the county, or state or federal governments.
- ~~(8) Recommend to the city council additional or amended rules of procedure not inconsistent with this section to govern the planning board's proceedings.~~
- (9) Perform those functions, powers and duties of the planning commission as set forth in the City Land Development Code in effect on August 28, 1997, as may be extended, altered, amended, reenacted or recodified in the future by the city council.
- (10) Consider and take final action regarding preliminary subdivision plats and single-family residential boat dock extensions, excluding boat dock extensions for multifamily developments and boathouses.
- ~~(11) Review and make recommendations to the city council regarding the city taking over the building and construction permitting and land use petition review process from the county.~~

Sec. 38-41. Appeal of decisions.

As to any land development petition or application upon which the planning board takes final action, an aggrieved party may appeal such final action to the city council. The city council 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 30 days of the date of the final action by the planning board and shall be noticed for hearing with the city council, as applicable, in the same manner as the petition was noticed for hearing with the planning board. The cost of the notice shall be borne by the person filing the appeal.

Secs. 38-42--38-70. Reserved.