

CITY OF MARCO ISLAND

ORDINANCE 02- 02

AN ORDINANCE TO ESTABLISH NEW HEAVY COMMERCIAL (C-5) DISTRICT STANDARDS AND REGULATIONS TO SUPERSEDE, REPLACE AND/OR SUPPLEMENT STANDARDS AND REGULATIONS FOUND IN THE COLLIER COUNTY LAND DEVELOPMENT CODE (ORDINANCE 91-102, AS AMENDED), AND CURRENTLY APPLICABLE TO THE HEAVY COMMERCIAL DISTRICT USE AND DEVELOPMENT ON MARCO ISLAND; ESTABLISHING INTENT AND PURPOSES FOR SUCH DISTRICT; PROVIDING FOR PERMITTED USES; PROVIDING FOR ACCESSORY USES; PROVIDING FOR CONDITIONAL USES; PROVIDING FOR DIMENSIONAL STANDARDS; PROVIDING FOR PARKING AND LOADING, LANDSCAPING, LIGHTING, SIGNAGE, AND ARCHITECTURAL AND SITE DESIGN STANDARDS; PROVIDING FOR DEVELOPMENT STANDARDS FOR PORT MARCO SUBDIVISION; 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, state law 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.

The purpose and intent of the heavy commercial district (C-5) is to allow for a range of more intensive commercial uses and services. The C-5 district permits heavy commercial services such as full-service automotive repair, and establishments primarily engaged in construction and specialized trade activities. Outdoor storage yards are permitted consistent with the requirements contained herein. The maximum density permissible or permitted in the district shall not exceed the density permissible under the density rating system of the Future Land Use Element.

SECTION TWO: PERMITTED USES

The following uses, as identified within the North American Industrial Classification System (1997 edition) or as otherwise provided for within this section, are permitted as of right in the heavy commercial district (C-5).

Permitted uses.

1. Unless otherwise provided for in this section, all permitted uses in the C-4 general commercial district.
2. Auctioneering/auction house (Auction houses - 435998, Independent auctioneers - 561990)
3. Automotive dealers and gasoline service stations (New car dealers - 44111, Used car dealers - 44112, Motorcycle & boat & other motor vehicle dealers - 44122, Automotive parts, accessories & tire stores - 44131, Tire dealers - 44132, Other gasoline stations - 44719)
4. Building construction - general contractors (Residential building construction - 2332, Nonresidential building construction - 2333)
5. Building materials (Building materials & supplies dealer - 4441)
6. Construction - special trade contractors (Plumbing, heating & AC - 23511, Painting & wall covering - 23521, Electrical - 23531, Masonry & stone - 23541, Drywall, acoustical & insulation - 23542, Tile, marble, terrazzo & mosaic - 23543, Carpentry - 23551, Floor laying & other flooring - 23552, Roofing, siding & sheet metal - 23561, Concrete - 23571, Structural steel erection - 23591, Building equipment & other machinery installation - 23595)
7. Educational services (Educational support services - 61171)

8. Motor freight transportation and warehousing (Other warehousing & storage – 49319 [limited to mini- and self storage warehousing only])
9. Commercial fishing, hunting and trapping (Fishing - 1411)
10. Justice, public order and safety (Police protection – 92212, Fire protection - 92216)
11. Local and suburban transit (Bus & other motor vehicle transit systems - 485113)
12. Miscellaneous repair services (General automotive repair – 811111, Automotive exhaust system – 81112, Automotive transmission repair – 81113, Other automotive mechanical & electrical repair – 81118, Automotive body, paint & interior repair – 81121, Automotive glass replacement – 81122, All other automotive repair & maintenance – 81198, Consumer electronics repair – 811211, Computer & office machine repair – 811212, Communication equipment repair – 811213, Other electronic & precision equipment repair – 811219, Commercial equipment (exc. Auto & electric) repair – 811131, Home & garden equipment repair – 811411, Appliance repair – 811412, Upholstery & furniture repair – 81142, Footwear & leather goods repair – 81143, Other personal & household goods repair – 81149)
13. Outdoor storage yard, provided outdoor storage yard shall not be located closer than 20 feet to any public street and that such yard shall be completely enclosed, except for necessary ingress and egress, and screened pursuant to the fencing requirements of this section and the Land Development Code. Where an outdoor storage yard abuts developed C-5 property, screening requirements may be relaxed along the abutting side and rear yards with the full knowledge and written approval of the adjoining property owner. This provision shall not allow as a permitted or accessory use, wrecking yards, junkyards, or yards used in whole or part for scrap or salvage operations for economic gain.
14. Printing, publishing, and allied industries (Newspaper publishers – 51111, Periodical publishers – 51112, Database & directory publishers – 51114)
15. Transportation services (Other water transportation support services – 48839, Motor vehicle towing – 48841, Other road

transportation support activities – 48849, Other transportation support activities – 48899)

16. Any other heavy commercial use which is comparable in nature with the foregoing uses including buildings for retail, service and office purposes consistent with the permitted uses and intent and purpose statement of the district.

SECTION THREE: USES ACCESSORY TO PERMITTED USES.

1. Uses and structures that are accessory and incidental to the uses permitted as of right in the C-5 district.
2. Caretaker's residence, subject to the Land Development Code.
3. Parking requirements for uses and structures that are accessory and incidental to permitted transient uses (hotel, motel, and timeshare), with parking required for such accessory uses calculated at 50% for hotels, 67% for motels, and 75% for timeshares.

SECTION FOUR: CONDITIONAL USES.

The following uses are permissible as conditional uses in the heavy commercial district (C-5), subject to the standards and procedures established in the Land Development Code.

1. Agricultural services (Veterinary services – 54194, Pet care – 81291, both with outdoor kenneling).
2. Amusement and recreation services, outdoor (Racetracks – 711212, Amusement & theme parks – 71311, Golf courses & country clubs – 71391).
3. Bottle clubs. (All establishments engaged in the retail sale of alcoholic beverages for on-premise consumption are subject to the locational requirements of the Land Development Code).
4. Child day care services, provided:
 - a. All areas and surfaces readily accessible to children shall be free of toxic substances and hazardous

materials. This shall include all adjacent and abutting properties lying within 500 feet of the child-care center's nearest property line.

(1). For purposes of this subsection, the following definitions shall apply:

(a). Hazardous materials: A material that has any of the following properties; ignitable, corrosive, reactive and/or toxic.

(b). Toxic substances: A substance that is, or is suspected to be, carcinogenic, mutagenic, teratogenic, or toxic to human beings.

- b. It shall not be located within 500 feet of the nearest property line of land uses encompassing wholesale storage of gasoline, liquefied petroleum, gas, oil, or other flammable liquids or gases.
- c. It shall not be located on the same street customarily utilized by construction truck traffic from asphalt plants and excavation quarries.
- d. It shall have a minimum lot area of 20,000 square feet and a minimum lot width of 100 feet.
- e. It shall provide a minimum usable open space of not less than 30 percent of the total square footage of the lot area.
- f. It shall provide that all open spaces to be used by children will be bounded by a fence of not less than five feet in height, to be constructed of wood, masonry or other approved material.
- g. It shall provide a landscape buffer in accordance with the Land Development Code.
- h. It shall comply with the State of Florida Department of Health and Rehabilitative Services Child Day Care Standards, Florida Administrative code, chapter 10M-12, effective March 11, 1986.

- i. Where a child care center is proposed in conjunction with, and on the same parcel as, a facility which is a permitted use, the requirements set forth in subparagraphs a through h above, with the exceptions of [subparagraphs] d and e, shall be used to provide the protections to children using the child care center intended by this section consistent with the development of the proposed permitted use.
- 5. Communications (Radio & television broadcasting – 5131, Cable networks & program distribution – 5132, Telecommunications – 5133, with communications towers subject to the Land Development Code.
- 6. Farm product raw materials (Farm product raw material wholesale – 4225 [except livestock]).
- 7. Fuel dealers (Fuel dealers - 45431).
- 8. Homeless shelters, as defined by this code.
- 9. Justice, public order and safety (Correctional institutions 92214, Parole offices & probation offices - 92215).
- 10. Local and suburban passenger transportation (Interurban & rural bus transportation – 48521, School & employee bus transportation – 48541, Charter bus industry – 48551)
- 11. Permitted uses with less than 700 square feet of gross floor area in the principal structure.
- 12. Soup kitchens, as defined by this code.
- 13. Transfer stations (Solid waste collection – 562111 [local refuse collection and transportation only]).
- 14. Marina based open rack boat storage facilities located on navigable water frontage, pursuant to Section Six.
- 15. Increase in maximum building height from 35 feet up to 50 feet for those uses specifically permitted within the C-5 district only.

SECTION FIVE: DIMENSIONAL STANDARDS.

Except as noted, the following dimensional standards shall apply to all permitted, accessory and conditional uses in the heavy commercial district (C-5).

Minimum lot area. 10,000 square feet.

Minimum lot width. 100 feet.

Minimum yard requirements.

1. *Front yard.* 25 feet.
2. *Side yard.* Zero or a minimum of 10 feet except where the adjacent parcels are developed, in which case the required side yard may be zero to 10 feet however in no case shall the separation between structures be less than ten feet.
3. *Rear yard.* Five feet. Principal and accessory building shall be setback a minimum of 25 feet from an alley right-of-way when vehicular parking spaces take direct access from the alley.
4. *Any yard abutting a residential parcel.* 25 feet.
5. *Waterfront.* 25 feet, except none for marinas.

Maximum height. 35 feet.

Minimum floor area. 700 square feet gross floor area for each building on the ground floor.

Maximum lot coverage. 76% of the total lot area.

Maximum density. 26 units per acre for hotels, motels and timeshare facilities.

SECTION SIX: PARKING AND LOADING, LANDSCAPING, LIGHTING, SIGNAGE, AND ARCHITECTURAL AND SITE DESIGN STANDARDS.

Minimum off-street parking and off-street loading. As required in the Land Development Code.

Landscaping. As required in the Land Development Code.

Within the Elkcam Circle Overlay, as identified in the Land Development Code, the following criteria is applicable:

- a. The landscape buffer along Elkcam Circle right-of-way shall be a minimum of ten (10) feet in width.
- b. The landscape buffer along the side yard property lines streetward of the front yard building setback line shall be a minimum of five (5) feet in width.
- c. Landscaping buffers along the remainder of the side yard and rear yard property lines is optional.
- d. Building perimeter plantings shall be provided along the front façade of the building only.
- e. Landscaping and canopy trees shall be provided in the front yard parking area.
- f. Landscaping provided within the Overlay shall comply with this ordinance and the Land Development Code.

Merchandise storage and display. Unless specifically permitted for a use, outside storage or merchandise is prohibited within any front yard. Temporary display of merchandise during business hours is permissible, provided it does not adversely affect pedestrian or vehicular traffic or public health or safety. Merchandise storage and display shall be allowed within the side and rear yards of lots.

Fence requirements. All permitted or conditional uses allowing for storage other than within an enclosed building, including but not limited to storage of manufactured products, raw or finished materials, or vehicles other than vehicles intended for sale or resale, shall be required to screen such storage pursuant to this code and the Land Development Code. Where such storage area abuts developed C-5 property, screening requirements may be relaxed along the abutting side and rear yards with the full knowledge and written approval of the adjoining property owner.

Within the Elkcam Circle Overlay, as identified in the Land Development Code, chain link fencing is permissible in the rear and side yard behind the front building setback line. When chain link fencing is visible from a street right-of-way or alley, a three (3) foot high landscaping hedge shall be planted and maintained on the side facing the street or alley.

Lighting. Pursuant to the City of Marco Island Outdoor Lighting Standards.

Signs. Pursuant to the Land Development Code.

Architectural and site design standards. (Reserved). Marina based boat storage facilities may deviate from the list of permitted building materials if such deviation can be justified and approved through the conditional use process.

SECTION SEVEN: DEVELOPMENT STANDARDS FOR PORT MARCO SUBDIVISION

1. Location of Port Marco. Port Marco subdivision is that tract of land in Government Lot 5, Section 5, Township 52 South, Range 26 East, the tract being a part of that certain area indicated as "Doxsee Property" in the "Amended Plat of Collier City" as recorded in Plat Book 1 at page 58 of the public records of Collier County, Florida.
2. Existing uses. The State of Florida, by State Charter dated February 28, 1966, authorized the owners of Port Marco to:
 - a. Purchase or otherwise acquire, operate and manage a mobile home project on a non-profit basis and in the interest of and for the housing of its members and other lawful occupants.
 - b. In connection with such project, the corporation may provide such community facilities, services and benefits as may be necessary or convenient for the welfare of the members and other lawful occupants.

The Port Marco subdivision includes sixteen (16) mobile home sites, common recreational area, boat docking facilities, and a private access road. Mobile home sites often include such accessory uses as carports and utility buildings.

3. Dimensional standards. Setbacks between mobile homes, between individual mobile homes and the access road, and between mobile homes and accessory uses shall comply with minimum separation requirements per the City's Fire Code.

Height. The maximum height for any structure in Port Marco subdivision is twenty-five (25) feet.

4. Expansion, alteration or replacement. Prior to any expansion, alteration or replacement of an existing mobile home or accessory use, or any new accessory use, the property owner or authorized agent

shall provide the Community Development Director with three (3) copies of a scaled drawing of the proposed expansion, alteration, replacement or new development, which will show the existing location of structures and the relationship to adjacent mobile homes, accessory structures, access roads, and parcel boundaries.

5. Criteria for authorizing any expansion, alteration or replacement. The Planning Board, by resolution, may approve the expansion, alteration or replacement of any existing mobile home, based on the following standards and criteria:
 - a. The expansion, alteration or replacement will not increase the density of the parcel or lot on which the mobile home is located.
 - b. The expansion, alteration or replacement will not further encroach upon any nonconforming setback area.
 - c. The expansion, alteration or replacement will not decrease the existing parking areas for the structure.
 - d. The expansion, alteration or replacement will not damage the character or quality of the neighborhood.
 - e. Such expansion, alteration or replacement will not present a threat to the health, safety or welfare of the community or residents.
6. Architectural standards. The Port Marco subdivision is exempt from the architectural standards and provisions of the Land Development Code.

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 7th day of January, 2002.

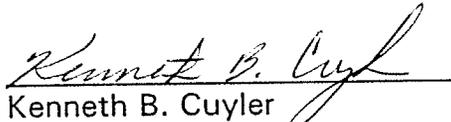
Attest:

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