

CITY OF MARCO ISLAND

ORDINANCE 02-36

**AN ORDINANCE TO ESTABLISH A NEW ZONING CODE FOR THE CITY OF MARCO ISLAND TO SUPERSEDE, REPLACE AND/OR SUPPLEMENT STANDARDS AND REGULATIONS FOUND IN THE COLLIER COUNTY LAND DEVELOPMENT CODE (ORDINANCE 91-102, AS AMENDED), ESTABLISHING PURPOSE AND INTENT; PROVIDING FOR CONTINUATION OF ZONING DISTRICTS; PROVIDING FOR CONTINUATION OF OFFICIAL ZONING ATLAS; PROVIDING FOR AMENDMENT TO OFFICIAL ZONING ATLAS; PROHIBITING UNAUTHORIZED AMENDMENTS TO OFFICIAL ZONING ATLAS OR CODE; PROVIDING FOR FINAL AUTHORITY OF OFFICIAL ZONING ATLAS AND CODE; PROVIDING FOR DAMAGED, LOST, OR DESTRUCTION OF OFFICIAL ZONING ATLAS; ESTABLISHING ZONING REGULATIONS ARE MAXIMUM OR MINIMUM LIMITATIONS; ESTABLISHING ZONING AFFECTS ON USE OR OCCUPANCY; PROHIBITING MULTIPLE USE OF REQUIRED SPACE; PROHIBITING REDUCTION OF LOT AREA; EFFECT OF APPROVALS UNDER THE ZONING REEVALUATION ORDINANCE; TIME LIMITS ON PREVIOUSLY APPROVED DEVELOPMENT ORDERS; CONTINUATION OF PROVISIONAL/CONDITIONAL USES; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, Article VIII of the State Constitution and Chapter 166 of 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 consistent with the adopted Comprehensive Plan; and

WHEREAS, the Marco Island Planning Board, as the Local Planning Agency, has conducted all required 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.

It is the purpose and intent of this code to establish and adopt comprehensive zoning regulations governing the use of land and water in the incorporated area of Marco Island, Florida. These regulations are based on a comprehensive plan for future development, and are enacted to protect, promote, and improve the public health, safety, comfort, order, appearance, convenience and general welfare of the residents.

This code intends to accomplish and to provide for: efficiency and economy in the process of future development and redevelopment; appropriate use of land; preservation, protection and conservation of the natural resources of land, water and air; convenience in circulation of traffic for the transport of people, goods, and commodities; healthful and convenient distribution of population; adequate and continuously maintained public facilities and utilities; promotion of amenities, both public and private, to maintain and improve the quality of life for all residents; and ensure development consistent with the comprehensive plan.

## SECTION TWO: ZONING DISTRICTS CONTINUED.

In order to carry out and implement the comprehensive plan and the purposes of this code, the following zoning districts with their applicable symbols are hereby continued:

- Golf Course District (GC)
- Agricultural District (A)
- Residential Single-Family-2 District (RSF-2)
- Residential Single-Family-3 District (RSF-3)
- Residential Single-Family-4 District (RSF-4)
- Residential Multiple-Family-6 District (RMF-6)
- Residential Multiple-Family-12 District (RMF-12)
- Residential Multiple-Family-16 District (RMF-16)
- Residential Tourist District (RT)
- Commercial Professional/Transitional District (C-1/T)
- Commercial Convenience District (C-2)
- Commercial Intermediate District (C-3)
- General Commercial District (C-4)
- Heavy Commercial District (C-5)
- Conservation District (CON)
- Public Use District (P)
- Community Facility District (CF)
- Planned Unit Development District (PUD)
- Special Treatment Overlay District (ST)

### SECTION THREE: OFFICIAL ZONING ATLAS.

It shall be recognized that on August 28, 1997, the City of Marco Island incorporated, and as such, retained the existing official zoning atlas from Collier County, Florida, for its incorporated boundaries. The official zoning atlas as of said date of adoption shall be recognized as the official zoning atlas for the City of Marco Island, and any amendments made to the districts, boundaries, or other matters portrayed on the official zoning atlas after incorporation shall be taken only in the form of an amendment to this code and retained as Public Record, and recorded with the Clerk for the City of Marco Island.

The location and boundaries of the zoning districts established in this code are set forth and shown on the official zoning atlas which is incorporated by reference into this code as if fully described and set forth herein. The district symbol or symbols as set forth in this code shall be used to designate each district on the official zoning atlas.

Each amended page of the official zoning atlas shall be identified by the signature of the chairman of the city council and attested by the clerk for the City of Marco Island, and shall bear the seal of the City of Marco Island under the following words: "This is to certify that this is page \_\_\_\_\_ of the official zoning atlas referred to and adopted by reference by Ordinance No. \_\_\_\_\_ of the City of Marco Island, Florida, adopted \_\_\_\_\_, 2\_\_\_\_."

A copy of the official zoning atlas shall be located at all times in City Hall for inspection by the general public during regular business hours.

### SECTION FOUR: AMENDMENT TO OFFICIAL ZONING ATLAS.

If, pursuant to the terms of this code and the applicable Laws of Florida, amendments are made to the districts, boundaries, or other matters portrayed on the official zoning atlas, such amendments shall be processed in accordance with Section 30-62 of the Marco Island Land Development Code. Amendments to the official zoning atlas shall only be entered onto the official zoning atlas by the community development director upon final approval of any such amendment. Each amended page of the official zoning atlas shall contain an entry which reads as follows: "On \_\_\_\_\_, 2\_\_\_\_, by Ordinance No. 2\_\_\_\_, the following amendments were made to the official zoning atlas: (include brief description of nature of amendment)," which entry shall be attested by the clerk.

### SECTION FIVE: UNAUTHORIZED AMENDMENTS TO OFFICIAL ZONING ATLAS OR CODE PROHIBITED.

No changes of any nature shall be made in the official zoning atlas or any matter shown thereon, or in the zoning districts or regulations contained herein, except in conformity with the procedures established in this code and consistent with the comprehensive plan. Any unauthorized change of whatever kind by any person shall be considered a violation of this code.

SECTION SIX: FINAL AUTHORITY OF OFFICIAL ZONING ATLAS AND CODE.

Regardless of the existence of purported copies of the official zoning atlas or other parts of this code, which from time to time may be made or published, the official zoning atlas located in the office of the clerk shall be the final authority as to the current zoning of all land and water in incorporated Marco Island and the code located in the office of the clerk for the City of Marco Island shall be the final authority as to the various zoning districts and regulations herein established.

SECTION SEVEN: RETENTION OF EARLIER ZONING MAP OR ATLASES.

All zoning maps or atlases, or remaining portions thereof, which have had the force and effect of official zoning maps or atlases for Marco Island prior to the effective date of adoption of this code shall be retained as a public record as a guide to the zoning status of lands and waters prior to such date. Upon the date of adoption of this code, the immediately prior official zoning atlas of that date shall be retained permanently in a place separate from the original prior official zoning atlas.

SECTION EIGHT: DAMAGED, LOST, OR DESTRUCTION OF OFFICIAL ZONING ATLAS.

If the official zoning atlas, or any page or portion thereof, becomes damaged, lost, destroyed, or difficult to interpret by reason of the nature or number of changes, the City Council may by ordinance adopt a new official zoning atlas, or any page or pages thereof, which shall supersede the prior official zoning atlas or page or pages thereof. The new official zoning atlas, or page or pages thereof, may correct drafting or other errors or omissions in the prior official zoning atlas, or page or pages thereof, but no such correction shall have the effect of amending the original official zoning atlas, or page or pages thereof.

When replacing pages or portions of the official zoning atlas, the following certification shall be included: "This is to certify that this Official Zoning Atlas (or page or pages thereof) by Ordinance No. \_\_\_\_\_ dated \_\_\_\_\_, 2\_\_\_\_, replaced the Official Zoning Atlas (or page or pages thereof) adopted \_\_\_\_\_, 2\_\_\_\_, as part of Ordinance No. \_\_\_\_\_ "The City of Marco Island, Florida."

Unless the prior official zoning atlas has been lost, or has been totally destroyed, the prior official zoning atlas or any significant parts thereof remaining shall be preserved as a public record, together with all available records pertaining to its adoption or amendment.

**SECTION NINE: ZONING REGULATIONS ARE MAXIMUM OR MINIMUM LIMITATIONS.**

The regulations established in this code and within each district shall be minimum or maximum limitations, as the case may be, and shall apply uniformly to each class or kind of structure, use, land or water, except where specific provision is made in this code.

**SECTION TEN: ZONING AFFECTS USE OR OCCUPANCY.**

No building, structure, land, or water shall hereafter be used or occupied, and no building, structure, or part thereof shall hereafter be erected, constructed, reconstructed, located, moved, or structurally altered except in conformity with the regulations herein specified for the district in which it is located.

**SECTION ELEVEN: MULTIPLE USE OF REQUIRED SPACE PROHIBITED.**

No part of a required yard, required open space, required off-street parking space, or required off-street loading space, provided in connection with one building, structure, or use, shall be included as meeting the requirements for any other building, structure, or use, except where specific provision is made in this zoning code.

**SECTION TWELVE: REDUCTION OF LOT AREA PROHIBITED.**

No lot, even though it may consist of one or more adjacent lots of record, or yard existing at the effective date of this code shall be reduced in size, dimension, or area below the minimum requirements set forth herein, except by reason of a portion being acquired for public use in any manner including dedication, condemnation, purchase and the like.

**SECTION THIRTEEN: EFFECT OF APPROVALS UNDER THE ZONING REEVALUATION ORDINANCE.**

Any use or structure that has been granted a compatibility exception, an exemption, or vested rights pursuant to the Collier County Zoning Reevaluation Ordinance, Ordinance No. 90-23 (1990) [Code ch. 106, art. II], shall be a permitted use in the zoning district in which it is located to the extent of its approved maximum density or intensity of use and to the extent that it remains effective. Such use or structure shall nevertheless comply with all other requirements and regulations of the land development code.

**SECTION FOURTEEN: TIME LIMITS ON PREVIOUSLY APPROVED DEVELOPMENT ORDERS.**

Any time limits on any development orders approved prior to the adoption of this code shall continue to run and shall not be enlarged, expanded or stayed by the adoption of this code. Furthermore, any time limits required under this code for

any types of development orders which are more restrictive or shorter than the time limits remaining on previously approved development orders shall apply retroactively to all such previously approved development orders. However, the application of such more restrictive time limits under this code to previously approved development orders shall commence to run on the effective date of this code.

**SECTION FIFTEEN: CONTINUATION OF PROVISIONAL/CONDITIONAL USES.**

Any provisional/conditional use, including all stipulations and requirements thereto, approved by the Collier County board of county commissioners or the Marco Island City Council prior to the effective date of this code and valid and effective immediately prior to the effective date of this code shall be treated under this code as follows:

1. If such provisional use is provided for as a conditional use in the zoning district in which it is located under this code, then it shall be permitted as a conditional use under this code.
2. If such provisional use is not provided for as a conditional use or permitted use in the zoning district in which it is located under this code, then it shall be a legal nonconforming use under this code.

**SECTION SIXTEEN: 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 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 SEVENTEEN: 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 6<sup>th</sup> day of January, 2003.

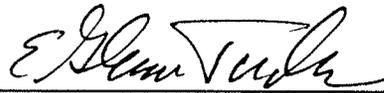
Attest:

CITY OF MARCO ISLAND, FLORIDA



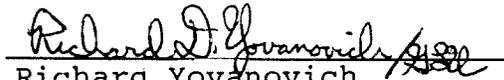
Laura Litzan  
City Clerk

By:



E. Glenn Tucker, Chairman

Approved as to form and  
legal sufficiency:

  
Richard Yovanovich  
City Attorney

