

**CITY OF MARCO ISLAND**

**ORDINANCE 02- 33**

AN ORDINANCE TO ESTABLISH NEW SUPPLEMENTAL DISTRICT 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 ON MARCO ISLAND; ESTABLISHING PURPOSE AND INTENT; PROVIDING FOR VISIBILITY AT INTERSECTIONS IN ALL ZONING DISTRICTS; ACCESSORY BUILDINGS AND STRUCTURES; EXCLUSIONS FROM HEIGHT LIMITS; EXCEPTIONS TO REQUIRED YARDS; BUILDINGS TO HAVE ACCESS; USE OF RESIDENTIALLY ZONED PROPERTY FOR ACCESS PROHIBITED; PARKING AND STORAGE OF CERTAIN VEHICLES; ESSENTIAL SERVICES; FENCES; MISCELLANOUS STRUCTURES; GUESTHOUSE; SOLID WASTE DISPOSAL; INTEGRAL CARETAKER'S RESIDENCE IN COMMERCIAL DISTRICTS; CONDOMINIUMS; DEED RESTRICTIONS; RELATIONSHIP TO STATE AND FEDERAL STATUTES; PROHIBITED ANIMALS IN RESIDENTIAL DISTRICTS; GROUP HOUSING DEVELOPMENT STANDARDS; AUTOMOBILE SERVICE STATIONS; OPEN SPACE REQUIREMENTS IN ALL ZONING DISTRICTS; TOWNHOUSE DEVELOPMENT; KITCHENS IN DWELLING UNITS; FLOOR AREA REQUIREMENTS FOR TIMESHARES, MULTI-FAMILY STRUCTURES, HOTELS AND MOTELS; FLAG POLES; ACCESS MANAGEMENT PLANS; STANDARDS FOR PARKING WITHIN THE MARCO LAKE DRIVE BUSINESS DISTRICT (MLDPD); 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: VISIBILITY AT INTERSECTIONS IN ALL ZONING DISTRICTS.**

1. Safe sight distance triangles at intersections and access points. Where an access way intersects a right-of-way or when a property abuts the intersection of two or more rights-of-way, a minimum safe sight distance triangular area shall be established. Within this area, vegetation shall be planted and maintained in a way that provides unobstructed visibility at a level between 18 inches and ten feet above the adjacent access. Parking is prohibited in this area. No fence, wall, or structure shall be erected in this area. (See Figure 1, Ordinance 02-22).
  
2. Where an access way enters a street, right-of-way, or alley, two safe distance triangles shall be created diagonally across from each other on both sides of the access way. Two sides of the triangle shall extend fifteen feet each way from the point of intersection from the edge of pavement and the right-of-way line. The third side of the triangle shall be a line connecting the ends of the other two sides.
  
3. Where a property abuts the intersection of two rights-of-way, a safe distance triangle shall be created. Two sides of the triangle shall extend 30 feet along the abutting right-of-way lines, measured from the point of intersection. The third side of the triangle shall be a line connecting the ends of the other two sides.

**SECTION TWO: ACCESSORY BUILDINGS AND STRUCTURES.**

1. Accessory buildings and structures must be constructed simultaneously with or following the construction of the principal structure and shall conform to the following setbacks and building separations. In those cases where the coastal construction control line is involved, the coastal construction control line will apply.

**Accessory Structure Setbacks  
(non-waterfront lots and non-golf course lots)**

	Accessory Structure	Front	Rear	Side	Structure to Structure (if detached)
1.	Parking garage or carport	SPS	10 feet	SPS	10 feet

	(single family)				
2.	One-story parking structures and/or carports (multi-family and commercial)	SPS	35 feet	SPS	10 feet
3.	Multistory parking structures (multi-family and commercial)	SPS	35 feet	SPS	1/1 <sup>1</sup>
4.	Swimming pool and/or screen enclosure (one- and two-family)	SPS	10 feet	SPS	N
5.	Swimming pool (multi-family and commercial)	SPS	20 feet	15 Feet	N
6.	Tennis courts, private (one- and two-family)	SPS	15 feet	SPS <sup>3</sup>	10 feet
7.	Tennis courts (multi-family and commercial)	SPS	20 feet	15 feet	20 feet
8.	Utility buildings	SPS	10 feet	SPS	10 feet
9.	Chickee, barbeque areas	SPS	10 feet	SPS	10 feet
10.	Attached screen porch	SPS	SPS	SPS	N/A
11.	Unlisted accessory	SPS	SPS	SPS	10 feet

**Accessory Structure Setbacks  
(Waterfront lots and golf course lots)**

	Accessory Structure	Front	Rear	Side	Structure to Structure (if detached)
1.	Parking garage or carport (single family)	SPS	SPS	SPS	10 feet
2.	One-story parking structures and/or carports (multi-family and commercial)	SPS	SPS	SPS	10 feet
3.	Multistory parking structures (multi-family and commercial)	SPS	SPS	SPS	1/1*
4.	Swimming pool and/or screen enclosure (one- and two-family)	SPS	10 feet <sup>2</sup>	SPS	N
5.	Swimming pool (multi-family and commercial)	SPS	20 feet	15 Feet	N
6.	Tennis courts, private (one- and two-family)	SPS	15 feet	SPS <sup>3</sup>	10 feet
7.	Tennis courts (multi-family and commercial)	SPS	35 feet	15 feet	20 feet
8.	Utility buildings	SPS	SPS	SPS	10 feet
9.	Chickee, barbeque areas	SPS	10 feet	SPS	N
10.	Attached screen porch	SPS	SPS	SPS	N/A
11.	Unlisted accessory	SPS	SPS	SPS	10 feet

N = None, N/A = Not applicable, NP = Structure allowed in rear yard only.  
May be located on pad at ground level, but not mounted on roof, SPS = Calculated same as principal structure.

<sup>1</sup> 1/foot of accessory height = 1/foot of building separation.

<sup>2</sup> Swimming pool decks may be constructed to a maximum of seven feet above the seawall with a maximum of four feet of stem wall exposure, with the rear setback of ten (10) feet. Swimming pool decks which exceed this height shall conform to a rear setback of twenty five (25) feet.

<sup>3</sup> Lighting is prohibited at all tennis court facilities located within single family residential zoning districts. An opaque landscape hedge shall be planted between a tennis court facility and a side or rear yard property line of different ownership. The landscaping shall be maintained at a minimum of four feet in height and a maximum of six feet in height and shall be provided along the entire length of the tennis court facility.

2. *Limitations as to size of accessory buildings and structures.* Accessory buildings shall not occupy an area greater than five percent of the total lot area in all residential zoning districts, or occupy an area greater than 40 percent of any building envelope (i.e., area of lot remaining for building purposes after accounting for required setbacks), whichever is the lesser, provided the total maximum coverage provision of this ordinance for all principal and accessory buildings is not exceeded. Nothing herein contained shall serve to prevent the construction of an accessory building containing an area of less than 500 square feet provided all yard and building spacing requirements can be met.

### SECTION THREE: EXCLUSIONS FROM HEIGHT LIMITS.

1. *General exclusions.* The height limitations do not apply to spires, belfries, cupolas, water tanks, fire towers when operated by a branch of government, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level. Human occupancy, even casual use, is prohibited except for routine maintenance.

### SECTION FOUR: EXCEPTIONS TO REQUIRED YARDS.

1. *Yard encroachments.* Every part of every required yard shall be open and unobstructed from 30 inches above the general ground level of the graded lot upward except as listed below. Such exceptions, when utilized in yards where recorded easements exist, are allowed with the explicit understanding that any structural improvement(s) or vegetation located within a recorded easement are subject to removal, at the owner's sole expense, when authorized entities must enter upon such easement area to repair, improve, reconstruct or make such lawful improvements as deemed necessary.

- a. Sills and other architectural and design treatments shall not project over 12 inches into a required yard.
  - b. Moveable awnings shall not project over three feet into a required yard.
  - c. Window-mounted air-conditioning units, chimneys, fireplaces, bay windows, or pilasters shall not project over two feet into a required yard.
  - d. Wall-mounted, cube mounted, or cantilevered air-conditioning units shall not project over two (2) feet into a required side yard or four (4) feet into the rear yard. Units permitted prior to January 1, 2002 shall not project over four (4) feet into a required side or rear yard.
  - e. Fire escapes, stairways, and balconies which are unroofed and unenclosed shall not project over five feet into a required side or rear yard of a multiple-family dwelling, hotel or motel.
  - f. Fire escapes and balconies that are unroofed and unenclosed shall not project over three (3) feet into a required side or rear yard of a single-family residential dwelling. Staircases shall not project over four (4) feet into any required yard of a single-family residential dwelling.
  - g. Hoods, canopies, or roof overhangs shall not project over three feet into a required yard
  - h. Fences, walls, privacy walls, vegetative materials, hedges, pool equipment and pad-mounted air conditioners are permitted in required yards, subject to the conditions contained herein.
  - i. Cornices, eaves or gutters shall not project over three feet into a required yard.
  - j. Satellite dishes having a diameter of eighteen (18) inches or less which are attached to the principle structure shall not project over three (3) feet into a required side or rear yard.
2. *Minor improvements to legal nonconforming structures located within a residential zoning district.* Where a structure was lawfully permitted within a residential zoning district under a previous code, and where

said structure is considered nonconforming under the current land development code due to changes in the required side or rear yards, the community development director may administratively approve a variance for an amount equal to or less than the existing side and/or rear yard encroachment. Canopies, windowsills or other projections as provided for shall not be used in the calculation of existing side and/or rear yard encroachments.

- a. The applicant shall follow the procedures as provided below and in addition the applicant shall submit a detailed conceptual site plan drawn to scale depicting all existing structures and the proposed addition, as well as the distance between the property lines and the existing and proposed structures. Additionally, the applicant shall provide proof that the encroaching structure was legally constructed. Such proof shall include, at a minimum, evidence that a building permit was issued for the encroaching structure, or, where such evidence cannot be provided, documentation from the property appraiser's office of the date the structure was placed on the tax rolls.
3. *Waterfront yards.* It is the intent and purpose of this section to permit the placement of principal structures, except single-family, two-family and duplex dwelling units, at the bulkhead line or shoreline where such placement at the water's edge can enhance the character of waterfront development without detriment to adjoining or nearby properties or without damage to a particular environmental situation. The provisions of this section have their greatest potential application in planning for the use of tidewater inlands or areas of the city of such size and location that the use of this provision will meet its intent and purpose. If the provisions of this section are met, such provisions govern regardless of any requirement for waterfront yards in the zoning district involved. In those cases where the coastal control line is involved, the coastal construction line shall apply.
4. *Classification of waterfront lands and building location.* Principal structures shall not be erected waterward under this code beyond the following limits for the situations outlined:
- a. For waterfront lands along which a bulkhead line has been established, buildings may be erected out to, but not beyond, the bulkhead line.
  - b. For waterfront lands along which an offshore building limit has been established by the city, buildings may be erected out to, but not beyond, the building limit line.

- c. For waterfront lands along which neither a bulkhead nor a building limit line has been established, buildings may be erected out to, but not beyond, the shoreline, as that shoreline exists prior to development and construction.
  - d. Undeveloped and redeveloping waterfront property shall provide an eight (8) foot wide pedestrian walkway adjacent to and parallel with the existing seawall and/or waterfront. The walkway shall be provided either along the landward side of the seawall in the form of a hardscape walkway, or along the waterway side of the seawall in the form of a parallel dock. These walkways shall comply with guidelines pursuant to Chapter 30, Article VIII.
5. *Uses.* Since this section applies only to the placement of structures in waterfront yards, there shall be no use permitted under this section which is not permitted or permissible in the district involved.
6. *Site development plan required.* An applicant under this section shall submit a site development plan. In addition the applicant shall submit such materials as will demonstrate that the placement of the proposed buildings in waterfront yards from which they would otherwise be excluded: (1) will not adversely affect adjoining or nearby properties; and, (2) will cause no adverse environmental effects of building placement as requested.

#### SECTION FIVE: BUILDINGS TO HAVE ACCESS.

- 1. Every building hereafter erected or moved shall be on a lot adjacent to a public street or with actual and legal access to an approved private street or vehicular access easement, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

#### SECTION SIX: USE OF RESIDENTIALLY ZONED PROPERTY FOR ACCESS PROHIBITED.

- 1. No lot or parcel which is residentially zoned or designated shall be used for driveway, walkway or access purposes to any land which is non-residentially zoned or designated, or used for any purpose not permitted in a residential district.

#### SECTION SEVEN: PARKING AND STORAGE OF CERTAIN VEHICLES.

- 1. *Parking and storage of vehicles without current license plates.* Vehicles or trailers of any type that are not immediately operable, or

used for the purpose for which they were manufactured without mechanical or electrical repairs or the replacement of parts; or do not meet the Florida Safety Code; or do not have current valid license plates; or do not meet the definition of recreational equipment as defined within this code, shall not be parked or stored on any residentially zoned or designated property, other than in a completely enclosed building.

2. *Parking, storage or use of major recreational equipment.* Recreational Vehicle Parking: The parking of recreational vehicles is prohibited except as follows:

- a. When vehicle is parked within the confines of a fully enclosed structure such that it cannot be seen from any abutting property or public right-of-way.
- b. When parked in the open on the driveway of the property for a period of time not to exceed 24 hours to allow for loading and unloading.
- c. Upon receipt of a permit from the Code Enforcement Division provided that:
  - i. Parking shall not exceed seven (7) days for the purpose of loading, unloading, minor repairs, and cleaning prior to or after a trip.
  - ii. The permit shall be affixed to the vehicle in a conspicuous place.
  - iii. Prior to the expiration of the seven (7) day permit, a second seven (7) day permit may be issued upon a finding by the Code Enforcement Division that the permittee has complied with permit conditions.
  - iv. A maximum of four (4) permits, or twenty-eight (28) total days, may be granted in any single calendar year.
  - v. In no event shall recreational vehicles be used for living or sleeping purposes.

3. *Boat and boat trailer parking.*

- a. The parking of a boat and boat trailers in residentially zoned districts is prohibited except as follows:
  - i. When boat or boat trailer is parked within the confines of a fully enclosed structure such that it cannot be seen from any abutting property, public way, or waterway.
  - ii. On a temporary basis, not to exceed eight (8) hours, for the purpose of loading, unloading, and cleaning.

- iii. When moored, berthed, or stored on an approved boat docking facility.
- b) The display of a boat for sale is prohibited except as follows:
- i. After the issuance of a permit, which is limited to one permit per calendar year, per property.
  - ii. The permit shall be for a maximum of 60 days.
  - iii. The boat offered for sale is moored, berthed, or stored on an approved boat docking facility.
  - iv. One "for sale" sign shall be allowed, not to exceed one and one half (1.5) square feet in size, affixed to the boat.
  - v. A permit shall only be issued to the title-holder.
4. *Parking of commercial vehicles or commercial equipment in residential areas.* It shall be unlawful to park a commercial vehicle or commercial equipment on any lot in a residential zoning district unless one of the following conditions exists:
- a. The vehicle and/or equipment is engaged in a construction or service operation on the site where it is parked. The vehicle or equipment must be removed as soon as the construction or service activity has been completed.
  - b. The vehicle and/or equipment is parked in a garage or fully enclosed structure or carport which is structurally or vegetatively screened and cannot be seen from adjacent properties or the street serving the lot.
  - c. The vehicle is parked in the rear of the main structure and is enclosed within a vegetative screening which conceals the vehicle from the view of neighbors.
  - d. Automobiles; passenger type vans; and pickup trucks having a rated load capacity of one ton or less – all of which do not exceed 7.5 feet in height, nor 7.0 feet in width, nor 25 feet in length shall be exempted from this section unless otherwise prohibited by a special parking overlay district.
  - e. Exempted from this section is small commercial equipment such as ladders and pipes which cannot be contained in the vehicle. Said equipment shall be limited to one ladder or one unit of pipe which does not exceed 12 inches in diameter per commercial vehicle. Said equipment shall be secured atop the vehicle and shall not extend beyond the length, height or width of the vehicle.

- f. Parking of commercial vehicles or commercial equipment on vacant residential lots is prohibited.

## SECTION EIGHT: ESSENTIAL SERVICES.

1. Essential services are hereby defined as services designed and operated to provide water, sewer, gas, telephone, electricity, cable television or communications to the general public by providers which have been approved and authorized according to laws having appropriate jurisdiction, and governmental facilities. Essential services are allowed in any zoning district subject to the following conditions:
  - a. *Permitted uses.* The following uses shall be deemed permitted uses in any zoning district: water lines, sewer lines, gas lines, telephone lines, telephone switching stations, cable television, electrical transmission and distribution lines substations, emergency power structures, sewage lift stations, water pumping stations, individual private wells and septic tanks, and similar installations necessary for the performance of these services. Governmental facilities, as defined by this code, shall be permitted uses in commercial zoning districts. Furthermore, the following governmental facilities shall be permitted uses in residential zoning districts: nonresidential not-for-profit childcare, nonresidential education facilities, libraries, museums, parks and recreational service facilities.
  - b. *Conditional uses.* The following uses shall be deemed conditional uses in any zoning district: electric or gas generating plants, effluent tanks, major re-pump stations, sewage treatment plants including percolation ponds, hospitals, hospices, water aeration or treatment plants, governmental facilities in residential, and agricultural zoning districts except as otherwise specified by section 8.a., public water supply acquisition, withdrawal, or extraction facilities, safety service facilities, and other similar facilities.
2. *Applicability of district regulations.* Under this subsection, where structures are involved other than structure supporting lines or cables, such structures shall comply with the regulations for the district in which they are located or as may be required on an approved site development plan per Chapter 30, Article IX. In addition, the structures shall conform insofar as possible to the character of the district in which they are located as to development standards as well

as architecture and landscaping, with utilization of screening and buffering compatible with the district.

3. *Structure for commercial activities.* Essential services shall not be deemed to include the erection of structures for commercial activities such as sales or the collection of bills in districts from which such activities would otherwise be barred. Unstaffed billing services, which are accessory uses to the normal operations of the essential service, may be permitted.

#### SECTION NINE: FENCES.

1. *Fences in zoning districts.* Fences or walls shall be allowed in all zoning districts subject to the restrictions set forth below:
2. *Residential districts.* For the purposes of this section, residential districts shall include: RSF residential single-family; RMF-6, RMF-12, and RMF-16 residential multiple-family; RT residential tourist; and residential increments of PUD residential planned unit development districts. Fences and walls shall be subject to the following:
  - a. Fences or privacy walls placed within required yards shall be limited to six (6) feet in height except that no fence placed between the front building line and the front property line of lots or parcels less than 1.25 acres in size shall be greater than four (4) feet in height.
  - b. Fences or walls placed within the required rear yard of waterfront lots one acre or less in size shall be limited to four (4) feet in height.
  - c. Corner lots shall maintain sight distance triangle areas. Fences and walls are prohibited within these areas.
  - d. Up to four (4) six (6) foot entry posts may be incorporated as part of an approved fence in the front yard(s).
  - e. Fences and walls shall be constructed of conventional building materials such as, but not limited to concrete block, brick, wood, decorative iron or steel.
  - f. Coated chain-link fencing shall only be allowed in side yards and in rear yards. Coated chain-link fencing and/or chain link fencing is prohibited in front yards. Refer to Chapter 30, Article VIII for chain link fence criteria within commercial zoning districts.

- g. Fences and walls shall be constructed to present the finished side of the fence or wall to the adjoining lot or any abutting right-of-way.
  - h. Barbed wire, razor wire, spire tips, sharp objects, or electrically charged fences shall be prohibited, except that the board of zoning appeals may allow the use of barbed wire in conjunction with chainlink fencing where it finds a security or hazard exists such as a utility substation, sewage treatment plant, or similar use.
3. *Agricultural districts.* For the purpose of this section, agricultural districts shall include: A agricultural and CON conservation districts. Fences and walls within agricultural districts shall be subject to the same fencing provisions as for residential districts.
4. *Commercial districts.* For the purpose of this section, commercial districts shall include: C-1/T, C-2, C-3, C-4, C-5, P public use district; and commercial parcels of PUD planned unit developments. Fences or walls shall be allowed subject to the following:
- a. Fences or walls in commercial districts shall be limited to eight feet in height and shall be permitted subject to the following conditions:
    - i. All fencing located in a front yard shall not be located within the required landscape buffer. All fencing located adjacent to an alley right-of-way may encroach five feet into the required landscape buffer.
    - ii. Fencing located adjacent to a right-of-way shall provide all code required landscaping along the side facing the right-of-way (50% if located along alley right-of-way).
    - iii. Chain link fencing is prohibited in all commercial zoning districts except within the Elkcam Circle Zoning Overlay as specified in Chapter 30, Article VIII.
    - iv. Split rail fencing shall be allowed within a landscape buffer as an embellishment.
    - v. Razor wire, spire tips, sharp objects or electrically charged fences shall be prohibited.

4. *Fencing General.*

- a. All fences and walls shall be of sound construction and shall not detract from the public health, safety and welfare of the general public.

- b. All fences and walls shall be maintained in a manner that will not detract from the neighborhood or community.
  - c. No fence or wall within any district shall block the view of passing motorists or pedestrians so as to constitute a hazard.
  - d. Fences and walls shall be constructed of conventional building materials such as, but not limited to concrete block, brick, wood, decorative iron or steel, and chain link. Coated chain link and chain link fencing is prohibited in the front yards of residential zoning districts, and all commercial zoning districts except as specified above.
  - e. Fences and walls shall be constructed to present the finished side of the fence or wall to the adjoining lot or any abutting right-of-way. Where due to the presence of an existing fence or wall or continuous landscape hedge on the adjoining parcel, this provision may be administratively waived where said request has been requested in writing.
  - f. When determined to be beneficial to the health, safety, and welfare of the public, the community development director may waive height limitations of fences and walls in all districts.
  - g. Existing ground levels shall not be altered for the purpose of increasing the height of a proposed wall or fence.
5. *Fence height measurement for all districts.* The height of a fence or wall located outside of the building line shall be measure from the ground level at the fence location. However, if the community development director determines that ground levels have been altered so as to provide for a higher fence, the community development director shall determine the ground level for the purposes of measuring the fence height. In determining whether the ground level has been altered for the purposes of increasing the height of the fence, the community development director may consider, but is not limited to consideration of, the following facts:
- a. General ground elevation of the entire lot.
  - b. In case of a lot with varying ground elevations, the average elevation over the length of the fence, and at points in the vicinity of the fence.

- c. The ground elevation on both sides of the fence. In measuring the fence height, the ground elevation on the side of the fence location that is at the lowest elevation shall be used as a point from which the fence height is to be measured.
- d. Fences or walls shall be permitted principal uses; however a fence or wall shall not, in any way, constitute a use or structure, which permits, requires and/or provides for any accessory uses and/or structures.

#### SECTION TEN: MISCELLANEOUS STRUCTURES.

1. School bus shelters, bicycle racks, bus stop benches, and mailboxes, shall be permitted in any zoning district. Brochure racks, delivery boxes, newspaper boxes/racks for public sale and distribution shall only be permitted in the RT residential tourist and C-1 through C-5 commercial zoning districts. No advertising sign shall be permitted on any such structure. All such structures are exempt from district setbacks, however each shall comply with regulations pursuant to sight distance triangles. Brochure racks, delivery boxes, and newspaper boxes/racks shall be removed from zoning districts prohibiting such uses within one year of adoption of this ordinance. Zoning districts permitting brochure racks, delivery boxes, and newspaper boxes/racks shall comply with the architectural and site design guidelines provided for in Chapter 30, Article VIII, within two years of adoption of this ordinance.

#### SECTION ELEVEN: GUESTHOUSE.

1. No guest accommodation facility in a single-family residential district, whether a freestanding guesthouse or guest accommodations which are structurally integrated with the main dwelling, may be utilized for commercial purposes. Leasing or renting a guest accommodation facility shall constitute a violation of this zoning code. Similarly, if main residence is leased or rented, a guest accommodation facility accessory to it may not be occupied by the property owner, since that would constitute the unlawful utilization of single-family zoned property for two-family dwelling purposes. Guesthouses shall not be constructed on lots which are smaller than 43,560 square feet in area, nor shall the living area of a guesthouse be larger than 40 percent of the air conditioned, enclosed living area (excluding garages, carports, patios, porches, utility areas, and the like) of the principal dwelling. Detached guesthouses shall not be closer than 20 feet to the principal dwelling. A guesthouse may be constructed prior to a principal

dwelling, provided the guesthouse meets the minimum requirements of a single-family residence in the district in which it is being constructed. At such time as a principal residence is constructed, then the floor area percentages listed above shall apply.

## SECTION TWELVE: SOLID WASTE DISPOSAL.

1. Pursuant to Collier County Ordinance No. 90-30, as amended, solid waste disposal shall be required in the form of bulk container service (garbage dumpsters) for all commercial, institutional, residential tourist, and multi-family developments.
2. *Screening.* All trash or recycle receptacles shall be located so as to be easily accessible to the residents and the solid waste hauler, and shall be 100% screened on all sides by opaque materials to prevent visibility of containers by neighboring property owners and from adjacent streets at the first floor level. Screening materials shall be consistent with design treatments of primary building facades, landscape plan, and in accordance with Chapter 30, Article VIII.
  - a. The following materials and structures may be used for screening as required above:
    - i. Wood, plastic, or fences of similar materials.
    - ii. Concrete block and stucco wall, brick wall, masonry wall, or walls of similar material.
    - iii. Vegetative screening in conjunction with a. and b. above.

Screening, as required above, shall be maintained and/or installed at a minimum of 6 feet in height and a maximum of 8 feet in height provided there is no obstruction of vision of adjacent streets, right-of-way or sight distance triangles. Opaque gates shall be installed on the front of the dumpster enclosure.

3. *Minimum requirements and locational restrictions.* In the case of multifamily developments, at least one standard size bulk container (dumpster) per every ten dwelling units shall be required. All such containers are subject to the following locational restrictions:
  - a. Solid waste bulk containers may be located within a required yard provided they do not encroach into a required landscape area, and further provided that there be no blockage of the view of motorists or pedestrians so as to constitute a hazard.

- b. In the case of multi-family developments containing more than one structure, no solid waste bulk container (garbage dumpster) shall be located greater than 200 feet from the structure it is intended to serve.
5. *Exceptions.* The community development director, or his designee, may allow the following exceptions to the above requirements.
- a. Solid waste bulk containers (dumpsters) may be substituted by individual solid waste disposal service (unit by unit curbside pick-up) subject to the following:
    - i. In the case of individually owned multi-family dwelling units (condominiums), individual (curbside) solid waste disposal service may be substituted for the required bulk containers (dumpsters) upon documentation that the subject unit or condominium association, having been turned over from the developer to the residents, has voted in the majority to eliminate the use of dumpsters in favor of individual curbside service for all or part of a particular development, subject to acceptance from both the community development director and the waste hauler. Additionally, the association shall demonstrate that there is adequate access to facilitate curbside pickup and that all individual units have an enclosed location other than the residential structure, such as a carport or garage, for the storage of individual solid waste containers.

SECTION THIRTEEN: INTEGRAL CARETAKER'S RESIDENCE IN COMMERCIAL DISTRICTS.

- 1. The community development director may authorize the construction of a caretaker's residence in the C-1/T, C-2, C-3, C-4 commercial districts and C-5 heavy commercial district; subject to the following:
  - a. The residence shall be constructed as an integral part of the principal structure and shall be entered from within the principal structure. Exits required to comply with fire code shall be permitted.
  - b. The caretaker's residence shall be an accessory use and shall be for the exclusive use of the property owner, tenant, or designated employee operating maintaining the principal structure.
  - c. Off-street parking shall be provided as for a single-family residence.

- d. Any other requirement which the community development director determines necessary and appropriate to mitigate adverse impacts of such use in the district.

#### SECTION FOURTEEN: CONDOMINIUMS.

1. This zoning code shall be construed and applied with reverence to the nature of the use of such property without regard to the form of ownership. Condominium forms of ownership shall be subject to this code as is any other form of ownership. Condominiums of any kind, type or use shall comply with the provisions of F.S. ch. 718, as amended, known as the "Condominium Act."

#### SECTION FIFTEEN: DEED RESTRICTIONS.

1. Significant portions of Marco Island are subject to recorded deed restrictions. As the City of Marco Island is not responsible for enforcement of private deed restrictions, it is incumbent upon individuals to know what private restrictions may apply to their property.

#### SECTION SIXTEEN: RELATIONSHIP TO STATE AND FEDERAL STATUTES.

1. *Required state and/or federal permits.* Where proposed use or development required state or federal development orders or permits prior to use or development, such development orders or permits must be secured from state or federal agencies prior to commencement of any construction and/or development, including any changes inland configuration and land preparation.
2. *Development of regional impact.* Where a proposed use or development is a development of regional impact (DRI), it shall meet all of the requirements of F.S. ch. 380, as amended, prior to the issuance of any required city development orders or permits and commencement of construction or development. Submission of the application for development approval (ADA) for a DRI shall be simultaneous with the submission of any rezoning and/or conditional use application or other land use related petition required by this code to allow for concurrent reviews and public hearings before both the planning board and city council of the ADA and rezone and/or conditional use applications. The DRI and rezone and/or conditional use shall be approved prior to the issuance of any required city

development orders or permits and commencement of construction or development.

#### SECTION SEVENTEEN: PROHIBITED ANIMALS IN RESIDENTIAL DISTRICTS.

1. The following animals are to be considered farm animals and are not permitted to be kept in residential districts except as provided for in zoning district regulations: turkeys, chickens, ducks, geese, pigs, horses, cows, goats, hogs, and the like.

#### SECTION EIGHTEEN: GROUP HOUSING DEVELOPMENT STANDARDS:

1. *General requirements.* All group house structures shall meet the following requirements specified for each type of structure:
  - a. Site development plan (SDP) approval in conformance with the Land Development Code (with the exception of a family care facility).
  - b. All applicable state and county building and fire code standards.
  - c. All applicable state and county licensing requirements.
2. *Family care facility.* A family care facility shall be treated as a single dwelling unit for the purpose of determining applicable development standards and, therefore, shall conform to the standards identified for a single-family dwelling unit in the zoning district assigned to the property, as well as other applicable standards found in the zoning code. However, a new family care facility shall not be located within a radius of 1,000 feet of another existing family care facility.
3. *Group care facility (category I and category II).* A group care facility shall be governed by the development standards identified in the zoning district assigned to the property and the following standards:
  - a. *Minimum habitable floor area.*
    - i. Group care facility (category I): 1,500 square feet plus 200 square feet per live-in person, beginning with the seventh live-in person.
    - ii. Group care facility (category II):
      - a) Homeless shelters: 1,500 square feet plus 150 square feet per live-in person, beginning with the seventh live-in person.

- b) Uses other than the homeless shelters: 1,500 square feet plus 200 square feet per live-in person, beginning with the seventh live-in person.

4. *Minimum lot area.*

- a. Group care facility (category I): 6,000 square feet plus 1,500 square feet per live-in person, beginning with the seventh live-in person.

- b. Group care facility (category II):

- i. Homeless shelters: 6,000 square feet plus 400 square feet per live-in person, beginning with the seventh live-in person.
- ii. Uses other than homeless shelters: 6,000 square feet plus 1,500 square feet per live-in person, beginning with the seventh live-in person.

5. *Parking required.* Two parking spaces per five beds (minimum requirement: two parking spaces).

6. *Separation requirements.*

- a. A new group care facility shall be required to be located greater than a radius of 1,200 feet from any other existing group care facility (applicable to the RMF-6, RMF-12, RMF-16, and RT zoning districts).
- b. A new group care facility shall be required to be located greater than a radius of 500 feet from any other existing group care facility (applicable to the RSF-2, RSF-3, and RSF-4 zoning districts).
- c. Distance requirements shall be measured along a straight line from the nearest point of the existing group care facility property to the nearest point of the proposed new group care facility property.

7. *Special setback requirements.* No structure shall be erected within 20 feet of any abutting lot or parcel that is zoned residential, nor within 25 feet of a road right-of-way.

8. *Landscaping requirements.* As provided for in Chapter 30, Article IV.

9. *Other care housing facilities.* All other care housing environments as defined in this Code, including but not limited to care units, assisted living units, continuing care retirement communities, nursing homes,

and dwelling units that are part of an aging-in-place living environment shall adhere to the following standards in addition to those established by the underlying zoning district.

10. *Maximum floor area ratio.* The maximum floor area ratio shall not exceed a factor of 0.45 (0.45 times the area of the property equals the gross floor area).
11. *Additional submittal requirements:* In addition to the required SDP or conditional use submittal requirements of this Code, developments containing independent housing units providing an assisted living and nursing care component must be graphically represented as part of the conditional use and/or site development plan application. This graphic representation shall depict all common areas as well as a typical independent housing unit and shall include dimensions and square footage of each component. Additionally, ratio of independent units to assisted units, and the number of skilled nursing beds shall be indicated. The application shall include a statement of available assistance with "activities of daily living," including but not limited to ambulation, grooming, feeding, financial management, medicine management, and so on.
12. *Maximum height.* The maximum height shall be the same as the underlying zoning district except as otherwise modified through the conditional use process for residentially zoned districts.
13. *Special setback requirements.* No structure shall be erected within 20 feet of any abutting lot or parcel which is zoned residential, nor within 25 feet of a road right-of-way.
14. *Parking required.*
  - a. Independent living units. One per dwelling unit.
  - b. Assisted living units. 0.75 per assisted unit.
  - c. Nursing care units. Two parking spaces per five beds.

#### SECTION NINETEEN: AUTOMOBILE SERVICE STATIONS.

1. The following regulations apply to the location, layout, drainage, operation, fencing, landscaping, parking and permitted sales and service activities of automobile service stations:

- a. *Lot size.* Minimum 18,000 square feet.
2. *Minimum frontage.* An automobile service station shall not be located on a lot with less than 150 feet of frontage on a dedicated street or highway.
- a. *Minimum depth.* One hundred twenty feet.
  - b. *Minimum yards.*
    - i. *Front yard setback.* Fifty feet.
    - ii. *Side yard setback.* Forty feet.
    - iii. *Rear yard setback.* Forty feet.
  - c. *Canopy.* Ten feet beyond pump setback line.
  - d. *Storage tanks.* Storage tanks shall be located below grade.
  - e. *Lighting.* As provided for in Chapter 6, Article V.
  - f. *Location of structures, pumps, etc.* No main or accessory building, no sign of any type, and no gasoline pump, tank, vent, pump island or pump island canopy shall be located within 25 feet of any residentially zoned property. Gasoline pumps and pump islands shall be located not closer than 30 feet to the street property lines and shall be located no closer than 40 feet to any side or rear property line. Pump island canopies shall be located not closer than 20 feet to the street property line. If such setback requirements mentioned above are closer than setback requirements for the zoning district in which the automobile service station is located, such service station appurtenances shall be removed before the property is converted to a use other than an automobile service station. Removal of fuel storage tanks is required. Freestanding vents are not permitted.
  - g. *Entrance and exit.* No automobile service station shall have an entrance or exit for vehicles within 200 feet along the same side of a street of a school, public playground, child care center, church, hospital, public library, or any institution for dependents or for children, except where such property is in another block.
  - h. *Fence requirements.* If an automobile service station abuts a residential district, a wall of solid decorative material five feet in height or a wall of landscaping must be provided and properly

maintained. If the station is separated from the residential zone by an alley, then the wall shall be erected along the lot line also. In addition, all outside trash areas for used tires, auto parts, and other items shall be enclosed on all sides by a five-foot-high decorative fence or wall which shall conform to all fence setback regulations. All walls and buildings shall be protected by a barrier to prevent vehicles from contacting the wall.

- i. *Outside display of products.* Petroleum products in cans and windshield wiper blades may be displayed outside the service station building in the standard racks provided for such display, provided such racks shall not be placed closer to a street line than the pump island. There shall be no outside display or stacking of tires or other merchandise.
- j. *Trash facilities.* Adequate, completely enclosed trash storage facilities shall be provided on the site. On an interior lot, such facilities shall be located at the rear of the service station's main structure; on a corner lot, such facilities shall be located, where possible, on the side of the main structure with street frontage carrying the lesser volume of traffic.
- k. *Vehicle sales.* There shall be no vehicle sales conducted on the premises.
- l. *Drainage.* The entire lot, excluding the area occupied by a building, shall be properly drained and hard-surfaced with concrete or plant-mixed bituminous material, except for the required landscaped areas.
- m. *Parking areas.* As required in Chapter 30, Article V.
- n. *Landscaping.* As required in Chapter 30, Article IV.
- o. *General uses and services.* In addition to the retail dispensing of automobile fuels and oil, only the following services may be rendered and sales made except as indicated:
  - i. Sales and servicing of spark plugs, batteries, distributors and distributor parts.
  - ii. Sales, mounting, balancing and repair of tires and wheel alignments, but not recapping of tires.
  - iii. Sales and replacement of water hoses, fan belts, brake fluid, light bulbs, fuses, floor mats, wiper blades, grease retainers,

- wheel bearings, shock absorbers, mirrors, exhaust systems, and the like.
- iv. Provision of water, antifreeze, flushing of the cooling system, air conditioning recharge, and the like.
  - v. Washing and polishing of automobiles and sale of automobile washing and polishing materials, but this only allows auto detailing as an accessory use, but this provision does not allow carwashes except in those zoning districts where carwash is a permitted use; and such carwashes shall be subject to criteria specified in the zoning district.
  - vi. Providing and repairing fuel pumps and lines.
  - vii. Minor servicing and repair of carburetor and fuel injection systems.
  - viii. Emergency wiring repairs.
  - ix. Providing repair and replacement of brake rotors, drums and pads.
    - x. Minor motor adjustments not involving removal of the head or crankcase.
    - xi. Greasing and lubrication.
    - xii. Sales of cold drinks, candies, tobacco, and similar convenience goods for service station customers, but strictly and only as accessory and incidental to the principal business operation.
  - xiii. Provision of road maps and other information outside of the enclosed areas.
  - xiv. No mechanical work shall be allowed outside of the enclosed areas.
  - xv. No automobile service station shall be permitted where any oil drainage pit or visible appliance for any such purpose other than refueling cars is located within 20 feet of any street right-of-way or within 45 feet of any residential district, except where such appliance or pit is located within a wholly enclosed building.
  - xvi. Uses permissible at an automobile service station do not include major mechanical and body work, straightening of frames or body parts, steam cleaning, painting, welding, storage of automobiles (except as expressly permitted in item 17 below), commercial garage as an accessory use, or other work involving undue noise, glare, fumes, smoke or other characteristics to an extent greater than normally found in such stations. An automobile service station is not a facility for the sale of automobile vehicles, a repair garage, a body shop, or a truckstop.
  - xvii. The temporary storage of vehicles shall be permitted if the vehicles are to be serviced at the service station or if the

vehicles have been towed by the service station and are being held for servicing, for an insurance company, or for sale or salvage. Any such vehicle(s), other than those vehicles serviced daily, shall be stored within an area surrounded by an opaque fence not less than six feet high. Said vehicles shall not be stored longer than 90 days.

- xviii. Convenience grocery stores selling motor fuel must conform with all provisions of this code.

## SECTION TWENTY: OPEN SPACE REQUIREMENTS IN ALL ZONING DISTRICTS.

1. *Usable open space requirements.* Usable open space shall include active and passive recreation areas such as playgrounds, golf courses, beach frontage, waterways, lagoons, floodplains, nature trails, and other similar open spaces. Open space areas shall also include those areas set aside for preservation of native vegetation and landscaped areas. Open water area beyond the perimeter of the site, street rights-of-way, driveways, off-street parking areas, and off-street loading areas shall not be counted in determining usable open space. Open space requirements for Planned Unit Developments (PUD's) are stated in the PUD zoning district standards.
2. *Residential developments.* In residential developments, at least 60 percent of the gross area shall be devoted to usable open space. This requirement shall not apply to individual single-family lots less than five acres in size.
3. *Commercial and mixed use developments.* In developments of commercial or mixed use including residential, at least 30 percent of the gross area shall be devoted to usable open space. This requirement shall not apply to individual parcels less than five acres in size.

## SECTION TWENTY-ONE: TOWNHOUSE DEVELOPMENT.

1. Townhouse development as defined in this code when authorized in the RMF and RT zoning districts either as a permitted or conditionally permitted use shall be designed to meet the development standards of such zoning district.

## SECTION TWENTY-TWO: KITCHENS IN DWELLING UNITS.

1. A dwelling unit may have a second kitchen provided all rooms in the dwelling unit are, and remain internally accessible.

SECTION TWENTY-THREE: FLOOR AREA REQUIREMENTS FOR  
TIMESHARES, MULTI-FAMILY STRUCTURES, HOTELS AND MOTELS.

1. Timeshare facilities – 500 square foot minimum with a 1,500 square foot maximum except that 20 percent of the units may be utilized for suites greater than 1,500 square feet.
2. Multi-family structures – efficiency, minimum 450 square feet; one bedroom, minimum 600 square feet; two bedrooms or more, minimum 750 square feet.
3. Hotels and motels – 300 square foot minimum with a 1,000 square foot maximum except that 20 percent of the units may be utilized for suites greater than 1,000 square feet.

SECTION TWENTY-FOUR: FLAGPOLES.

1. Flagpoles are permitted in all zoning districts subject to the following:
  - a. Residential and Agricultural zoning districts:
    - i. One flagpole is permitted and shall not exceed twenty-five (25) feet in height above finished grade.
    - ii. A flagpole over fifteen (15) feet in height shall require a building permit prior to installation.
    - iii. Up to three (3) non-commercial flags may be flown from an approved flagpole.
    - iv. Flagpoles shall be setback a minimum of seven and one half (7.5) feet from a property boundary, zero (0) feet from seawalls, and five (5) feet from a principal and/or accessory structure.
    - v. The width of the flag shall not exceed 20 percent of the length of the pole to which it is attached.
  - b. Commercial, Golf Course and Residential Tourist zoning districts:
    - i. Three flagpoles are permitted and shall not exceed thirty-five (35) feet in height above finished grade.
    - ii. A flagpole over fifteen (15) feet in height shall require a building permit prior to installation.
    - iii. Up to three (3) non-commercial flags may be flown from an approved flagpole.

- iv. Flagpoles shall be setback a minimum of seven and one half (7.5) feet from a property boundary, zero (0) feet from seawalls, and five (5) feet from a principal and/or accessory structure.
  - v. The width of the flag shall not exceed 30 percent of the length of the pole to which it is attached.
- c. Ordinances 98-13 and 02-11 shall apply to the above referenced zoning districts.

SECTION TWENTY-FIVE: ACCESS MANAGEMENT PLANS  
(reserved)

SECTION TWENTY-SIX: STANDARDS FOR PARKING WITHIN THE MARCO LAKE DRIVE BUSINESS DISTRICT (MLDBD).

1. *Continuation of Marco Lake Drive Business District.* The Marco Lake Drive Business District, created by Collier County ordinance 95-31, is hereby continued. The physical limits of the Marco Lake Drive Business District (MLDBD) remain as depicted on the Official Zoning Atlas Map of the subject area. All of the lots which constitute the MLDBD are zoned commercial and have frontage on Marco Lake Drive. The MLDBD Highlands Subdivision, as recorded in Plat Book 3, Page 72, of the public records of Collier County, Florida.
2. *Existing uses.* Uses in existence as of the date of district creation (April 18, 1995), are exempt from the minimum parking requirements as set forth in ordinance 01-16 subject to the following conditions:
  - a. Existing uses shall not reduce the number of spaces below that which is provided as of the effective date of this amendment.
  - b. The strip of parking located along the eastern edge of Marco Lake Drive is designated public parking, no storage of commercial vehicles or overnight parking shall be permitted thereon.
3. *Expansion or new development.* Parking to support any new development within the boundaries of the MLDBD shall be provided at 75 percent of the minimum requirement as set forth in Chapter 30, Article V for uses which have a parking intensity of one space per 200 square feet or less, for the square footage of the expansion or new construction only. Any expansion or new construction for uses having a parking intensity greater than one space per 200 square feet shall

provide the minimum parking required as set forth in Chapter 30, Article V. Any expansion or new construction shall include the on-site installation of parking for the disabled as provided in Chapter 30, Article V.

4. *Change in existing use.* A change in any use shall be exempt from the minimum parking requirements as set forth in Chapter 30, Article V up to an intensity level of one parking space per 200 square feet. A change of use to an intensity of greater than one space per 200 square feet shall provide parking for the use as set forth in Chapter 30, Article V, and shall provide on-site parking for the disabled as set forth therein.
5. *Off-site parking agreements.* In no way shall the provisions of the Marco Lake Drive Business District (MLDBD) be constructed so to prevent establishments within the boundaries from taking advantage of off-site parking arrangements as set forth in chapter 30, Article V.

#### SECTION TWENTY-SEVEN: 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 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 Marco Island, Florida, all Marco Island ordinances or parts of ordinances, and all Marco Island 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 any court of competent jurisdiction, the invalidity thereof shall not affect the validity of any remaining portions of this Ordinance.

#### SECTION TWENTY-EIGHT: 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 4th day of November, 2002.

Attest:

CITY OF MARCO ISLAND, FLORIDA

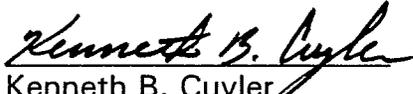


Laura Litzan  
City Clerk

By: 

E. Glenn Tucker, Chairman

Approved as to form and  
Legal sufficiency:



Kenneth B. Cuyler  
City Attorney