

**CITY OF MARCO ISLAND
ORDINANCE NO. 00-02**

AN ORDINANCE TO APPROVE AMENDMENTS TO THE EXISTING MARCO ISLAND CITY CHARTER TO BE ADOPTED ONLY THROUGH REFERENDUM ELECTION BY THE ELECTORATE ON MARCH 14, 2000; PROVIDING THAT THE PROPOSED CHARTER SHALL BE SUBMITTED TO THE ELECTORS OF THE CITY OF MARCO ISLAND AT THE NEXT GENERAL ELECTION ON MARCH 14, 2000; 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 7.01 of the Charter of the City of Marco Island provides that the Charter may be amended in accordance with the provisions for charter amendments as specified in the Municipal Home Rules Powers Act, Chapter 166, Florida Statutes, as the same may be amended from time to time or its successor, or as may otherwise be provided by general law; and

WHEREAS, the Municipal Home Rule Powers Act, Chapter 166, Florida Statutes, provides that the governing body of a municipality may, by ordinance, submit to the electors of said municipality a proposed amendment to its charter, which amendment may be to any part or to all of said charter except the part describing the boundaries of such municipality, and that the governing body shall place the proposed amendment contained in the ordinance to a vote of the electors at the next general election held within the municipality; and

WHEREAS, Section 101.161, Florida Statutes, provides the form and content for referenda ballots

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

Section 1. Approval of Amendments to the City Charter.

The proposed City Charter, attached hereto and incorporated herein as Exhibit "A", is hereby approved.

Section 2. Vote of Electors at the Next General Election.

The proposed City Charter shall be submitted to a vote of the electors of Marco Island at the next general city election scheduled for March 14, 2000.

Section 3. Language on the Ballot.

The ballot to be used in said referendum election shall be in the following form:

**REFERENDUM ELECTION ON THE PROPOSED
AMENDMENTS TO THE MARCO ISLAND CITY
CHARTER**

Shall the Charter be amended to delete transition language, clarify removal from or forfeiture of office, clarify filling of vacancies, remove provisions addressed by the state constitution or statutes, provide city manager with authority to appoint city clerk, provide removal of city manager by a vote of 5 councilors, remove expenditure limitations, revise limitations on the electorate's power to propose or repeal ordinances, and provide a referendum upon the petition of 25% of the electorate?

YES _____

NO _____

Section 4. 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 5. Effective Date.

This Ordinance shall take effect immediately upon adoption by the Marco Island City Council; provided, however, that the proposed charter amendments shall be effective only upon approval by the voters at the referendum election to be held on March 14, 2000, in accordance with the provisions of Section 166.031, Florida Statutes.

Passed in open and regular session of the City Council of the City of Marco Island, Florida, this 3rd day of January, 2000.

Attest:



A. William Moss
City Manager/City Clerk

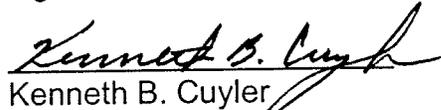
CITY OF MARCO ISLAND, FLORIDA

BY:



Kjell W. Pettersen, Chairman

Approved as to form and
legal sufficiency:



Kenneth B. Cuyler
City Attorney

EXHIBIT "A"

PROPOSED CHARTER – CITY OF MARCO ISLAND

ARTICLE I – POWERS

Section 1.01- Municipal Powers

All powers possible are granted to the city under the Constitution and the laws of the State of Florida. The city shall have all governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services, in a fiscally responsible manner. The city may exercise any power for municipal purposes unless expressly prohibited by law. The powers of the city shall be liberally construed in favor of the city.

Section 1.02 – Dissolution

The charter of the city may not be revoked except in accordance with the dissolution procedures of Chapter 165, Florida Statutes.

ARTICLE II – CORPORATE LIMITS

Section 2.01 - Description of Corporate Limits.

A Corporate Line lying offshore from Marco Island, in portions of Township 52 South, Range 26 East, Collier County, Florida, which line is described as follows: From the corner common to Sections 17, 18, 19, and 20, Township 52 South, Range 26 East, run Westerly along the line common to said Sections 18 and 19 to a point 2,640 feet offshore in the Gulf of Mexico from the Mean High Tide Line Section 18 and the point of beginning. From said point of beginning, run Southerly 2,640 feet offshore from the Mean High Tide Line of Marco Island, past the Southerly point of said Island to the mouth of Caxambas Pass; thence run Northeasterly in the waters of Caxambas Pass to the center line of the channel of said Caxambas Pass; thence run Easterly along the centerline of the channel of Caxambas Pass, to a point intersecting a

marked channel running Northerly towards Barfield Bay; thence run Northerly along the centerline of said channel to a point 300 feet offshore in Barfield Bay from the Mean High Tide Line of the Easterly end of lands formerly known as J. M. Barfield Subdivision; thence run Northerly, Easterly, and Southerly, 300 feet offshore in Barfield Bay from the Mean High Tide Line of Marco Island to intersection with the centerline of Blue Hill Creek; thence run Southeasterly along the centerline of Blue Hill Creek to a point 300 feet offshore in Blue Hill Bay from the Mean High Tide Line of Marco Island; thence continue Northerly, Easterly, and Southerly 300 feet offshore in Blue Hill Bay from the Mean High Tide Line of Marco Island to centerline of the aforementioned Blue Hill Creek; thence run Northeasterly along the centerline of Blue Hill Creek, but to a point intersecting the line common to Range 26 East and Range 27 East, Township 52 South, Collier County, Florida; thence run Northerly along the line common to said Range 26 and 27, but to a point intersecting the centerline of the of the channel of the Big Marco River, thence Northerly, Northwesterly, and Westerly along the centerline of the aforementioned Big Marco River and out through the marked Capri Pass, being 2,640 feet offshore from the Mean High Tide Line of Marco Island; thence run Southwesterly, Southerly, and Southeasterly 2,640 feet offshore from the Mean High Tide Line of Marco Island to the point of beginning; lying along the East-West line common to Sections 18 and 19, Township 52 South, Range 26 East.

ARTICLE III – LEGISLATIVE

Section 3.01- Council

All legislative authority shall be vested in a seven-member city council elected from and representing the city at-large.

Section 3.02 - Terms

The term of office shall be four years and no member shall serve more than two full consecutive terms.

Section 3.03 – Seats

There shall be seven separate council seats designated as seat 1 through seat 7. Candidates must qualify for council elections by seat, and the council members elected shall hold Seats 1 through 7 respectively.

Section 3.04 – Compensation

(1) An ordinance establishing, increasing, or decreasing compensation of the council members may be adopted at any time. However, in no event shall any establishment of compensation or increase in compensation become effective prior to the first day of the first month following the next regular city election subsequent to the adoption of such ordinance.

(2) The city council may provide for reimbursement of actual expenses incurred by its members while performing their official duties.

Section 3.05 - General Provisions

(1) The council shall elect a chairman and vice-chairman to serve for a term of one year, at the first meeting following the council election and the annual anniversary thereafter.

(2) No former council member shall hold any compensated city position until four years after the expiration of the term for which the council member was elected.

(3) No council member shall direct or request, or participate in, the appointment or removal by the city manager of any employee in the administrative service of the city, nor shall the council or any member give orders to any employee other than council orders to the city manager. Any council member in violation of this provision shall be subject to recall.

(4) Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the city manager and neither the council nor any member thereof shall give orders to any subordinates of the city manager, either publicly or privately. Any council member violating the provisions of this section shall be subject to recall.

Section 3.06 – Vacancies

(1) The seat held by a council member shall become vacant upon resignation, death, removal from office as authorized by law, or by forfeiture of office.

(2) A Council member shall forfeit the office held upon determination of the council that the council member:

- (a) ceases to maintain permanent residence in the city or otherwise ceases to be a qualified elector of the city.
- (b) is absent without good cause from six regular meetings of council during any calendar year, or any four consecutive regular meetings of council, whether or not during the same calendar year.
- (c) is disabled and unable to fulfill the responsibility of the office.

(4) A vacancy on the council shall be filled as follows:

- (a) If a vacancy occurs and the remainder of the unexpired term is 28 months or less, the remaining council members shall, within thirty (30) days following the occurrence of such vacancy, by majority vote, appoint a person to fill the vacancy for the remainder of the unexpired term.
- (b) If the remainder of the unexpired term exceeds 28 months, the remaining council members shall, within thirty (30) days following

the occurrence of such vacancy, by majority vote, appoint a person to fill the vacancy until the next regularly scheduled city election at which the balance of the term for the seat shall be filled in accordance with Article V.

- (c) If four or more council vacancies occur at one time, the Governor shall fill such vacancies until successors are chosen at the next regular election.

Section 3.07 – Meetings and Procedures

(1) The council shall meet at least twelve (12) times each year. Special meetings may be held at the call of the chairman or a majority of members and, except in emergency, all meetings shall be upon at least 24 hours notice to each member and the public.

(2) A majority of the council shall constitute a quorum. No action by the council shall be valid unless adopted by the affirmative vote of the majority of council members present and voting at the city council meeting.

(3) All council members present shall vote on all matters before the city council except on those matters on which a council member announces a conflict of interest or the city attorney determines there is a conflict of interest.

Section 3.08 – Appropriations

(1) Pursuant to Section 1.01, the council shall have full authority to make or reduce appropriations as deemed necessary in accordance with general law.

(2) The city manager shall have authority to transfer unencumbered appropriation balances within a department, office, or agency. The council may transfer

part or all of any unencumbered appropriation balance from one department, office, or agency to another.

Section 3.09 – Planning Board

There shall be a planning board advisory to the council. This board shall have such functions and duties as delegated by ordinance of the council. This board shall consist of no fewer than seven unsalaried electors of the city, appointed by the council.

ARTICLE IV – ADMINISTRATIVE

Section 4.01 – City Manager

There shall be a city manager who shall be the chief administrative officer of the city. The city manager shall be responsible to the council for the administration of all city affairs placed in the manager's charge by or under this charter.

Section 4.02 – Appointments; Removal; Domicile; Compensation

(1) The council shall appoint a city manager by a vote of five of the seven council members. The city manager shall serve at the will of the council.

(2) The council may remove the city manager at will. To remove the city manager, the council shall adopt, by a vote of five of the seven members, a preliminary resolution stating reasons for the intended removal, and shall offer the city manager an opportunity for a public hearing before the council on the matters raised by the preliminary resolution. This preliminary resolution may also suspend the city manager immediately with pay. The city manager must accept the offer of a public hearing or file a written response within ten (10) days of the adoption of the preliminary resolution or the resolution becomes effective at the end of the 10 day period and the city manager is terminated from the position on that date. If a public hearing is requested, it shall be

held no earlier than twenty (20) days or later than thirty (30) days after the adoption of the preliminary resolution. After any such public hearing, or after consideration of the written response, the council shall adopt a final resolution of removal by a vote of five of the seven members, or the preliminary resolution shall lapse.

(3) The city manager shall be domiciled in the city while in office.

(4) The compensation of the city manager shall be fixed by the council.

Section 4.03 – Powers and Duties of the City Manager.

The city manager shall:

(1) appoint, suspend, demote, or dismiss any city employee under the city manager's jurisdiction in accordance with law, and may authorize any department head to exercise these powers with respect to subordinates in that department.

(2) direct and supervise the administration of all departments of the city except the office of the city attorney, and shall attend all city council meetings unless excused by the council, and shall have the right to take part in discussions, but not vote.

(3) see that all laws, charter provisions, ordinances, resolutions, and other acts of the council subject to enforcement are faithfully executed.

(4) submit the annual budget, budget message, and capital program to the council and shall keep the council fully advised as to the financial condition and future needs of the city, and shall make such recommendations to the council concerning the affairs of the city as the city manager deems appropriate.

(5) shall designate a qualified city employee to exercise the powers and perform the duties of city manager during any temporary absence or disability of the city manager. The council may revoke such designation at any time and appoint another

qualified person, other than a currently seated council member, to serve as acting city manager.

(6) shall appoint an employee to serve as city clerk who shall give notice of public meetings, keep a journal of city council proceedings, attest documents, and perform other duties as assigned.

Section 4.04 – City Attorney

There shall be a city attorney who is a member of the Florida Bar. The city attorney shall be appointed by the council. The city attorney shall serve as legal advisor to the council and city administrators as the council deems necessary. The city attorney or designee shall attend city council meetings and perform such professional duties as may be required by the council. The city attorney shall appoint, suspend, demote, or dismiss any employee in the office of the city attorney in accordance with law and personnel rules of the city. The city attorney shall prepare and submit to the city manager an annual budget for the operation of the office of the city attorney, for inclusion in the annual budget. If the city attorney is a full-time employee the provisions of Section 4.02 applicable to the city manager shall be equally applicable to the city attorney.

ARTICLE V – NOMINATIONS AND ELECTIONS

Section 5.01 – Electors

Any person who is a legal resident of the city, who is qualified as an elector of this state, and who registers as prescribed by law shall be an elector of this city.

Section 5.02 – Nonpartisan Elections

All elections shall be conducted on a nonpartisan basis without any designation of political party affiliation.

Section 5.03 – Qualifying

Each candidate for city council shall be a qualified elector of the city and must have been a resident of the city for at least one year prior to qualifying. To qualify as a candidate, petitions shall be obtained from and submitted to the city manager or designee, at a time established by ordinance, and shall contain signatures of qualified electors of the city equal to one (1) percent of the total number of city electors registered in the last general election. Candidates shall qualify for council election by seat number.

Section 5.04 – Form of Ballots

The city council shall prescribe the form of the ballot by ordinance.

Section 5.05 – Elections

(1) The regular municipal election shall be held on the second Tuesday in March of even numbered years, and shall be by mail ballot except in presidential primary years when the election shall be held concurrently with the state primary election, unless the state primary election is changed from March to another month.

(2) At all elections the qualifying candidate who receives the highest number of votes cast for that seat shall be deemed elected.

(3) At all elections for council, those persons certified as duly elected shall take office at Noon on the Monday following their election.

(4) Special elections, when required, shall be scheduled by the council at such times and in such manner as shall be consistent with this charter.

Section 5.06 – Canvass of Elections

For purpose of canvassing absentee ballots and election results, the Marco Island city council shall, for each election, designate a three-member board known as the city canvassing board. The city canvassing board shall be composed of the council chairman or designee if the chairman's seat is opposed, the city clerk, and a qualified elector appointed by city council.

Section 5.07 – Recall

The qualified electors of the city shall have the power to recall and to remove any elected official as prescribed by Section 100.361(9) of the Florida Statutes, or as subsequently amended.

Section 5.08 – Adoption of Florida Election Code

All elections required under any article or section of this charter shall be conducted in accordance with the provisions of the Florida Election Code in its entirety and as it is subsequently amended, except as otherwise provided in this charter.

ARTICLE VI – INITIATIVE AND REFERENDUM

Section 6.01 – Initiative and Referendum

(1) Twenty-five percent (25%) of the qualified electors of the city shall have the power to petition the council to propose an ordinance or to require reconsideration of an adopted ordinance, and if the council fails to adopt such ordinance so proposed, or to repeal such adopted ordinance, without any change in substance, the council shall place the proposed ordinance, or the repeal of the adopted ordinance, on the ballot at the next general election, or, in council's discretion, at a special election.

(2) A minimum of ten electors may commence initiative or referendum proceedings by filing with the city manager or other designated official, an affidavit

stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered.

(3) The power to petition the council to propose an ordinance or to require reconsideration or repeal of an adopted ordinance shall not extend to the adopted budget of the city.

ARTICLE VII – GENERAL PROVISIONS

Section 7.01 – Charter Amendments

This charter may be amended in accordance with the provisions for Charter Amendments as specified in the Municipal Home Rule Powers Act, Chapter 166, Florida Statutes, or its successor. The form, content, and certification of any petition to amend shall be established by ordinance.

Section 7.02 – Transitional Comprehensive Plan and Land Development Regulations

(1) Until such time as the city adopts a comprehensive plan, the applicable provisions of the comprehensive plan and all existing land development regulations of Collier County, Florida, as the same exists on the day the city commences corporate existence, shall remain in effect as the city's transitional comprehensive plan and land development regulations. All planning functions, duties, and authority shall be vested in the city council until such time as the city council shall delegate all or a portion thereof to another agency.

(2) Subsequent to the commencement of the city's corporate existence, no amendment of the comprehensive plan or land development regulations enacted by the Collier County Commission shall be deemed as an amendment of the city's transitional comprehensive plan or land development regulations or shall otherwise take effect within the city's corporate limits unless approved by the city council.

(3) Upon adoption of a comprehensive plan and land development regulations by the city, the provisions contained in Section 7.02 of this charter may be deleted by ordinance.

ARTICLE VIII – STATE-SHARED REVENUES AND LOCAL OPTION GAS TAXES

Section 8.01 – City Participation in State-Shared Revenues Programs and Local Option Gas Taxes.

(1) It is recognized that the services provided by independent districts within municipal boundaries provide essential services which would customarily be provided by municipal government. It is therefore declared that the City of Marco Island shall be eligible to participate in revenue-sharing beyond the minimum entitlement in any fiscal year, provided that the city and all independent special districts created under special law, combined, levy ad valorem taxes in amounts as required by Section 218.23, F.S.

(2) State-shared revenues. – The City of Marco Island shall be entitled to participate in all shared revenue programs of the State of Florida effective immediately on the date of incorporation. The provisions of Subsection 218.23(1), F.S., shall be waived for the purpose of eligibility to receive revenue sharing funds from the date of incorporation through the state fiscal year 1999-2000. For the purposes of meeting provisions of Subsection 218.23(1), F.S., relating to ad valorem taxation, the millage

levied by special districts within the corporate limits of the city may be used for an indefinite period of time. Section 218.26(3), F.S. shall be waived for the 1999-2000 state fiscal year and the apportionment factors for the municipalities and counties shall be recalculated pursuant to Section 218.245, F.S. Initial population estimates for calculating eligibility for shared revenues shall be determined by the University of Florida Bureau of Economic and Business Research. Should the Bureau be unable to provide an appropriate population estimate, the Collier County Department of Community Development shall provide an appropriate estimate.

(3) Local Option Gas Taxes. – Notwithstanding the requirements of Section 336.025, F.S. to the contrary, the City of Marco Island shall be entitled to receive local option gas tax revenues beginning October 1, 1997. The said revenues shall be distributed in accordance with Section 336.025, F.S.

ARTICLE IX – TRANSITION SCHEDULE

Section 9.01 – County Ordinances and Services During Transition Period.

(1) Pursuant to Article VIII of the Florida Constitution, the ordinances, rules, and regulations of Collier County shall continue to be in effect within the boundaries of the City of Marco Island, except that a county ordinance, rules, or regulation in conflict with an ordinance, rule, or regulation of the City of Marco Island shall not be effective to the extent of such conflict. Any existing Collier County ordinances, rules, and regulations, as of August 29, 1997, shall not be altered, changed, rescinded, or added to, nor shall any variance be granted thereto insofar as such action would affect the City of Marco Island, without the approval of the city council.

(2) If the city council of Marco Island terminates any MSTD and/or MSTU service, from that date forward the city shall have, exercise, and enjoy all rights, immunities, powers, benefits, privileges, and franchises now and formerly possessed or held by said MSTD and/or MSTU. The assets, liabilities, and contracts of said MSTD and/or MSTU, including all rights, obligations, duties, and relationships now existing by law or agreement, shall be unaffected and shall remain in full force and effect and shall become those of the City of Marco Island. All rights, claims, actions, orders, and all contracts between the terminated MSTD and/or MSTU and key personnel, and all legal or administrative proceedings, shall continue in full force and effect under the jurisdiction of the City of Marco Island. To the extent not inconsistent with this charter, all resolutions and policies of the terminated MSTD and/or MSTU shall remain in effect until amended, revised, or repealed by the city council.

Section 9.02 – Effect of Incorporation on Certain Existing Indebtedness.

Nothing in this act shall affect the obligation of the city, or any property owners therein, for their rightful share of any indebtedness incurred through the Collier County Public Park and Recreation Municipal Service Taxing Unit or the Marco Water and Sewer District in existence and legally due as of the date of incorporation.

Section 9.03 – Deletion of Obsolete Schedule Items.

The council shall have power, by ordinance, to delete from this Article any section, including this one, when all events to which the section to be deleted is or could become applicable have occurred.

Section 9.04 – Severability

If any article, section, subsection, sentence, clause, or provision of this charter or the application thereof shall be held invalid for any reason, the remainder of the charter and any ordinances or regulations made thereunder shall remain in full force and effect.

Section 9.05 – Effective Date

This charter shall take effect upon the approval of a majority of the registered electors of the city in a referendum election.

Naples Daily News
Naples, FL 34102

Affidavit of Publication
Naples Daily News

CITY OF MARCO ISLAND
ATT: DEE PHILLIPS
950 N COLLIER BLVD #308
MARCO ISLAND FL 34145

REFERENCE: 054361
57977514 SECOND READING & PUB

State of Florida
County of Collier

Before the undersigned authority, personally appeared B. Lamb, who on oath says that she serves as the Assistant Corporate Secretary of the Naples Daily News, a daily newspaper published at Naples, in Collier County, Florida: that the attached copy of advertising was published in said newspaper on dates listed.

Affiant further says that the said Naples Daily News is a newspaper published at Naples, in said Collier County, Florida, and that the said newspaper has heretofore been continuously published in said Collier County, Florida, each day and has been entered as second class mail matter at the post office in Naples, in said Collier County, Florida, for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid nor promised any person, firm or coporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

PUBLISHED ON: 12/10

AD SPACE: 41.000 INCH
FILED ON: 12/10/99

SECOND READING &
PUBLIC HEARING
ORDINANCE
CITY OF
MARCO ISLAND

The City Council of Marco Island, meeting in regular session at 6:00 pm, on January 3, 2000, at the Frank E. Mackel, Jr. Community Park, 1361 Andalusia Terrace, Marco Island, Florida will consider:

AN ORDINANCE TO APPROVE AMENDMENTS TO THE EXISTING MARCO ISLAND CITY CHARTER TO BE ADOPTED ONLY THROUGH REFERENDUM ELECTION BY THE ELECTORATE ON MARCH 14, 2000; PROVIDING THAT THE PROPOSED CHARTER SHALL BE SUBMITTED TO THE ELECTORS OF THE CITY OF MARCO ISLAND AT THE NEXT GENERAL ELECTION ON MARCH 14, 2000; PROVIDING AN EFFECTIVE DATE.

Members of the Public are invited to make oral or written comments in regards to this Ordinance.
Dec. 10 No. 1525277

Signature of Affiant

Sworn to and Subscribed before me this 10 day of Dec 1999

Personally known by me S. Flora



Susan D Flora
My Commission CC581717
Expires Dec. 10, 2000