

**CITY OF MARCO ISLAND
ORDINANCE NO. 99-10**

AN ORDINANCE PROVIDING FOR PROCEDURES FOR DECLARING A STATE OF EMERGENCY; PROVIDING A DEFINITION OF EMERGENCY; PROVIDING FOR THE DECLARATION OF A STATE OF EMERGENCY BY PROCLAMATION; PROVIDING FOR THE ACTIVATION OF DISASTER EMERGENCY PLANS; PROVIDING FOR EMERGENCY MEASURES; PROVIDING FOR THE AUTHORITY OF THE CITY COUNCIL; PROVIDING FOR VIOLATIONS OF THE ORDINANCE; PROVIDING FOR INCORPORATION, CONFLICT, AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, there is the possibility of the occurrence of natural or manmade disasters or emergencies and destruction resulting therefrom; and

WHEREAS, Chapter 252.38, F.S. authorizes and encourages municipalities to create municipal emergency management programs, and that such programs shall coordinate their activities with those of the county emergency management agency; and

WHEREAS, Article VIII of the State Constitution and Chapter 166 of the Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Section 1.01 of the Marco Island City Charter empowers the City to adopt, amend, or repeal such ordinances, resolutions, and codes as may be required for the good governing of the City; and

WHEREAS, it is necessary to provide for the protection of the public health, safety, and welfare and to preserve the lives and property of the people of Marco Island; and

WHEREAS, City Council finds that these emergency management procedures are consistent with and subject to the applicable Collier County emergency management plan pursuant to Section 252.38(2), Florida Statutes.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA:

Sec. 1. Declaring State of Emergency.

Pursuant to Chapter 252, Florida Statutes, which authorizes the waiver of procedures and formalities otherwise required of political subdivisions to take whatever prudent action is necessary to ensure the health, safety, and welfare of the community in the event of a state of emergency, the Chairman of the City Council, or the Vice-Chairman

in his absence, or the City Manager in the absence of the Chairman and Vice-Chairman, is hereby designated and empowered to declare a local state of emergency whenever he shall determine that a natural or manmade disaster has occurred or that the occurrence or threat of one is imminent and requires immediate and expeditious action.

Sec. 2. Definition.

For the purpose of this Ordinance, emergency is defined, as provided in Chapter 252, Florida Statutes, as follows: any occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property.

Sec. 3. Declaring State of Emergency by Proclamation.

A state of emergency shall be declared by proclamation of the Chairman, or the Vice-Chairman in his absence, or by the City Manager in the absence of the Chairman and Vice-Chairman. The state of emergency shall continue until the Chairman, or the Vice-Chairman in his absence, or the City Manager in the absence of the Chairman and Vice-Chairman, finds that the threat or danger no longer exists and/or until an emergency meeting of a quorum of the City Council of the City of Marco Island can take place and terminate the state of emergency by proclamation.

Sec. 4. Activation of Disaster Emergency Plans.

A proclamation declaring a state of emergency shall activate the disaster emergency plans applicable to the City of Marco Island and shall be the authority for use or distribution of any supplies, equipment, materials, and/or facilities assembled or arranged to be made available pursuant to such plans.

Sec. 5. Emergency Measures.

In addition to any other powers conferred by law, upon the declaration of a state of emergency pursuant to this Ordinance, the Chairman, or the Vice Chairman in his absence, or by the City Manager in the absence of the Chairman and Vice Chairman, may order and promulgate all or any of the following emergency measures to be effective during the period of such emergency in whole or in part, and with such limitation and conditions as he may deem appropriate to protect the health, safety and welfare of the Community.

(a) Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and combustibles.

(b) Establish curfews, including but not limited, to the prohibition of or restrictions on pedestrian and vehicular movement, standing and parking, except for the provision of designated, essential services, such as fire, police, emergency medical services and hospital services, including the transportation of patients, utility emergency repairs and emergency calls by physicians.

- (c) Utilize all available resources of the city government as reasonably necessary to cope with the disaster emergency.
- (d) Declare certain areas off limits, to all but emergency personnel.
- (e) Make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.
- (f) Establish emergency operating centers and shelters in addition to or in place of those provided for in the City's Emergency Plan.
- (g) Declare that during an emergency it shall be unlawful and an offense against the City of Marco Island for any person, firm, or corporation to use the fresh water supplied by the County or local water company for any purpose other than cooking, drinking or bathing.
- (h) Declare that during an emergency it shall be unlawful and an offense against the City of Marco Island for any person, firm or corporation operating within the City to charge more than the normal average retail price for any merchandise, goods, or services sold during the emergency. The average retail price as used herein is defined to be that price at which similar merchandise, goods, or services were being sold during the ninety (90) days immediately preceding the emergency or at a mark-up which is a larger percentage over wholesale cost than was being added to wholesale cost prior to the emergency.
- (i) Preceding or during the emergency, the Chairman, or the Vice Chairman in his absence, or the City Manager in the absence of the Chairman and Vice Chairman, shall have the authority to call on the National Guard or the Army, Coast Guard, or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue, and traffic control.

Sec. 6. Authority.

Nothing in this Ordinance shall be construed to limit the authority of the City Council of the City of Marco Island to declare or terminate a state of emergency and take any action necessary by law when sitting in regular or special session.

Sec. 7. Violations of Ordinance.

Any person, firm or corporation who refuses to comply with or violates any section of this Ordinance, or the emergency measures which may be made effective pursuant to this Ordinance, shall be guilty of a misdemeanor and upon conviction for such offense, shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00) or by imprisonment not to exceed sixty (60) days in the county jail, or both, in the discretion of the court. Each day of continued non-compliance or violation shall constitute a separate offense. In addition to the foregoing, any licensee of Collier County or the City of Marco Island found guilty of violating any provision of this Ordinance, or the emergency measures which may be made effective pursuant to this Ordinance, may have his license suspended or revoked by the City Council of the City of Marco Island.

Nothing herein contained shall prevent the city from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this Ordinance or the emergency measures which may be made effective pursuant to this Ordinance. Such other lawful action shall include but shall not be limited to, an equitable action for injunctive relief or an action at law for damages.

Sec. 8. 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 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 re-lettered and that the word "ordinance" may be changed to "section", "article" or other appropriate word.

(b) All sections or parts of sections of the Code of Laws and Ordinances of Collier County, Florida, all Collier County Ordinances or parts of ordinances and all Collier County Resolutions or parts of resolutions made applicable by the City Charter in conflict herewith are hereby repealed to the extent of such conflict.

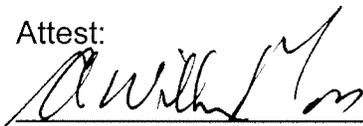
(c) In the event this Ordinance conflicts with any other Ordinance of the City of Marco Island or other applicable law, the more restrictive shall apply. If any phrase or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion.

Sec. 9. Effective Date.

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

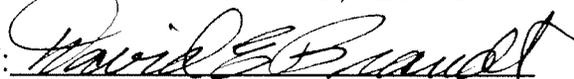
Passed in open and regular session through roll call vote by the City Council of the City of Marco Island, Florida, this 21st day of June, 1999.

Attest:



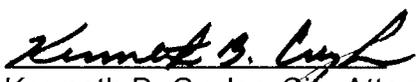
A. William Moss
City Manager/City Clerk

CITY OF MARCO ISLAND, FLORIDA

BY: 

David E. Brandt, Chairman

Approved as to form and legal sufficiency:


Kenneth B. Cuyler, City Attorney

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
57890356 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: 06/11

AD SPACE: 47.000 INCH
FILED ON: 06/11/99

Signature of Affiant

Sworn to and Subscribed before me this 15 day of June 1999

Personally known by me

Joyce E. Blazier



Joyce E. Blazier
MY COMMISSION # CC702521 EXPIRES
April 10, 2002
BONDED THRU TROY FAIN INSURANCE, INC.

SECOND READING &
PUBLIC HEARING
ORDINANCE

CITY OF
MARCO ISLAND
The City Council of Marco Island, meeting in regular session at 6:00 p.m., on June 21, 1999, at the Marco Island YMCA, 101 Sandhill Street, Marco Island, Florida will consider:

AN ORDINANCE PROVIDING FOR THE PROCEDURES FOR DECLARING A STATE OF EMERGENCY; PROVIDING A DEFINITION OF EMERGENCY; PROVIDING FOR THE DECLARATION OF A STATE OF EMERGENCY BY PROCLAMATION; PROVIDING FOR THE ACTIVATION OF DISASTER EMERGENCY PLANS; PROVIDING FOR EMERGENCY MEASURES; PROVIDING FOR THE AUTHORITY OF THE CITY COUNCIL; PROVIDING FOR VIOLATIONS OF THE ORDINANCE; PROVIDING FOR INCORPORATION, CONFLICT, AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Members of the Public are invited to make oral or written comments in regards to this Ordinance.
June 11 No. 1429411