

CITY OF MARCO ISLAND  
ORDINANCE NO. 99-3

AN ORDINANCE ESTABLISHING CODE ENFORCEMENT CITATION REGULATIONS FOR THE CITY OF MARCO ISLAND; PROVIDING TITLE AND CITATION; PROVIDING DEFINITIONS; PROVIDING APPLICABILITY; PROVIDING FOR POWERS AND DUTIES; PROVIDING FOR CIVIL INFRACTIONS; PROVIDING FOR CITATIONS AND NOTICE TO APPEAR PROCEDURES; PROVIDING FORMAT FOR CITATIONS AND NOTICES TO APPEAR; PROVIDING A SCHEDULE OF PENALTIES; PROVIDING FOR INCORPORATION, CONFLICT AND SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the provisions of §§162.21-162.23, Florida Statutes, of Chapter 162, Part II, cited as "Supplemental County or Municipal Code or Ordinance Enforcement Procedures", is the specific authority which provides for a city to establish an additional and supplemental city code or ordinance enforcement procedure ordinance; and,

WHEREAS, it is in the best interest of the citizens of the city to supplement City of Marco Island Ordinance No. 98-4, by creating this City of Marco Island Code Enforcement Citation Ordinance; and,

WHEREAS, it is the intent and purpose of this article to promote, protect and improve the health, safety and welfare of the citizens of the city by authorizing the creation of this article which establishes a procedure by which duly designated code enforcement officers are authorized to issue citations and notices to appear, under the circumstances set forth below, for civil infractions which are reasonably believed to be violations of duly enacted codes or ordinances and that the county court will hear such charges; and

WHEREAS, the establishment of a schedule of violations and penalties shall promote enforcement of city codes and ordinances as well as judicial economy by providing for progressive sanctions for violations and avoiding the waste of judicial resources for uncontested matters.

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

SECTION ONE: **Title and citation.**

This article shall be known and may be cited as the "City of Marco Island Code Enforcement Citation Ordinance", and may be also commonly referred to, in short form, as the "citation ordinance".

*Return to:*  
CITY OF MARCO ISLAND  
950 N. COLLIER BLVD. SUITE 308  
MARCO ISLAND, FL 34145

Retn:  
CITY OF MARCO ISLAND FLORIDA  
950 N COLLIER BLVD #308  
MARCO ISLAND FL 34145

2456415 OR: 2530 PG: 0682  
RECORDED IN THE OFFICIAL RECORDS OF COLLIER COUNTY, FL  
04/01/1999 at 11:14AM DWIGHT E. BROCK, CLERK

RBC FEB 28.50

**SECTION TWO: Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Said definitions are inclusive as well as supplemental to those definitions set forth in Chapter 162, Florida Statutes, and City of Marco Island Ordinance No. 98-4.

*Code enforcement officer* shall mean any employee or agent of the city designated by the city manager whose duty it is to enforce codes and ordinances enacted by the city, and who has received appropriate training as determined by the city manager. Examples of such training include, but are not limited to, certified law enforcement training and/or certification through the Florida Association of Codes Enforcement.

*Notice to appear* refers to a written order issued by a code enforcement officer in lieu of physical arrest requiring a person accused of violating the law to appear in a designated court or government office at a specified date and time. If a person refuses to sign the notice to appear, the code enforcement officer has no authority to arrest such person.

*Person* refers to and includes any natural person, individual, public or private corporation, firm, association, joint venture, partnership, municipality, governmental agency, political subdivision, public officer or any other entity whatsoever, or any combination of such jointly and/or severally.

**SECTION THREE: Applicability.**

This article shall apply to and be enforced in the corporate limits of the City of Marco Island and shall be deemed in addition to and supplement to Chapter 162, Part I and Part II, Florida Statutes, and to the City of Marco Island Code Enforcement Board's Ordinance, Ordinance No. 98-4.

**SECTION FOUR: Powers and duties of designated code enforcement officers.**

1. Any code enforcement officer so designated by the city manager is hereby authorized to issue a citation to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of any duly enacted city code or ordinance.

**SECTION FIVE: Civil infraction.**

A violation of any codes or ordinance for which a citation/notice to appear is issued, under the authority provided in Section Four, is a civil infraction subject to the enforcement procedures set forth in this article any other applicable enforcement procedure set forth in any other city code/ordinance, and in Florida Statutes. Said civil infraction shall carry a maximum civil penalty not to exceed \$500.00. A civil penalty of

less than the maximum civil penalty may apply if the person who has committed the civil infraction does not contest the citation. Each violation of a code or ordinance shall be a separate civil infraction. Each day each violation shall continue beyond the time period for correction stated in the written warning notice, citation or notice to appear, shall be deemed to constitute a separate civil infraction.

**SECTION SIX: Citation and notice to appear procedures.**

1. Prior to issuing a citation or a notice to appear, a code enforcement officer shall provide written notice to the person that the person has committed a violation of a code or ordinance and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no more than 30 days if a citation is issued. Such time period shall be no fewer than five days and no more than 30 days if a notice to appear is issued. If, upon personal investigation, a code enforcement officer finds that the person has not corrected the violation within the time period, a code enforcement officer may issue a citation or a notice to appear to the person who has committed the violation. A code enforcement officer does not have to provide the person with a reasonable time period to correct the violation prior to issuing a citation or notice to appear and may immediately issue a citation or notice to appear if a repeat violation is found or if the code enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety or welfare, or if the violation is irreparable or irreversible.
2. Written warning notices, if applicable, and citations/notices to appear shall be provided to the alleged violator by certified mail, return receipt requested; by hand delivery by the code enforcement officer or the sheriff or other law enforcement officer.
 

Issuance of a written warning notice or citation or notice to appear to a business may be accomplished by leaving a copy at the business, during regular business hours, with any employee and informing the employee of the contents or by certified mail, return receipt requested. Each employee of the business shall be deemed to be an agent of the business for service of warning notices and citations/notices to appear. Said warning notice and/or citation/notice to appear may also be served on the registered agent for the business.
3. After issuing a citation or notice to appear to the alleged violator, the code enforcement officer shall deposit the original citation or notice to appear and two copies of the citation or notice to appear with the county court.
4. Any person who willfully refuses to sign and accept a citation issued by a designated code enforcement officer shall be guilty of a misdemeanor of the second degree, punishable as provided in §775.082 or §775.083, Florida Statutes.

**SECTION SEVEN: Form of citations and notices to appear.**

The citation and notice to appear forms to be issued by the code enforcement officers designated herein shall be in a form prescribed by the city and shall contain:

1. The date and time of issuance.
2. The name and address of the person to whom the citation is issued.
3. The date and time the civil infraction was committed.
4. The facts constituting reasonable cause.
5. The number or section of the code or ordinance violated.
6. The name and authority of the code enforcement officer.
7. The procedure for the person to follow in order to pay the civil penalty or to contest the citation or notice to appear in county court.
8. The applicable potential civil penalty if the person elects to contest the citation or notice to appear.
9. The applicable civil penalty if the person elects not to contest the citation or notice to appear.
10. A conspicuous statement that, if the person fails to pay the civil penalty within the time allowed, and/or fails to request a hearing date and/or appear in county court to timely contest the citation or notice to appear, such person shall be deemed to have waived the right to contest the citation or notice to appear and that, in such case, judgment shall be entered by the clerk of courts against the person for the amount of the maximum civil penalty of \$500.00.

**SECTION EIGHT: Establishing a schedule of penalties, options and penalties regarding citations and notices to appear.**

1. The Marco Island City Council hereby establishes, pursuant to Section Four of this ordinance, a schedule of violations and penalties to be assessed by code enforcement officers for all codes and ordinances enforced pursuant to this article.
2. Schedule of penalties:

	<u>1<sup>st</sup> Offense Amount</u>	<u>2<sup>nd</sup> Offense Amount</u>	<u>3<sup>rd</sup> Offense Amount</u>
Code/Ordinance Violation	\$ 100.00	\$ 200.00	\$ 400.00

3. Upon issuance of a citation or notice to appear, the following options apply:
  - a. A person who elects not to contest the citation or notice to appear may pay the civil penalty as set out herein within 30 days from issuance of the citation or notice to appear; or
  - b. The person cited may contest the citation or notice to appear in county court. In such cases where a person wishes to contest the citation or notice to appear, the person must request, in writing, a court date from the clerk of courts within 30 days of issuance of the citation or notice to appear.
4. A person who fails to pay the civil penalty within the established period of time, fails to request a court date, and/or fails to timely contest the citation or notice to appear shall be deemed to have waived his or her right to contest the citation or notice to appear and, in such case, judgment shall be entered against the person for the amount of the maximum civil penalty \$500.00.
5. In the event a civil judgment is entered against a person pursuant to the provisions of this article, the city may record a certified copy of said judgment in the Official Records of Collier County. If a person pays the civil penalty for which a civil judgment has been recorded, the clerk of courts shall notify the City of Marco Island Code Compliance Division when the judgment has been paid and a satisfaction of judgment shall be prepared and recorded in the Official Records of Collier County.

The city, as an additional remedy, may refer cases of violations not paid and not contested within thirty (30) days of issuance to a collection agency for processing, collection, and notification of failure to pay to the credit bureau.
6. The provisions of this section are an additional and supplemental means of enforcing city codes and/or ordinances and may be used for the enforcement of any applicable city code or ordinance as enumerated above. Nothing contained in this article shall prohibit the city from enforcing its codes and/or ordinances by any other civil, administrative and/or criminal means.
7. The provisions of this section shall not apply to enforcement, pursuant to §533.80, Florida Statutes, of the Building Codes adopted to §553.73, Florida Statutes, as they apply to construction; provided that a building permit is either not required, or has been issued by the city. For the purpose of this subsection, "building codes," means only those codes adopted pursuant to §553.73, Florida Statutes.

**SECTION NINE: 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 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 held invalid or unconstitutional by any court of competent jurisdiction, the invalidity thereof shall not affect the validity of any remaining portions of this Ordinance.

**SECTION TEN: Effective date.**

This Ordinance shall take effect February 1<sup>st</sup>, 1999.

Passed in open and regular session through roll call vote by the City Council of the City of Marco Island, Florida, this 1<sup>st</sup> day of February, 1999.

Attest:

CITY OF MARCO ISLAND, FLORIDA

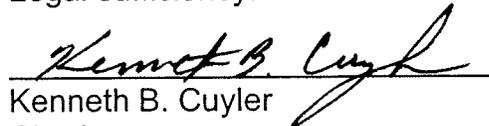
  
\_\_\_\_\_

A. William Moss  
City Manager/City Clerk

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  
57806541 99-26 SECOND READING

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: 01/09

AD SPACE: 47.000 INCH  
FILED ON: 01/11/99

**0110 ORDINANCES  
AND PETITIONS**

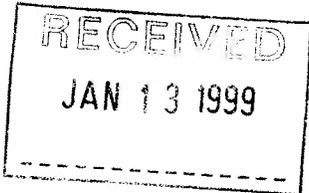
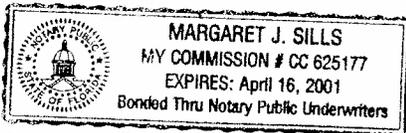
.99-26  
SECOND READING &  
PUBLIC HEARING  
ORDINANCE NO. 99-26  
CITY OF

MARCO ISLAND  
The City Council of Marco Island, meeting in regular session at 6:00 p.m., on January 19, 1999, at the Marco Island YMCA, 101 Sand Hill Street, Marco Island, Florida, will consider:

AN ORDINANCE ESTABLISHING CODE ENFORCEMENT CITATION REGULATIONS FOR THE CITY OF MARCO ISLAND; PROVIDING TITLE AND CITATION; PROVIDING DEFINITIONS; PROVIDING APPLICABILITY; PROVIDING FOR POWERS AND DUTIES; PROVIDING FOR CIVIL INFRACTIONS; PROVIDING FOR CITATIONS AND NOTICE TO APPEAR PROCEDURES; PROVIDING FORMAT FOR CITATIONS AND NOTICES TO APPEAR; PROVIDING A SCHEDULE OF PENALTIES; PROVIDING FOR INCORPORATION, CONFLICT AND SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

Members of the Public are invited to make oral or written comments in regards to this Ordinance. January 9 No. 1336999

Signature of Affiant B. Lamb  
Sworn to and Subscribed before me this 11th day of January 1999  
Personally known by me Margaret J. Sills



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  
57812976 99-26(2) SECOND READ

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: 01/20

AD SPACE: 47.000 INCH  
FILED ON: 01/20/99

**0110 ORDINANCES AND PETITIONS**

99-26(2)  
SECOND READING & PUBLIC HEARING  
ORDINANCE NO. 99-26  
CITY OF MARCO ISLAND

The City Council of Marco Island, meeting in regular session at 6:00 p.m., on February 1, 1999, at the Marco Island YMCA, 101 Sand Hill Street, Marco Island, Florida, will consider:

AN ORDINANCE ESTABLISHING CODE ENFORCEMENT CITATION REGULATIONS FOR THE CITY OF MARCO ISLAND; PROVIDING TITLE AND CITATION; PROVIDING DEFINITIONS; PROVIDING APPLICABILITY; PROVIDING FOR POWERS AND DUTIES; PROVIDING FOR CIVIL INFRACTIONS; PROVIDING FOR CITATIONS AND NOTICE TO APPEAR PROCEDURES; PROVIDING FORMAT FOR CITATIONS AND NOTICES TO APPEAR; PROVIDING A SCHEDULE OF PENALTIES; PROVIDING FOR INCORPORATION, CONFLICT AND SEVERABILITY. PROVIDING AN EFFECTIVE DATE.

Members of the Public are invited to make oral or written comments in regards to this Ordinance.  
January 20 No. 1343012

Signature of Affiant B. Lamb  
Sworn to and Subscribed before me this 20 day of Jan 1999  
Personally known by me Joyce E. Blazier

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