

CITY OF MARCO ISLAND
ORDINANCE NO. 98-23

AN ORDINANCE TO ESTABLISH THE OFFICE OF CITY MANAGER, CITY ATTORNEY, CITY CLERK AND FINANCE DEPARTMENT; TO ESTABLISH DUTIES AND RESPONSIBILITIES; PROVIDING FOR INCORPORATION, CONFLICT, AND SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; 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 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 ordinances, resolutions, and codes as may be required for the good governing of the City; and

WHEREAS, Section 1.05 of the Marco Island City Charter provides that an administrative code shall be adopted, defining the departmental organization of the City and appropriate rules and regulations for the conduct of such departments; and

WHEREAS, it is determined to be necessary and appropriate to establish the Office of the City Manager, City Attorney, City Clerk and Finance Department of the City of Marco Island.

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

CHAPTER _
ADMINISTRATION
ARTICLE I
CITY COUNCIL

(RESERVED)

ARTICLE 2
CITY MANAGER

Sec. 1. 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 the Charter.

(a) The selection of a city manager shall be based on education, experience, and administrative background.

Sec. 2. Appointments; Removal; Residency; Compensation.

(a) 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 and shall not be given a fixed term by resolution, ordinance, contract, or otherwise.

(b) The city manager shall serve at the will of City Council. The Council may remove the city manager by the affirmative vote of at least four members of the council.

(1) Upon request by the city manager, to be made within 5 days after receipt of written notification of such vote, a public hearing shall be held within 10 days after receipt of such request.

(2) After such hearing, the council by affirmative vote of at least four council members shall decide whether to reconsider its previous action.

(c) The manager need not be a resident of the city or state at the time of the manager's appointment but may reside outside the city while in office only with the approval of the council.

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

Sec. 3. Powers and Duties.

The City Manager shall:

(a) Appoint and, when deemed necessary for the good of the city, suspend or remove any city employees and appointive administrative officers

provided for by or under the Charter, except as otherwise provided by law or personnel rules adopted by council resolution.

(1) The city manager may authorize any administrative officer who is subject to the direction and supervision of the city manager to exercise these powers with respect to subordinates in that officer's department.

(b) Direct and supervise the administration of all departments, officers, and agencies of the city, except as otherwise provided by the Charter or by law.

(c) Attend all council meetings and shall have the right to take part in discussion, but may not vote.

(d) See that all laws, provisions of the Charter, and acts of the council, subject to enforcement by the city manager or by officers subject to the city manager's direction and supervision, are faithfully executed.

(e) Prepare and submit the annual budget, budget message, and capital program to the council in a form provided by ordinance.

(f) Submit to the council and make available to the public a complete report on the finances and administrative activities of the city as of the end of each fiscal year.

(f) Make such other reports as the council may require concerning the operations of city departments, offices, and agencies subject to the manager's direction and supervision.

(g) Keep the council fully advised as to the financial condition and future needs of the city and make such recommendations to the council concerning the affairs of the city as manager deems desirable.

(h) Perform such other duties as are specified in the Charter or as may be required by the council.

(i) Execute all formal contracts on behalf of the city. Such contracts shall be attested by the deputy city clerk.

Sec. 4. Acting City Manager.

(a) By letter filed with the council the city manager may designate a qualified city administrative officer to exercise the powers and perform the duties of manager during the city manager's temporary absence or disability, not to exceed a period of 30 days.

(b) During such absence or disability, the council may revoke such designation at any time and appoint another officer of the city to serve until the city manager shall return or the city manager's disability shall cease.

Sec. 5. Supervision of Departments.

(a) Except as otherwise provided in the Charter or by general law, the city manager shall be responsible for the supervision and direction of all departments, agencies, or offices of the city.

(b) All departments, offices, and agencies under the direction and supervision of the manager shall be administered by an officer appointed by and subject to the direction and supervision of the manager.

(c) With the consent of council, the manager may serve as the head of one or more such departments, offices, or agencies or may appoint one person as the head of two or more of them.

(d) The city manager shall prepare and enforce personnel policies, wage and compensation plans, and collective bargaining contracts, and shall keep such policies current and in conformity with applicable federal and state laws.

Sec. 6. Administrative Code.

The manager shall develop and keep current an administrative code for the purpose of implementing ordinances passed by the council.

ARTICLE 3
CITY ATTORNEY

Sec. 1. Appointment and Term of Office.

(a) There shall be a city attorney, appointed by the council, who shall serve as chief legal advisor to the council and city administrators and shall represent the city in all legal proceedings and perform such other related duties, as the council may deem necessary.

(b) The city attorney may be full time or part time or on retainer as the council may deem necessary.

(1) If the position of city attorney is full time,

a. The council shall appoint a city attorney by a vote of five of the seven council members. The city attorney shall serve at the will of the council and shall not be given a fixed term by resolution, ordinance, contract, or otherwise.

b. The city attorney shall serve at the will of City Council. The Council may remove the city attorney by the affirmative vote of at least four members of the council.

1. Upon request by the city attorney, to be made within 5 days after receipt of written notification of such vote, a public hearing shall be held within 10 days after receipt of such request.

2. After such hearing, the council by affirmative vote of at least four council members shall decide whether to reconsider its previous action.

(c) The attorney need not be a resident of the city or state at the time of the attorney's appointment, but may reside outside the city while in office only with the approval of the council.

(d) The compensation of the city attorney shall be fixed by the council.

Sec. 2. Duties.

In addition to any other duties assigned to the city attorney by the city council, the city attorney shall:

- (1) Upon request, give all necessary advice to the city council and all officers and agents of the city;
- (2) Institute and defend such proceedings and render such other legal services on behalf of the city as may be requested by the proper officers or agents of the city;
- (3) Be responsible for drafting or reviewing all ordinances, resolutions, and other instruments of writing relating to the business of the city;
- (4) Approve official documents of the city, as to form;
- (5) Attend regular and special meetings of the city council, render legal advice upon request, and review the legal propriety of documents under consideration by council or administrative officials.

ARTICLE 3

CITY CLERK

Sec. 1. Office Established; Duties of Office.

(a) The city manager shall serve as the city clerk. The city manager may delegate the responsibilities of the office to a deputy city clerk, or other designees. The city clerk shall be responsible for the following:

- (1) Provide Public Notice of all Council meetings to City Council and the public.
- (2) Keep a journal of all City Council proceedings which shall be a public record.
- (3) Custodian of all official records.
- (4) Supervise City elections, initiatives, and referendums.
- (5) Provide access to public records as required by Article 1, Section 24, Florida Constitution and Chapter 119, Florida Statutes, as amended.

ARTICLE 4

DEPARTMENT OF FINANCE

Sec. 1. Establish; Director.

(a) There shall be a Department of Finance under the direction of the Finance Director. The Finance Director shall be under the direction of the city manager.

(b) The Finance Director shall be responsible for the proper administration of the financial affairs of the city, subject to the supervision of the city manager. The Department of Finance shall be required to:

- (1) Maintain a general accounting system for the city government and each of its departments, offices, and agencies.
- (2) Keep the books for and exercise financial budgetary control over each office, department, and agency.
- (3) Direct the data processing function for the city government.
- (4) Collect revenues due the city, including occupational license fees.
- (5) Upon the approval of the city manager, open and maintain checking and savings accounts in the name of the city; to designate persons to sign checks, drafts, notes, bills of exchange, acceptance or other orders for the payment of withdrawal of money from said accounts, to endorse checks, notes, bills, certificates of deposit or other instruments owned or held by the city for deposit in said accounts or for collection or discount by depository banks; to accept drafts, acceptances and other instruments payable at city depositories; to waive presentment, demand, protests, and notices of protest, or dishonor of any check, note, bill, draft, or other instrument made, drawn, or endorsed by the city.
- (6) To establish a "returned check" service charge be assessed against any person who issues or delivers to this city any check, draft, or other written order on any bank or depository for the payment of money, when, upon presentation of such check, the payment is not paid for any reason.
- (7) To invest funds of the city as provided by state statutes.

- (8) Perform other duties and functions as may be prescribed by the city manager.
- (9) Responsible for establishing and maintaining accounting procedures and a system of internal controls.
- (10) Producing monthly and yearly financial reports and the annual financial statements.
- (11) Coordinate and establish the budget approval process and TRIM regulations.

SECTION ____: 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 re-lettered 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. 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.

SECTION ____: 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 7th day of December, 1998.

Attest:

CITY OF MARCO ISLAND, FLORIDA

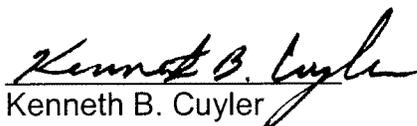


A. William Moss
City Manager/City Clerk

BY: 

David E. Brandt, Chairman

Approved as to form and
legal sufficiency:



Kenneth B. Cuyler
City Attorney

Sec. __. City Council; Composition; Qualifications; Term.

(a) There shall be a seven-member city council, elected from and representing the city at-large.

(b) Each individual seeking to qualify as a candidate for a seat on the council shall submit a petition supporting his/her candidacy to the city manager, containing valid signatures of city electors equal to one percent of the number of city electors registered in the last general election for the respective office sought.

(c) Each candidate for the office of city council shall be a qualified elector of the city.

(1) Any person who is a resident of the city, who has qualified as an elector of this state, and who registers in the procedural manner prescribed by general law, shall be an elector of the city.

(d) Each candidate for city council office shall have been a resident of the city for a minimum period of one year prior to qualifying for office.

(e) Council members shall maintain residency throughout the term of office within the boundaries of the city.

(j) The term of office for council shall be four years.

(1) No person elected as council member shall be able to serve more than two full consecutive terms.

(2) Each council member shall remain in office until a successor is elected and assumes the duties of the position.

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

Sec. __. Meetings of Council.

(a) The City Council shall meet regularly at least once in every month, at such time and places as the council may prescribe by rule.

(b) Council may, on a majority vote of the members present at a regular meeting, cancel a regular meeting and reschedule the meeting at a time fixed by the majority.

(c) Special meetings may be held on the call of the chairman or of a majority of the members and, whenever practicable, upon no less than 24 hour's notice to each member and the public. All meetings shall be public.

(d) The council shall determine its own rules and order of business and shall have a journal containing all minutes of meetings.

Sec. ____. **General Powers and Duties.**

(a) All legislative powers of the city shall be vested in the city council, which shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the city by law.

(b) The council may delegate to the city manager the power to execute contracts, deeds, and other documents approved by the council, and to represent the city in all agreements with other governmental entities or certifications to other governmental entities.

Sec. ____. **Quorum; Presiding Officer.**

(a) The City Council may, by resolution, adopt its own rules and procedures for the conduct of meetings. The City Attorney shall act as parliamentarian.

(b) The council shall, at the first regular meeting after each city council election and the annual anniversary thereof, elect one of its own members to be chairman and elect one of its members to be vice chairman for a term of one year.

(c) The vice-chairman shall, in the absence or disability of the chairman, have all the power and prerogative and perform the duties of the chairman.

(d) The chairman shall preside at the meetings of the council and shall have a voice and vote in its proceedings.

(e) The chair shall be recognized as head of the city government and by the Governor for purposes of military law.

Sec. 4. **Voting Requirements.**

(a) Voting on ordinances and resolutions shall be by roll call and shall be recorded in the journal.

(b) A majority of the council shall constitute a quorum; but a smaller number may recess from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the city council.

(c) No action of the city council shall be valid or binding unless adopted by the affirmative vote of the majority of all council members.

(d) 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 that there is a conflict of interest.

Sec. ____. **Recess.**

The City Council may recess any regular or special meeting, provided such recessed meeting shall be scheduled to a future day and hour to be specifically provided for in the motion for such recess. The recessed meeting shall not be later than the next regular meeting, and any such recessed meeting shall not be held at any hour or time other than as specified in the motion.

Sec. ____. **Forfeiture of Office for Absenteeism, Filling Vacancy.**

(a) The office of council member shall become vacant upon death, incapacitation due to long-term illness, resignation, removal from office in any manner authorized by general law, or forfeiture of the council member's office.

(b) The council member shall forfeit office if he or she:

- (1) Lacks at any time during the term of office any qualification for the office prescribed by the Charter or by general law;
- (2) Violates any standard of conduct or code of ethics established by general law for public officials; or
- (3) Is absent from four consecutive regular council meetings without being excused by the council.

(c) A vacancy in the office of a council member shall be filled as provided by general law, except that if there are 28 months or less of the term remaining, the council shall appoint by a 5/7 vote a replacement. If 28 months or more are remaining the vacancy shall be filled at the next regularly scheduled election.

(d) In the event that four or more vacancies occur on the council for whatever reason and by whatever cause, the Governor shall appoint interim council members to fill the vacancies. The newly constituted council shall call a special election as provided in the Charter. Such election shall be done and the council organized in the same manner as the first election of council members.

Sec. ____ Prohibitions.

(a) No former elected city official shall hold any compensated appointive city office or city employment until four years after the expiration of the term for which he or she was elected.

(b) No council member shall direct or request the appointment of any person to, or removal from, office by the city manager or by any of the city manager's subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative service of the city except as provided in this charter.

(c) 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.

(d) Any council member violating the provisions of this section shall be subject to recall as herein provided.

Sec. ____ Minutes of Meetings.

The city clerk shall keep the minutes of all public meetings of the council; such records shall be a matter of permanent public record. At each council meeting, the minutes of the previous meeting shall be presented for approval. Minutes shall not be considered the official record of a meeting until approved by the council.

Sec. ____ Procedures for Passage.

(a) Each ordinance or resolution shall be introduced in writing.

(b) Each ordinance or resolution shall embrace but one subject and matters properly therewith.

(c) The subject of each ordinance or resolution shall be clearly stated in the title.

(d) An ordinance to revise or amend shall set out in full the revised or omitted part.

(e) No ordinance shall be revised or amended by reference to its title only.

(f) A proposed ordinance must be read either by title or in full on at least two separate days.

(g) At least 10 days prior to adoption, a proposed ordinance must be noticed once in a newspaper of general circulation in the city; this notice shall state the date, time, and place of the meeting at which the ordinance may be adopted, title of the proposed ordinance, and places where the proposed ordinance may be inspected; the notice shall also advise that interested parties may be heard at the meeting. By a two-thirds vote, the council may enact an emergency ordinance without complying with these notice requirements; however, neither rezoning of private property nor amendment of a land-use plan may be done by emergency ordinance.

(h) All ordinances and resolutions become effective as provided therein or, otherwise, on 10 days after passage.

(i) Every approved ordinance or resolution shall be recorded in a book kept for that purpose and shall be signed by the presiding officer and the city manager.

(j) Procedural requirements for an ordinance which would rezone specific parcels of private real property or which would substantially change permitted-use categories in zoning districts shall comply with Florida Statutes.

Sec. ____. **Oath of Office.**

(a) Every officer shall, before entering upon the duties of his office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the city clerk:

"I solemnly swear (or affirm) that I will support the Constitution and will obey the Laws of the United States and of the State of Florida; that I will, in all respects, observe the provisions of the Charter and the Ordinances of the City of Marco Island, and will faithfully discharge the duties of the office of _____."

Sec. ____. **Authentication, Recording, and Disposition of Charter Amendments, Ordinances and Resolutions.**

(a) The chairman and the city manager shall authenticate by their signatures all ordinances and resolutions adopted by the council. In addition, when charter amendments have been approved by the electors, the chairman and the city manager shall authenticate by their signatures the charter

amendment, such authentication to reflect the approval of the charter amendment by the electorate.

(b) The city manager shall keep properly indexed books in which shall be recorded, in full, all ordinances and resolutions passed by the council. Ordinances shall be periodically codified.

(c) The city manager shall maintain the city charter in current form and shall enter all charter amendments and send certified copies of amendments to the Secretary of State.

(d) The council shall, by ordinance, establish procedures for making all resolutions, ordinances, technical codes adopted by reference, and this charter available to the people of the city for public inspection and available for purchase at a reasonable price.

Sec. ____ Council Salary and Expenses.

(a) The salary of each council member, except for the chairman, shall be \$6,000 per year, payable in equal monthly installments. The salary of the chairman shall be \$9,000 per year, payable in equal monthly installments.

(b) No increase in the salary of council members shall be effective until after the next election for each office.

(c) In addition to the salary provided to council members, each shall receive, during their term of office, a sum of money equal to the actual and necessary expenses incurred in the performance of duties of the office. Such sums shall be payable upon a council member submitting an expense voucher outlining the expenses incurred in the performance of their duties during the preceding month.

(d) Compensation for travel expenses shall be provided to a City Council Member for out-of-town incurred expenses, subject to the criteria and guidelines established for by resolution.