

**CITY OF MARCO ISLAND  
ORDINANCE NO. 10-08**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES, CITY OF MARCO ISLAND, AMENDING CHAPTER 30, LAND DEVELOPMENT CODE REGULATIONS, INCLUDING BUT NOT LIMITED TO: ALLOWABLE USES IN COMMERCIAL ZONING DISTRICTS, EXCEPTIONS TO REQUIRED YARDS, AND MISCELLANEOUS STRUCTURES; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR 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 home rule powers to enable them to conduct municipal government, perform municipal functions, render municipal services, and exercise any power for municipal purposes, except when expressly prohibited by law; and

**WHEREAS**, Section 1.02 of the Marco Island City Charter empowers the City to adopt, amend, or repeal ordinances, resolutions and codes as may be required for the benefit of residents and governance of the City; and

**WHEREAS**, THE City Council of the City of Marco Island, Florida (“City Council”) recognizes that changes to the adopted Code of Ordinances and Land Development Code are periodically necessary in order to ensure that the City’s Codes are current and consistent with the City’s planning and regulatory needs; and

**WHEREAS**, the City Council finds that minor changes to the permitted and conditional use introductory language in the C-3, C-4 and C-5 commercial zoning districts would clarify that uses in one district may be permitted or permissible in a higher intensity commercial district; and

**WHEREAS**, the City Council finds that Section 30-86 allows nine classes of exceptions to required yards and there exists a need for an exception for generators; and

**WHEREAS**, Section 30-1010 currently prohibits news and brochure racks in the Public (P), Community Facility (CF), Planned Unit Development (PUD) and Residential Multi-family (RMF 12 and RMF 16) zoning districts, where their use may be appropriate; and

**WHEREAS**, the Marco Island Planning Board, sitting as the Local Planning Agency, held duly advertised public hearings on April 23 2010 and June 11, 2010 and determined that the proposed changes contained in this Ordinance are consistent with the City of Marco Island Comprehensive Plan and Florida law, and recommended adoption of this Ordinance to the City Council; and

WHEREAS, after reviewing the City of Marco Island Planning Board's recommendation, the recommendation of City staff, and comments from the public, the City Council finds that the proposed amendments to its Code of Ordinances are in compliance and consistent with Florida law and its adopted Comprehensive Plan; and

WHEREAS, the City Council further finds that adoption of this Ordinance is in the best interest of the residents of the City of Marco Island.

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

**SECTION 1. Recitals.** The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true, correct and reflective of the legislative intent underlying this Ordinance and are hereby made a specific part of this Ordinance.

**SECTION 2. Amendment and Adoption.** The amendments to the Code of Ordinances contained in this Ordinance are hereby amended or created and adopted as follows:

1. **Sec. 30-222. Permitted uses.** The following uses, as defined with a number from the North American Industry Classification System (1997), or as otherwise provided for within this section, are permitted as of right, or as uses accessory to permitted uses in the commercial intermediate district (C-3); uses permitted as of right in the C-1 and C-2 commercial zoning districts shall also be permitted as of right hereunder:

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2. **Sec. 30-224. Conditional uses.** The following uses are permissible as conditional uses in the commercial intermediate district (C-3), subject to the standards and procedures established in the land development code; uses permissible as conditional uses in the C-1 or C-2 commercial zoning districts shall also be permissible as conditional uses hereunder, unless listed as a permitted use in the C-3 district:

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3. **Sec. 30-244. Conditional uses.** The following uses are permitted as conditional uses in the general commercial district (C-4), subject to the standards and procedures established in the land development code; uses permissible as conditional uses in the C-1, C-2 or C-3 commercial zoning districts shall also be permissible as conditional uses hereunder, unless listed as a permitted use in the C-4 district:

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4. **Sec. 30-264. Conditional uses.** The following uses are permissible as conditional uses in the heavy commercial district (C-5), subject to the standards and procedures established in the land development code; uses permissible as conditional uses in the C-1, C-2, C-3 or C-4 commercial zoning districts shall also be permissible as conditional uses hereunder, unless listed as a permitted use in the C-5 district:

**5. Sec. 30-86. Supplemental standards and regulations.** (b) *Exceptions to required yards.* 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.

- (1) Sills and other architectural and design treatments shall not project over 12 inches into a required yard.
- (2) Moveable awnings shall not project over three feet into a required yard.
- (3) Window-mounted air-conditioning units, chimneys, fireplaces, bay windows, or pilasters shall not project over two feet into a required yard.
- (4) Wall-mounted, cube mounted, or cantilevered air conditioning units shall not project over two feet into a required side or four feet into the rear yard. Units permitted prior to January 1, 2002, shall not project over four feet into a required side or rear yard.
- (5) Fire escapes and balconies that are unroofed and unenclosed shall not project over three feet into a required side or rear yard. Staircases shall not project over four feet into any required yard.
- (6) Hoods, canopies, or roof overhangs shall not project over three feet into a required yard.
- (7) Fences, walls, privacy walls, vegetative materials, hedges, pool equipment and pad-mounted air conditioners are permitted in required yards, subject to conditions contained herein.
- (8) Cornices, eaves, or gutters shall not project over three feet into a required yard.
- (9) Satellite dishes having a diameter of 18 inches or less which are attached to the principal structure shall not project over three feet into a required side or rear yard.
- (10) Generators shall not project more than 4 feet into any required yard.

**6. Sec. 30-1010. Miscellaneous structures.** 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 all zoning districts other than Residential Single Family Dwelling (RSF) districts. ~~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 the ordinance from which this article derives. Zoning districts permitting brochure racks, delivery boxes, and newspaper boxes/racks shall comply with the architectural and site design guidelines provided for in article VIII, within two years of adoption of the ordinance.

**SECTION 3. Inclusion in the Code of Ordinances.** It is the intention of the City Council and it is hereby ordained that the amendments to the City of Marco Island Code of Ordinances made by this Ordinance shall become part of the City of Marco Island Code of Ordinances, that the sections of this Ordinance may be renumbered and re-lettered as necessary, and that the word "Ordinance" may be changed to "Section, "Article" or other appropriate word.

**SECTION 4. Conflicts.** All ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict with the provisions of this Ordinance are hereby repealed.

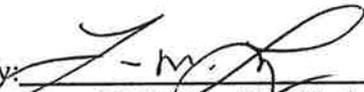
**SECTION 5. Severability.** If any section, clause, sentence, or phrase of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this Ordinance.

**SECTION 6. Effective Date.** This Ordinance shall be effective immediately upon adoption by the City Council on second reading.

ADOPTED BY THE CITY COUNCIL of the City of Marco Island this 16<sup>th</sup> day of August, 2010.

Attest:

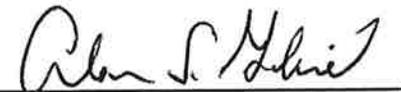
**CITY OF MARCO ISLAND FLORIDA**

By:   
Laura M. Litzan, City Clerk

By:   
Frank R. Recker, Chairman

(SEAL)

Reviewed for legal sufficiency:

By:   
Alan L. Gabriel, City Attorney