

RESOLUTION 23-54

A RESOLUTION OF THE CITY COUNCIL OF MARCO ISLAND, FLORIDA, FINDING THAT FLORIDA LAW PREEMPTS SECTION 30-90 OF THE CITY CODE OF ORDINANCES; DECLARING THE VACATION RENTAL REGISTRATION PROGRAM ORDINANCE (ORDINANCE NO. 2022-08) NULL AND VOID AB INITIO; DIRECTING THE CITY MANAGER OR DESIGNEE TO NOTIFY MUNICODE CORPORATION OF THE ORDINANCE'S INVALIDITY; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on August 23, 2022, the City electors voted in favor of a vacation rental registration program for Residential Single-Family ("RSF") properties in the City of Marco Island, mandating the City Council to adopt an implementing ordinance; and

WHEREAS, on December 5, 2022, the City Council enacted Ordinance No. 2022-08, "The Vacation Rental Registration Program Ordinance" (the "Ordinance") and subsequently by City Resolution 2023-21, extended the Ordinance's enforcement date; and

WHEREAS, during the 2023 Florida Legislative Session, Senate Bill 250 was enacted as Chapter 2023-304 Laws of Florida which was signed by the Governor on June 28, 2023, (the "Statute") which in part prohibits local governments located within 100 miles from where Hurricane Ian made landfall from proposing or adopting more restrictive or burdensome amendments to the local government's comprehensive plan or land development regulations prior to October 1, 2024; and

WHEREAS, the Statute contains a retroactivity provision whereby restrictive or burdensome comprehensive plans or land development laws or regulations enacted prior to September 28, 2022 in affected areas, are declared null and void ab initio; and

WHEREAS, the Ordinance was adopted within the retroactivity period and was added to the City's Land Development Code of the City Code of Ordinances in Article II, Section 30-90; and

WHEREAS, the Ordinance meets the definition of a more restrictive or burdensome set of regulations as contemplated in the Statute; and

WHEREAS, Municode Corporation ("Municode") compiles and codifies legal documents for local governments, including the City of Marco Island; and

WHEREAS, the City Council declares that the Ordinance is null and void ab initio by operation of state law and authorizes the City Manager to advise Municode that Section 30-90 of the City Code has been nullified by state legislative action.

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

Section 1. The above recitals are true and correct and incorporated herein.

Section 2. The City Council hereby declares that Ordinance No. 2022-08, "The Vacation Rental Registration Program Ordinance" (Section 30-90 of the City Code of Ordinances) is null and void ab initio, prohibiting the enforcement of said Ordinance.

Section 3. The City Manager or designee shall notify the Municode Corporation that the Ordinance is no longer valid by operation of state law.

Section 4. City officials are authorized to take all other actions necessary to carry out the aims of this Resolution.

Section 5. This Resolution shall take effect immediately upon its adoption.

Passed and adopted in open and regular session through roll call vote by the City Council of the City of Marco Island, Florida, this 2nd day of October 2023.

ATTEST:

CITY OF MARCO ISLAND, FLORIDA

Joan Taylor, City Clerk

By: _____
Gregory Folley, Chairman

Approved as to form and legal sufficiency:

Alan L. Gabriel, City Attorney