

CITY OF MARCO ISLAND

ORDINANCE 02- 33

AN ORDINANCE TO ESTABLISH NEW SUPPLEMENTAL DISTRICT REGULATIONS TO SUPERSEDE, SUPPLEMENT, AND/OR REPLACE STANDARDS AND REGULATIONS FOUND IN THE COLLIER COUNTY LAND DEVELOPMENT CODE (ORDINANCE 91-102, AS AMENDED), AND CURRENTLY APPLICABLE ON MARCO ISLAND; ESTABLISHING PURPOSE AND INTENT; PROVIDING FOR VISIBILITY AT INTERSECTIONS IN ALL ZONING DISTRICTS; ACCESSORY BUILDINGS AND STRUCTURES; EXCLUSIONS FROM HEIGHT LIMITS; EXCEPTIONS TO REQUIRED YARDS; BUILDINGS TO HAVE ACCESS; USE OF RESIDENTIALLY ZONED PROPERTY FOR ACCESS PROHIBITED; PARKING AND STORAGE OF CERTAIN VEHICLES; ESSENTIAL SERVICES; FENCES; MISCELLANOUS STRUCTURES; GUESTHOUSE; SOLID WASTE DISPOSAL; INTEGRAL CARETAKER'S RESIDENCE IN COMMERCIAL DISTRICTS; CONDOMINIUMS; DEED RESTRICTIONS; RELATIONSHIP TO STATE AND FEDERAL STATUTES; PROHIBITED ANIMALS IN RESIDENTIAL DISTRICTS; GROUP HOUSING DEVELOPMENT STANDARDS; AUTOMOBILE SERVICE STATIONS; OPEN SPACE REQUIREMENTS IN ALL ZONING DISTRICTS; TOWNHOUSE DEVELOPMENT; KITCHENS IN DWELLING UNITS; FLOOR AREA REQUIREMENTS FOR TIMESHARES, MULTI-FAMILY STRUCTURES, HOTELS AND MOTELS; FLAG POLES; ACCESS MANAGEMENT PLANS; STANDARDS FOR PARKING WITHIN THE MARCO LAKE DRIVE BUSINESS DISTRICT (MLDPD); PROVIDING FOR INCORPORATION, 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 powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, state law requires municipalities to adopt Land Development Regulations within one year of Comprehensive Plan adoption; and

WHEREAS, the Marco Island Planning Board, as the Local Planning Agency, has conducted all required public hearings related to this ordinance,

and has forwarded this ordinance to City Council with a recommendation of approval.

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

SECTION ONE: VISIBILITY AT INTERSECTIONS IN ALL ZONING DISTRICTS.

1. Safe sight distance triangles at intersections and access points. Where an access way intersects a right-of-way or when a property abuts the intersection of two or more rights-of-way, a minimum safe sight distance triangular area shall be established. Within this area, vegetation shall be planted and maintained in a way that provides unobstructed visibility at a level between 18 inches and ten feet above the adjacent access. Parking is prohibited in this area. No fence, wall, or structure shall be erected in this area. (See Figure 1, Ordinance 02-22).
2. Where an access way enters a street, right-of-way, or alley, two safe distance triangles shall be created diagonally across from each other on both sides of the access way. Two sides of the triangle shall extend fifteen feet each way from the point of intersection from the edge of pavement and the right-of-way line. The third side of the triangle shall be a line connecting the ends of the other two sides.
3. Where a property abuts the intersection of two rights-of-way, a safe distance triangle shall be created. Two sides of the triangle shall extend 30 feet along the abutting right-of-way lines, measured from the point of intersection. The third side of the triangle shall be a line connecting the ends of the other two sides.

SECTION TWO: ACCESSORY BUILDINGS AND STRUCTURES.

1. Accessory buildings and structures must be constructed simultaneously with or following the construction of the principal structure and shall conform to the following setbacks and building separations. In those cases where the coastal construction control line is involved, the coastal construction control line will apply.

**Accessory Structure Setbacks
(non-waterfront lots and non-golf course lots)**

	Accessory Structure	Front	Rear	Side	Structure to Structure (if detached)
1.	Parking garage or carport	SPS	10 feet	SPS	10 feet

	(single family)				
2.	One-story parking structures and/or carports (multi-family and commercial)	SPS	35 feet	SPS	10 feet
3.	Multistory parking structures (multi-family and commercial)	SPS	35 feet	SPS	1/1 ¹
4.	Swimming pool and/or screen enclosure (one- and two-family)	SPS	10 feet	SPS	N
5.	Swimming pool (multi-family and commercial)	SPS	20 feet	15 Feet	N
6.	Tennis courts, private (one- and two-family)	SPS	15 feet	SPS ³	10 feet
7.	Tennis courts (multi-family and commercial)	SPS	20 feet	15 feet	20 feet
8.	Utility buildings	SPS	10 feet	SPS	10 feet
9.	Chickee, barbeque areas	SPS	10 feet	SPS	10 feet
10.	Attached screen porch	SPS	SPS	SPS	N/A
11.	Unlisted accessory	SPS	SPS	SPS	10 feet

**Accessory Structure Setbacks
(Waterfront lots and golf course lots)**

	Accessory Structure	Front	Rear	Side	Structure to Structure (if detached)
1.	Parking garage or carport (single family)	SPS	SPS	SPS	10 feet
2.	One-story parking structures and/or carports (multi-family and commercial)	SPS	SPS	SPS	10 feet
3.	Multistory parking structures (multi-family and commercial)	SPS	SPS	SPS	1/1*
4.	Swimming pool and/or screen enclosure (one- and two-family)	SPS	10 feet ²	SPS	N
5.	Swimming pool (multi-family and commercial)	SPS	20 feet	15 Feet	N
6.	Tennis courts, private (one- and two-family)	SPS	15 feet	SPS ³	10 feet
7.	Tennis courts (multi-family and commercial)	SPS	35 feet	15 feet	20 feet
8.	Utility buildings	SPS	SPS	SPS	10 feet
9.	Chickee, barbeque areas	SPS	10 feet	SPS	N
10.	Attached screen porch	SPS	SPS	SPS	N/A
11.	Unlisted accessory	SPS	SPS	SPS	10 feet

N = None, N/A = Not applicable, NP = Structure allowed in rear yard only.
 May be located on pad at ground level, but not mounted on roof, SPS =
 Calculated same as principal structure.

¹ 1/foot of accessory height = 1/foot of building separation.

² Swimming pool decks may be constructed to a maximum of seven feet above the seawall with a maximum of four feet of stem wall exposure, with the rear setback of ten (10) feet. Swimming pool decks which exceed this height shall conform to a rear setback of twenty five (25) feet.

³ Lighting is prohibited at all tennis court facilities located within single family residential zoning districts. An opaque landscape hedge shall be planted between a tennis court facility and a side or rear yard property line of different ownership. The landscaping shall be maintained at a minimum of four feet in height and a maximum of six feet in height and shall be provided along the entire length of the tennis court facility.

2. *Limitations as to size of accessory buildings and structures.* Accessory buildings shall not occupy an area greater than five percent of the total lot area in all residential zoning districts, or occupy an area greater than 40 percent of any building envelope (i.e., area of lot remaining for building purposes after accounting for required setbacks), whichever is the lesser, provided the total maximum coverage provision of this ordinance for all principal and accessory buildings is not exceeded. Nothing herein contained shall serve to prevent the construction of an accessory building containing an area of less than 500 square feet provided all yard and building spacing requirements can be met.

SECTION THREE: EXCLUSIONS FROM HEIGHT LIMITS.

1. *General exclusions.* The height limitations do not apply to spires, belfries, cupolas, water tanks, fire towers when operated by a branch of government, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level. Human occupancy, even casual use, is prohibited except for routine maintenance.

SECTION FOUR: EXCEPTIONS TO REQUIRED YARDS.

1. *Yard encroachments.* 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.

- a. Sills and other architectural and design treatments shall not project over 12 inches into a required yard.
 - b. Moveable awnings shall not project over three feet into a required yard.
 - c. Window-mounted air-conditioning units, chimneys, fireplaces, bay windows, or pilasters shall not project over two feet into a required yard.
 - d. Wall-mounted, cube mounted, or cantilevered air-conditioning units shall not project over two (2) feet into a required side yard or four (4) feet into the rear yard. Units permitted prior to January 1, 2002 shall not project over four (4) feet into a required side or rear yard.
 - e. Fire escapes, stairways, and balconies which are unroofed and unenclosed shall not project over five feet into a required side or rear yard of a multiple-family dwelling, hotel or motel.
 - f. Fire escapes and balconies that are unroofed and unenclosed shall not project over three (3) feet into a required side or rear yard of a single-family residential dwelling. Staircases shall not project over four (4) feet into any required yard of a single-family residential dwelling.
 - g. Hoods, canopies, or roof overhangs shall not project over three feet into a required yard
 - h. Fences, walls, privacy walls, vegetative materials, hedges, pool equipment and pad-mounted air conditioners are permitted in required yards, subject to the conditions contained herein.
 - i. Cornices, eaves or gutters shall not project over three feet into a required yard.
 - j. Satellite dishes having a diameter of eighteen (18) inches or less which are attached to the principle structure shall not project over three (3) feet into a required side or rear yard.
2. *Minor improvements to legal nonconforming structures located within a residential zoning district.* Where a structure was lawfully permitted within a residential zoning district under a previous code, and where

said structure is considered nonconforming under the current land development code due to changes in the required side or rear yards, the community development director may administratively approve a variance for an amount equal to or less than the existing side and/or rear yard encroachment. Canopies, windowsills or other projections as provided for shall not be used in the calculation of existing side and/or rear yard encroachments.

- a. The applicant shall follow the procedures as provided below and in addition the applicant shall submit a detailed conceptual site plan drawn to scale depicting all existing structures and the proposed addition, as well as the distance between the property lines and the existing and proposed structures. Additionally, the applicant shall provide proof that the encroaching structure was legally constructed. Such proof shall include, at a minimum, evidence that a building permit was issued for the encroaching structure, or, where such evidence cannot be provided, documentation from the property appraiser's office of the date the structure was placed on the tax rolls.
3. *Waterfront yards.* It is the intent and purpose of this section to permit the placement of principal structures, except single-family, two-family and duplex dwelling units, at the bulkhead line or shoreline where such placement at the water's edge can enhance the character of waterfront development without detriment to adjoining or nearby properties or without damage to a particular environmental situation. The provisions of this section have their greatest potential application in planning for the use of tidewater inlands or areas of the city of such size and location that the use of this provision will meet its intent and purpose. If the provisions of this section are met, such provisions govern regardless of any requirement for waterfront yards in the zoning district involved. In those cases where the coastal control line is involved, the coastal construction line shall apply.
4. *Classification of waterfront lands and building location.* Principal structures shall not be erected waterward under this code beyond the following limits for the situations outlined:
- a. For waterfront lands along which a bulkhead line has been established, buildings may be erected out to, but not beyond, the bulkhead line.
 - b. For waterfront lands along which an offshore building limit has been established by the city, buildings may be erected out to, but not beyond, the building limit line.

- c. For waterfront lands along which neither a bulkhead nor a building limit line has been established, buildings may be erected out to, but not beyond, the shoreline, as that shoreline exists prior to development and construction.
 - d. Undeveloped and redeveloping waterfront property shall provide an eight (8) foot wide pedestrian walkway adjacent to and parallel with the existing seawall and/or waterfront. The walkway shall be provided either along the landward side of the seawall in the form of a hardscape walkway, or along the waterway side of the seawall in the form of a parallel dock. These walkways shall comply with guidelines pursuant to Chapter 30, Article VIII.
5. *Uses.* Since this section applies only to the placement of structures in waterfront yards, there shall be no use permitted under this section which is not permitted or permissible in the district involved.
6. *Site development plan required.* An applicant under this section shall submit a site development plan. In addition the applicant shall submit such materials as will demonstrate that the placement of the proposed buildings in waterfront yards from which they would otherwise be excluded: (1) will not adversely affect adjoining or nearby properties; and, (2) will cause no adverse environmental effects of building placement as requested.

SECTION FIVE: BUILDINGS TO HAVE ACCESS.

- 1. Every building hereafter erected or moved shall be on a lot adjacent to a public street or with actual and legal access to an approved private street or vehicular access easement, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

SECTION SIX: USE OF RESIDENTIALLY ZONED PROPERTY FOR ACCESS PROHIBITED.

- 1. No lot or parcel which is residentially zoned or designated shall be used for driveway, walkway or access purposes to any land which is non-residentially zoned or designated, or used for any purpose not permitted in a residential district.

SECTION SEVEN: PARKING AND STORAGE OF CERTAIN VEHICLES.

- 1. *Parking and storage of vehicles without current license plates.* Vehicles or trailers of any type that are not immediately operable, or

used for the purpose for which they were manufactured without mechanical or electrical repairs or the replacement of parts; or do not meet the Florida Safety Code; or do not have current valid license plates; or do not meet the definition of recreational equipment as defined within this code, shall not be parked or stored on any residentially zoned or designated property, other than in a completely enclosed building.

2. *Parking, storage or use of major recreational equipment.* Recreational Vehicle Parking: The parking of recreational vehicles is prohibited except as follows:

- a. When vehicle is parked within the confines of a fully enclosed structure such that it cannot be seen from any abutting property or public right-of-way.
- b. When parked in the open on the driveway of the property for a period of time not to exceed 24 hours to allow for loading and unloading.
- c. Upon receipt of a permit from the Code Enforcement Division provided that:
 - i. Parking shall not exceed seven (7) days for the purpose of loading, unloading, minor repairs, and cleaning prior to or after a trip.
 - ii. The permit shall be affixed to the vehicle in a conspicuous place.
 - iii. Prior to the expiration of the seven (7) day permit, a second seven (7) day permit may be issued upon a finding by the Code Enforcement Division that the permittee has complied with permit conditions.
 - iv. A maximum of four (4) permits, or twenty-eight (28) total days, may be granted in any single calendar year.
 - v. In no event shall recreational vehicles be used for living or sleeping purposes.

3. *Boat and boat trailer parking.*

- a. The parking of a boat and boat trailers in residentially zoned districts is prohibited except as follows:
 - i. When boat or boat trailer is parked within the confines of a fully enclosed structure such that it cannot be seen from any abutting property, public way, or waterway.
 - ii. On a temporary basis, not to exceed eight (8) hours, for the purpose of loading, unloading, and cleaning.

- iii. When moored, berthed, or stored on an approved boat docking facility.
- b) The display of a boat for sale is prohibited except as follows:
- i. After the issuance of a permit, which is limited to one permit per calendar year, per property.
 - ii. The permit shall be for a maximum of 60 days.
 - iii. The boat offered for sale is moored, berthed, or stored on an approved boat docking facility.
 - iv. One "for sale" sign shall be allowed, not to exceed one and one half (1.5) square feet in size, affixed to the boat.
 - v. A permit shall only be issued to the title-holder.
4. *Parking of commercial vehicles or commercial equipment in residential areas.* It shall be unlawful to park a commercial vehicle or commercial equipment on any lot in a residential zoning district unless one of the following conditions exists:
- a. The vehicle and/or equipment is engaged in a construction or service operation on the site where it is parked. The vehicle or equipment must be removed as soon as the construction or service activity has been completed.
 - b. The vehicle and/or equipment is parked in a garage or fully enclosed structure or carport which is structurally or vegetatively screened and cannot be seen from adjacent properties or the street serving the lot.
 - c. The vehicle is parked in the rear of the main structure and is enclosed within a vegetative screening which conceals the vehicle from the view of neighbors.
 - d. Automobiles; passenger type vans; and pickup trucks having a rated load capacity of one ton or less – all of which do not exceed 7.5 feet in height, nor 7.0 feet in width, nor 25 feet in length shall be exempted from this section unless otherwise prohibited by a special parking overlay district.
 - e. Exempted from this section is small commercial equipment such as ladders and pipes which cannot be contained in the vehicle. Said equipment shall be limited to one ladder or one unit of pipe which does not exceed 12 inches in diameter per commercial vehicle. Said equipment shall be secured atop the vehicle and shall not extend beyond the length, height or width of the vehicle.

- f. Parking of commercial vehicles or commercial equipment on vacant residential lots is prohibited.

SECTION EIGHT: ESSENTIAL SERVICES.

1. Essential services are hereby defined as services designed and operated to provide water, sewer, gas, telephone, electricity, cable television or communications to the general public by providers which have been approved and authorized according to laws having appropriate jurisdiction, and governmental facilities. Essential services are allowed in any zoning district subject to the following conditions:
 - a. *Permitted uses.* The following uses shall be deemed permitted uses in any zoning district: water lines, sewer lines, gas lines, telephone lines, telephone switching stations, cable television, electrical transmission and distribution lines substations, emergency power structures, sewage lift stations, water pumping stations, individual private wells and septic tanks, and similar installations necessary for the performance of these services. Governmental facilities, as defined by this code, shall be permitted uses in commercial zoning districts. Furthermore, the following governmental facilities shall be permitted uses in residential zoning districts: nonresidential not-for-profit childcare, nonresidential education facilities, libraries, museums, parks and recreational service facilities.
 - b. *Conditional uses.* The following uses shall be deemed conditional uses in any zoning district: electric or gas generating plants, effluent tanks, major re-pump stations, sewage treatment plants including percolation ponds, hospitals, hospices, water aeration or treatment plants, governmental facilities in residential, and agricultural zoning districts except as otherwise specified by section 8.a., public water supply acquisition, withdrawal, or extraction facilities, safety service facilities, and other similar facilities.
2. *Applicability of district regulations.* Under this subsection, where structures are involved other than structure supporting lines or cables, such structures shall comply with the regulations for the district in which they are located or as may be required on an approved site development plan per Chapter 30, Article IX. In addition, the structures shall conform insofar as possible to the character of the district in which they are located as to development standards as well

as architecture and landscaping, with utilization of screening and buffering compatible with the district.

3. *Structure for commercial activities.* Essential services shall not be deemed to include the erection of structures for commercial activities such as sales or the collection of bills in districts from which such activities would otherwise be barred. Unstaffed billing services, which are accessory uses to the normal operations of the essential service, may be permitted.

SECTION NINE: FENCES.

1. *Fences in zoning districts.* Fences or walls shall be allowed in all zoning districts subject to the restrictions set forth below:
2. *Residential districts.* For the purposes of this section, residential districts shall include: RSF residential single-family; RMF-6, RMF-12, and RMF-16 residential multiple-family; RT residential tourist; and residential increments of PUD residential planned unit development districts. Fences and walls shall be subject to the following:
 - a. Fences or privacy walls placed within required yards shall be limited to six (6) feet in height except that no fence placed between the front building line and the front property line of lots or parcels less than 1.25 acres in size shall be greater than four (4) feet in height.
 - b. Fences or walls placed within the required rear yard of waterfront lots one acre or less in size shall be limited to four (4) feet in height.
 - c. Corner lots shall maintain sight distance triangle areas. Fences and walls are prohibited within these areas.
 - d. Up to four (4) six (6) foot entry posts may be incorporated as part of an approved fence in the front yard(s).
 - e. Fences and walls shall be constructed of conventional building materials such as, but not limited to concrete block, brick, wood, decorative iron or steel.
 - f. Coated chain-link fencing shall only be allowed in side yards and in rear yards. Coated chain-link fencing and/or chain link fencing is prohibited in front yards. Refer to Chapter 30, Article VIII for chain link fence criteria within commercial zoning districts.

- g. Fences and walls shall be constructed to present the finished side of the fence or wall to the adjoining lot or any abutting right-of-way.
 - h. Barbed wire, razor wire, spire tips, sharp objects, or electrically charged fences shall be prohibited, except that the board of zoning appeals may allow the use of barbed wire in conjunction with chainlink fencing where it finds a security or hazard exists such as a utility substation, sewage treatment plant, or similar use.
3. *Agricultural districts.* For the purpose of this section, agricultural districts shall include: A agricultural and CON conservation districts. Fences and walls within agricultural districts shall be subject to the same fencing provisions as for residential districts.
4. *Commercial districts.* For the purpose of this section, commercial districts shall include: C-1/T, C-2, C-3, C-4, C-5, P public use district; and commercial parcels of PUD planned unit developments. Fences or walls shall be allowed subject to the following:
- a. Fences or walls in commercial districts shall be limited to eight feet in height and shall be permitted subject to the following conditions:
 - i. All fencing located in a front yard shall not be located within the required landscape buffer. All fencing located adjacent to an alley right-of-way may encroach five feet into the required landscape buffer.
 - ii. Fencing located adjacent to a right-of-way shall provide all code required landscaping along the side facing the right-of-way (50% if located along alley right-of-way).
 - iii. Chain link fencing is prohibited in all commercial zoning districts except within the Elkcam Circle Zoning Overlay as specified in Chapter 30, Article VIII.
 - iv. Split rail fencing shall be allowed within a landscape buffer as an embellishment.
 - v. Razor wire, spire tips, sharp objects or electrically charged fences shall be prohibited.

4. *Fencing General.*

- a. All fences and walls shall be of sound construction and shall not detract from the public health, safety and welfare of the general public.