

**ORDINANCE NO. 08- 04**

**AN ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA REVISING CHAPTER 34 OF THE CITY CODE RELATING TO PROHIBITED ACTIVITIES IN CITY PARKS, TRADITIONAL PUBLIC FORUMS AND CITY FACILITIES; PROVIDING FOR OFFENSES/ ENFORCEMENT; PROVIDING FOR INCORPORATION; PROVIDING FOR CONFLICT; PROVIDING FOR 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**, 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 good governing of the city; and

**WHEREAS**, the City of Marco Island (the “city”) desires to amend provisions of the City of Marco Island Code (the “Code”) to provide reasonable place and manner regulations to the public’s use of city owned parks, traditional public forums and public facilities and to promote fair and equal free speech in the City’s parks or public facilities.

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

**Section 1. Revisions to Chapter 34, Article 1, Section 34-1 Through Section 34-4 of the City Code.**

The City Code of the City of Marco Island is hereby amended as:

**Sec. 34-1. Title and purpose.**

(a) *Short title.* This article shall be known as and may be cited as the “Parks and Recreation Rules and Public Facilities Ordinance.

(b) *Purpose.* This article is enacted under the home rule power of the city for the purpose of providing necessary regulations, conditions and requirements which shall be uniformly applied to the general public’s use of city owned parks, traditional public forums and public facilities.

**Sec. 34-2. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

....

*Public Facility.* A structure, building or area which is open to the general public, including but not limited to city buildings, parking areas and other traditional public forums or venues owned and/or operated by the city.

**Sec. 34-3. Establishment of rules and regulations.**

The following rules and regulations are established for the public's use of city parks and facilities:

....

(f) *Advertising, signs, and commercial enterprises.* It shall be unlawful for any person to:

(1) Knowingly approach within 8 feet of any individual in a park or other traditional public forum, or other Public facility for the purpose of displaying a sign, engaging in an oral protest, educating the public, counseling or distributing leaflets or handbills, unless that individual consents to the approach or it is otherwise authorized by Florida law.

(2) Attach posters, signs or other objects to the ground or to trees, or other structures located in or upon any park or any Public facility unless authorized by city permit or Facility use policy.

(3) Beg, hawk, peddle, or solicit within the park or Public facility, unless authorized by city permit or the facility use policy.

(4) Sell or offer for sale or offer to give any article, thing, privilege, or service unless authorized by city permit or facility use policy. If so authorized, such sale or offer of any article, thing, privilege, or service must be in accordance with all applicable city, county, and state laws, codes, ordinances, rules, or regulations.

...

**Sec. 34-4. Penalties for offenses/enforcement.**

....

(c) Additionally or alternatively to any other method of enforcement specified here, any person violating any provision of this article shall be subject to expulsion from the park or Public facility.

**Section 2. Incorporation, Conflict and Severability.**

- (1) It is the intention of the City Council and is hereby ordained that the provision of this Ordinance shall become and be made a part of the Code of Ordinance of the City of Marco Island, Florida and that the sections of this Ordinance may be renumbered or relettered 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 Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith are hereby repealed to the extend of such conflict .
- (3) If any work, phrase, clause, subsection, or section of this Ordinance is for any reason held unconstitutional or invalid by a court of competent jurisdiction, the invalidity thereof shall not affect the validity of any remaining portions of the Ordinance.


**Section 3. Effective Date.**

This Ordinance shall take effect immediately upon adoption.

Passed in open and regular session through roll call vote by the City Council of the City of Marco Island, Florida, this 16<sup>th</sup> day of June, 2008.

Attest:


CITY OF MARCO ISLAND, FLORIDA

  
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Laura Litzan  
City Clerk

BY:

  
\_\_\_\_\_  
William D. Trotter, Chairman

Approved as to form and  
legal sufficiency:

  
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Alan L. Gabriel, City Attorney