

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

CITY OF MARCO ISLAND
ORDINANCE NO. 09- 05

AN ORDINANCE AMENDING CHAPTER 14, ARTICLE II, OF THE CODE OF ORDINANCES, OF THE CITY OF MARCO ISLAND, FLORIDA ENTITLED "CODE ENFORCEMENT BOARD" BY AMENDING SECTION 14-39, POWERS, PROVIDING AUTHORITY TO MITIGATE FINES AND FEES PREVIOUSLY IMPOSED BY THE BOARD; AMENDING SECTION 14-41, IMPOSITION OF PENALTIES, PROVIDING CRITERIA AND REQUIREMENTS FOR CONSIDERATION OF A REQUEST FOR MITIGATION; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR REPEAL OF CONFLICTS AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, The City of Marco Island has adopted an ordinance for the conduct of the Code Enforcement Board; and

WHEREAS, The Marco Island Code of Ordinances currently provides authority to the Code Enforcement Board to levy fines and penalties consistent with Florida Statutes upon conclusive determination by the Code Enforcement Board of a violation of the City's Code of Ordinances; and

WHEREAS, There are circumstances that may occasionally warrant reduction or mitigation of a fine previously imposed by the Code Enforcement Board; and

WHEREAS, The City's current Code of Ordinances provides that City Council shall have authority to mitigate or reduce fines following imposition of a lien; and

WHEREAS, City Council desires to provide authority to the Code Enforcement Board to reduce or mitigate fines in appropriate circumstances, consistent with established standards and criteria;

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

Note:
Strikethrough words are deletions to the existing words in the Land Development Code.
Underlined words are additions to the existing words in the Land Development Code.

43 underlying this Ordinance and are hereby made a specific part of this Ordinance.

44 **SECTION 2. Amendment and Adoption.**

45

46 The following sections of the City of Marco Island Code of Ordinances are amended
47 as follows:

48

49 **ARTICLE II. CODE ENFORCEMENT BOARD**

50

51 **Sec. 14-31. Title of article**

52 This article shall be known and may be cited as the "City of Marco Island Code
53 Enforcement Board Ordinance."

54

55 **Sec. 14-32. Definitions**

56 The following words, terms and phrases, when used in this article, shall have the
57 meanings ascribed to them in this section, except where the context clearly indicates a
58 different meaning:

59 *City attorney* means the legal counsel to the council.

60 *Clerk to the code enforcement board* means the clerk to the city council, or the designee
61 of such person, who shall be responsible for minutes and other records of a code
62 enforcement board and such other matters as provided for in this article.

63 *Code enforcement official* means any authorized agent or employee of the city whose
64 duty it is to ensure code and ordinance compliance, and who is responsible for the
65 enforcement or implementation of codes and ordinances of the city.

66 *Enforcement board* means the city code enforcement board.

67 *Hold-over term* means the continuation of an expired term of a code enforcement board
68 member who, prior to the expiration date of such member's term, presided over the
69 presentation of a case hearing that had not reached conclusion with a final vote by the
70 time of the expiration date of such term. Such continuation of a member's expired term
71 shall be extended for the limited time and for the limited purpose of presiding over such
72 particular case until conclusion and final vote and the time for rehearing has passed. If a
73 rehearing is granted, such member's term shall continue for the limited time and limited
74 purpose to rehear the matter and reach a conclusion by final vote.

75 *Person* means an individual, association, firm, partnership, corporation, or other legal
76 entity recognized under the laws of the state.

77 *Prosecutor* means the city attorney and/or any member of the city staff who presents
78 cases before an enforcement board, as applicable.

79 *Violator* means a person alleged to, or who has been found to, have violated any
80 ordinance or code of the city which a code enforcement board has jurisdiction to enforce.

81 **Cross references:** Definitions generally, § 1-2.

82

83 **Sec. 14-33. Findings; purpose of article**

84 The city council does hereby make the following findings:

85 (1) It is the intent and purpose of this article to promote, protect and improve the health,
86 safety and welfare of the citizens of the city by authorizing the creation of a code

Note:

~~Strikethrough words~~ are deletions to the existing words in the Land Development Code.

Underlined words are additions to the existing words in the Land Development Code.

87 enforcement board, with authority to impose administrative fines and other noncriminal
88 penalties.
89 (2) The purpose and function of such code enforcement board is to provide an equitable,
90 expeditious, effective and inexpensive method of enforcing the codes and ordinances of
91 the city, with the exception of traffic violations, where a pending or repeated violation
92 continues to exist, including but not limited to housing regulations, occupational license
93 regulations, fire regulations, development standards, building regulations, zoning
94 regulations, and sign codes.
95 (3) It is in the best interest of the citizens of the city to create such a code enforcement
96 board as a supplemental and additional means of enforcement.

97
98 **Sec. 14-34. Applicability of article**
99 This article shall apply to and be enforced within the territorial limits of the city.

100
101 **Sec. 14-35. Membership; compensation of members; appointment and term of**
102 **members; vacancies**

103 (a) The council may appoint one seven-member code enforcement board. All members
104 of the code enforcement board shall be permanent residents and electors of the city and
105 shall serve without compensation. Members may be reimbursed for such travel, mileage,
106 and per diem expenses as may be authorized, in advance, by the council.

107 (b) Term of office. The members of the code enforcement board shall be appointed for a
108 term of three years on a staggered basis.

109 (c) The appointment of members to the enforcement board shall be made on the basis of
110 experience or interest in the fields of zoning and building control, or other areas as are
111 relevant to the codes or ordinances of the city, which are to be enforced. The membership
112 of the enforcement board shall, whenever possible, include, but not be limited to, an
113 architect, a businessperson, an engineer, a general contractor, a subcontractor and a
114 realtor.

115 (d) If any member's term expires during the pendency of any case which has not reached
116 conclusion by a final vote, such member's expired term shall be extended for the limited
117 time and for the limited purpose of presiding over such particular case until conclusion
118 and final vote and the time for rehearing has passed. If a rehearing is granted, such
119 member's terms shall continue for the limited time and limited purpose to rehear the
120 matter and reach a conclusion by final vote.

121 (e) An appointment to fill any vacancy on the code enforcement board shall be for the
122 remainder of the unexpired term of office. If any member fails to attend two of three
123 successive meetings without cause and without prior approval of the chair, the code
124 enforcement board shall declare the member's office vacant, and the city council shall
125 promptly fill such vacancy.

126 (f) The members shall serve in accordance with ordinances of the city council and may
127 be suspended and removed for cause as provided in such ordinances for removal of
128 members of boards.

129
130
131

Note:
~~Strikethrough words~~ are deletions to the existing words in the Land Development Code.
Underlined words are additions to the existing words in the Land Development Code.

132 **Sec. 14-36. Rules of procedure; staff support; reports**

133 (a) *Rules of procedure.* The enforcement board may adopt such rules and regulations as
134 it may deem necessary to carry out the duties of the enforcement board in accordance
135 with the provisions and intent of this article.

136 (b) *Staff support.* The council shall provide such clerical and administrative personnel
137 and legal services as may be reasonably required by the board for the proper performance
138 of its duties.

139 (c) *Counsel.* The city attorney, or his designee, shall either be counsel for the
140 enforcement board or shall represent the city by presenting cases before the enforcement
141 board, but in no case shall the city attorney or a member of his staff serve in both
142 capacities for the same case or at the same time.

143
144 **Sec. 14-37. Enforcement procedure.**

145 (a) *Initiation of proceedings.* It shall be the duty of the code enforcement official to
146 initiate enforcement proceedings. No member of the enforcement board shall have the
147 power to initiate enforcement proceedings.

148 (b) *Notice of violation.* Except as provided in subsection (e) of this section, if a
149 violation of a code or ordinance is found to exist, the code enforcement official shall first
150 notify the violator and shall give the violator a reasonable time to correct the violation.
151 Notice shall be given in writing pursuant to section 14-44, and shall specify the alleged
152 violation, the required corrective action and the time period for correction.

153 (c) *Affidavit of violation; notice of hearing.* Should the violation continue beyond the
154 time specified for correction, the code enforcement official shall execute a written
155 affidavit of violation which shall include a statement of the facts and circumstances of the
156 alleged violation and shall identify the code or ordinance which has been violated. Upon
157 notification and request by the code enforcement official, the enforcement board, through
158 its clerical staff, shall schedule a public hearing. Written notice of the scheduled hearing,
159 which shall contain the date, time and place of the hearing, and a copy of the affidavit of
160 violation shall be provided to the violator pursuant to the provisions of section 14-44.
161 Failure to provide proper notice may be grounds for continuing the hearing but shall not
162 be grounds for dismissal of the charges.

163 (d) *Hearing before board.* If the violation is corrected and thereafter recurs, or if the
164 violation is not corrected by the time specified for correction, the case shall be presented
165 to the enforcement board even if the violation has been corrected prior to the board
166 meeting, and, if practicable, the notice shall so state.

167 (e) *Emergency measures.* If the code enforcement official has reason to believe a
168 violation presents a serious threat to the public health, safety, and welfare or if the
169 violation is irreparable or irreversible in nature, the code enforcement official shall make
170 a reasonable effort to notify the violator and may immediately notify the enforcement
171 board and request a hearing. Under such circumstances the code enforcement official
172 shall not be required to adhere to the notice requirements set forth in section 14-44.

173
174 **Sec. 14-38. Conduct of hearings**

175 (a) Upon the request of the code enforcement official, or at such other time as may be
176 necessary, the chairman of the enforcement board may call hearings of the enforcement

177 board. At any hearing, the enforcement board may set a future hearing date. The
178 enforcement board shall attempt to convene no less frequently than once every three
179 months, but it may meet more or less often as the demand necessitates. Minutes shall be
180 kept of all hearings of the enforcement board, and all hearings and proceedings shall be
181 open to the public.

182 (b) Each case before the enforcement board shall be presented by the city attorney or,
183 alternatively, by a member of the city staff.

184 (c) Assuming proper notice of the hearing has been provided to the alleged violator as
185 provided in section 14-44, a hearing may proceed in the absence of the alleged violator.

186 (d) The enforcement board shall proceed to hear the cases on the agenda for that day.
187 All testimonies shall be under oath and shall be recorded. The enforcement board shall
188 take testimony from the code enforcement official and alleged violator, and from such
189 other witnesses as may be called by the respective parties. Formal rules of evidence shall
190 not apply, but fundamental due process shall be observed and shall govern the
191 proceedings.

192 (e) Irrelevant, immaterial or unduly repetitious evidence shall be excluded, but all other
193 evidence of a type commonly relied upon by reasonably prudent persons in the conduct
194 of their affairs shall be admissible, whether or not such evidence would be admissible in a
195 trial in the courts of the state.

196 (f) Any member of the enforcement board, or any attorney appointed to represent the
197 board, may inquire of any witness before the board. The alleged violator, or his attorney,
198 the attorney representing the city and the prosecutor shall be permitted to inquire of any
199 witness before the board.

200 (g) At the conclusion of the hearing, the enforcement board shall issue findings of fact
201 based on evidence of record and conclusions of law, and shall issue an order affording the
202 proper relief consistent with powers granted in this article and by state statutes. The order
203 shall be stated orally at the hearing and shall be reduced to writing and mailed to the
204 violator within ten days after the hearing. The findings shall be by motion approved by a
205 majority of those members present and voting, except that at least four members of the
206 board must vote in order for the action to be official. The order may include a notice that
207 it must be complied with by a specified date and that a fine may be imposed if the order
208 is not complied with by such date.

209 (h) Should the enforcement board be unable to issue a decision immediately following
210 any hearing because of questions of law or other matters of such nature that a decision
211 cannot be immediately made, the board may withhold issuing its decision until a
212 subsequent meeting. In such case, further discussion of the pending matter and all
213 deliberations relating thereto by members of the enforcement board shall occur at a
214 public meeting of the board. The board shall thereafter issue its decision pursuant to
215 subsection (g) of this section.

216

217 **Sec. 14-39. Powers**

218 The code enforcement board shall have the power to:

219 (1) Adopt rules and regulations for the conduct of its hearings.

- 220 (2) Subpoena alleged violators and witnesses to appear at its hearings, which subpoenas
221 may be served by the county sheriff or any person permitted to serve subpoenas under
222 state law.
- 223 (3) Subpoena evidence, including but not limited to records, surveys, plats, and other
224 documentary evidence, which subpoenas may be served by the county sheriff or any
225 person permitted to serve subpoenas under state law.
- 226 (4) Take testimony under oath.
- 227 (5) Hold hearings.
- 228 (6) Issue orders having the force of law to command whatever steps are necessary to
229 bring a violation into compliance.
- 230 (7) Order the payment of fines as provided for in this article, administrative fees related
231 to the costs incurred by the City in the investigation and prosecution of code violations
232 and any other fines, fees, costs or penalties authorized by law.
- 233 (8) Mitigate fines and administrative fees previously imposed by the Board.

234

235 **Sec. 14-40. Subpoenas**

236 (a) Every subpoena for testimony before the enforcement board shall be issued by the
237 clerk of the circuit court, or by any person permitted to issue a subpoena under state law,
238 as ex-officio clerk to the board, under the seal of the city. Each subpoena shall state the
239 name of the enforcement board, the title of the action, the case number of the action, the
240 name and address of the person to whom the subpoena is issued, and the time, place and
241 location of the hearing at which the person is directed to appear, and shall be prepared by
242 the party requesting issuance.

243 (b) A subpoena for production of documentary evidence may also be issued to
244 command the person to whom it is directed to produce the books, papers, documents or
245 tangible items designated therein. The enforcement board, upon motion to quash made
246 promptly and in any event at or before the time specified in the subpoena for compliance
247 therewith, may:

248 (1) Quash or modify the subpoena if it is unreasonable and oppressive; or

249 (2) Condition denial of the motion upon the advancement by the person in whose behalf
250 the subpoena is issued of the reasonable cost of producing the books, papers, documents
251 or tangible items.

252 (c) A subpoena may be served by any person authorized by law to serve process or by
253 any other person who is not a party to the action and who is not less than 18 years of age.
254 Proof of such service shall be made by affidavit of the person making service if not
255 served by an officer authorized by law to do so. Proof of service shall be filed with the
256 clerk to the enforcement board. Payment of any service fee shall be made by the party at
257 whose request the service is made.

258 (d) Persons subpoenaed, with the exception of the alleged violator, shall be entitled to a
259 witness fee and mileage compensation as provided for in F.S. § 92.142. The cost of the
260 witness fee and mileage compensation shall be borne by the party at whose request the
261 subpoena is issued and shall be paid to the witness at or before the time of service.

262

263

264

Note:

~~Strikethrough words~~ are deletions to the existing words in the Land Development Code.

Underlined words are additions to the existing words in the Land Development Code.

265 **Sec. 14-41. Imposition of penalties**

266 (a) *Maximum fine.* The enforcement board, upon notification by the code enforcement
267 official, that a previous order of the board for a first violation has not been complied with
268 by the specified time, may order the violator to pay a fine which shall not exceed \$250.00
269 per day for each day the first violation continues past the date set for compliance, or, in
270 the case of a repeat violator, may order the repeat violator to pay a fine which shall not
271 exceed \$500.00 per day for each day the repeat violation continues, and a hearing shall
272 not be necessary for the issuance of the order. If the enforcement board finds a violation
273 to be irreparable or irreversible in nature, it may impose a fine not to exceed \$5,000.00
274 per violation.

275 (b) *Determination of fine.* In determining the amount of the fine, if any, the
276 enforcement board shall consider the following factors:

- 277 (1) The gravity of the violation;
278 (2) Any actions taken by the violator to correct the violation; and
279 (3) Any previous violations committed by the violator.

280 (c) *Recording of order; lien.*

281 (1) A certified copy of an order imposing a fine may be recorded in the public records
282 and thereafter shall constitute a lien against the land on which the violation occurred or
283 exists and upon any other real or personal property owned by the violator; and it may be
284 enforced in the same manner as a court judgment by the sheriffs of this state, including
285 levy against personal property, but shall not be deemed to be a court judgment except for
286 enforcement purposes. After six months from the filing of any such lien which remains
287 unpaid, the enforcement board may authorize the city attorney to foreclose on the lien.
288 No lien created pursuant to this article may be foreclosed on real property which is a
289 homestead under section 4, article X of the state constitution.

290 (2) No lien provided for under this article shall continue for a period longer than 20
291 years after the certified copy of an order imposing a fine has been recorded, unless within
292 that time an action to foreclose on the lien is commenced in a court of competent
293 jurisdiction. The continuation of the lien effected by the commencement of the action
294 shall not be good against creditors or subsequent purchasers for valuable consideration
295 without notice, unless a notice of lis pendens is recorded.

296
297 (d) Mitigation of fines and administrative fees. The Board shall have the authority to
298 hear and decide a request for the mitigation of a fine and/or an administrative fee
299 previously imposed by the Board. The term "fine" as hereinafter used in this section shall
300 be understood to also include administrative fees. Such request must be from a person or
301 entity with standing (one who is directly affected by the fine previously imposed). The
302 request shall be provided in the form of a written, notarized statement which shall specify
303 the grounds supporting the request and shall be filed with the Clerk of the Board. All
304 documentation or other evidence supporting the request shall be provided with the written
305 request.

306
307 A request for mitigation shall not be heard by the Board unless there is compliance with
308 the underlying City Code section or sections the violation of which resulted in the fine(s)
309 sought to be mitigated and compliance with all other sections of the City Code at the

Note:

~~Strikethrough words~~ are deletions to the existing words in the Land Development Code.

Underlined words are additions to the existing words in the Land Development Code.

310 property. Any dispute between the requesting party and the City's Code Compliance staff
311 as to the status of compliance shall be determined by the Board in advance of any hearing
312 on a mitigation request.

313
314 The Board is authorized to hear mitigation requests whether or not the order imposing the
315 fine has been recorded and has resulted in a City lien against real property. The Board is
316 not authorized to mitigate an actual cost incurred by the City in an attempt to bring
317 property into compliance with City Code. A request for mitigation of fine shall not be an
318 opportunity or be used for the purpose of any attempt to rehear or appeal any finding of
319 fact or conclusion of law set forth in previous orders of the Board.

320
321 The Board may consider the following criteria, to the extent deemed by the Board to be
322 applicable or relevant, in determining whether to mitigate an imposed fine and the extent
323 of such mitigation:

- 324
325 1. The gravity of the violation.
326 2. The actions of the respondent to correct the violation and the timing of such
327 actions.
328 3. The cooperation of the respondent, including whether or not the respondent
329 appeared at previous hearings.
330 4. Whether the failure to comply was caused by circumstances beyond the control
331 of the respondent.
332 5. Whether there was any extraordinary hardship which existed or currently exists.
333 6. The impact of the violation on neighboring properties.
334 7. Any prejudice to any party resulting from the delay in requesting mitigation.
335 8. The total administrative cost to the City for handling the case to date, including
336 but not limited to staff time, actual expenditures and fees for recording or
337 otherwise.
338 9. Any previous or repeat violations committed by the respondent.
339 10. The recommendation of the Chief of Code Compliance.
340 11. Any other information or circumstances that would justify mitigation in the
341 Board's sound discretion.

342
343 The Board shall issue its mitigation order either granting or denying mitigation of the
344 imposed fine, including the grounds for its decision. The Order shall be provided to the
345 respondent in the same manner as other orders of the Board. A condition of every order
346 resulting in a reduction of the fine(s) previously imposed shall be the payment of the
347 reduced amount of the fine, if any, within a time to be determined by the Board. Failure
348 to make payment by that time shall render the mitigation order void and of no effect, and
349 shall have the effect of automatically reinstating the original fine imposed. The Board
350 may impose other conditions on granting the mitigation request and may provide for
351 additional hearings upon request to determine if compliance with these conditions has
352 been achieved. Upon receipt of timely payment of the mitigated fine, a satisfaction of lien
353 shall be recorded in the public records where appropriate.

354

Note:

~~Strikethrough~~ words are deletions to the existing words in the Land Development Code.

Underlined words are additions to the existing words in the Land Development Code.

355 The Board's mitigation order shall be final unless an appeal to the City Council is filed in
356 writing within 20 days of the issuance of the Board's mitigation order setting forth the
357 grounds why the Board's mitigation order should be set aside and a new decision
358 rendered by the Council. The City Council, within a reasonable time of the filing of the
359 appeal, shall determine, at a public hearing, whether good cause exists, based on the
360 grounds asserted in the appeal request, to justify Council hearing the appeal of the
361 Board's mitigation order. If the Council determines that there is good cause to hear the
362 appeal, it shall do so at a subsequent public hearing after which it shall issue its decision
363 either affirming or amending the mitigation order of the Board. If the Council determines
364 that no good cause exists justifying hearing an appeal of the Board's mitigation order, the
365 Board's mitigation order shall remain in full force and effect and shall become final.

366
367 If, after hearing an appeal, a fine is mitigated by the Council, it shall be conditioned on
368 the payment of the reduced amount of the fine, if any, within a time to be determined by
369 the Council. Failure to make payment by that time shall render the Council's decision
370 void and of no effect, and shall have the effect of automatically reinstating the Board's
371 mitigation order. The Council may impose other conditions upon granting the appeal and
372 may provide for additional proceedings to determine if compliance with these conditions
373 has been achieved. Upon receipt of timely payment of the mitigated fine, a satisfaction of
374 lien shall be recorded in the public records where appropriate.

375
376 If, after hearing, the Council declines to grant relief from the Board's mitigation order,
377 the mitigation order of the Board shall remain in full force and effect and become final.

378
379 The provisions of this subsection shall not be construed to limit the authority of the City
380 Council to compromise and settle any matter as provided by law.

381
382 **Sec. 14-42. Rehearing of board action**

383 (a) *Request for rehearing.* Either the prosecutor or the violator may request a rehearing
384 of the decision of the enforcement board. A request for rehearing shall be made in writing
385 and shall be filed with the city manager, c/o clerk to the enforcement board, within ten
386 days of the date of receipt of the board's written order, but in any event not more than 20
387 days from the date of mailing of the written order. A request for rehearing shall be based
388 only on the ground that the decision was contrary to the evidence or that the hearing
389 involved an error on a ruling of law which was fundamental to the decision of the
390 enforcement board. The written request for rehearing shall specify the precise reasons
391 therefor.

392 (b) *Granting of rehearing.* The enforcement board shall make a determination as to
393 whether or not to rehear the matter and its decision shall be made at a public meeting,
394 reduced to writing and mailed to the interested parties within ten days after the decision is
395 made. If the enforcement board determines it will grant a rehearing, it may:

396 (1) Schedule a hearing where the parties will be given the opportunity of presenting
397 evidence or argument limited by the enforcement board to the specific reasons for which
398 the rehearing was granted; or

399 (2) Modify or reverse its prior order, without receiving further evidence, providing that
400 the change is based on a finding that the prior decision of the enforcement board resulted
401 from a ruling on a question of law which the enforcement board has been informed was
402 an erroneous ruling.

403 (c) *Stay of original order.* The original order of the enforcement board shall be stayed,
404 and the time for taking an appeal pursuant to section 14-43 shall not commence to run
405 until a request for rehearing has been denied or otherwise disposed of and the written
406 decision has been received by the interested parties; provided, however, that in no event
407 shall the order be stayed for a period longer than 20 days from the date of mailing of the
408 rehearing decision.

409

410 **Sec. 14-43. Appeals**

411 (a) Any aggrieved party, including the council, may appeal a final administrative order
412 of the enforcement board to the circuit court. Such an appeal shall not be a hearing de
413 novo, but shall be limited to appellate review of the record created before the
414 enforcement board. Any appeal shall be filed within 30 days of the execution of the order
415 to be appealed.

416 (b) If a party to the proceedings before the enforcement board should elect to appeal, a
417 verbatim record of the proceedings may be required or may be desirable. It shall be the
418 sole responsibility of each party to the proceedings to ensure that a record is made which
419 includes the testimony upon which an appeal may be taken. Neither the city nor the
420 enforcement board shall have any responsibility to provide a verbatim transcript of the
421 proceedings.

422

423 **Sec. 14-44. Service of notices**

424 (a) All notices required by this article shall be provided by certified mail, return receipt
425 requested, or by hand delivery by the director, sheriff or other law enforcement officer,
426 code enforcement official, or other person designated by the board, or by leaving the
427 notice at the violator's usual place of residence with some person of his family over 15
428 years of age and informing such person of the contents of the notice.

429 (b) In addition to providing notice as set forth in subsection (a) of this section, at the
430 option of the board, notice may also be served by publication, as follows:

431 (1) Such notice shall be published once during each week for four consecutive weeks
432 (four publications being sufficient) in a newspaper of general circulation in the city. The
433 newspaper shall meet such requirements as are prescribed under F.S. ch. 50 for legal and
434 official advertisements.

435 (2) Proof of publication shall be made as provided in F.S. §§ 50.041 and 50.051.

436 (3) In lieu of publication as described in subsection (b)(1) of this section, such notice
437 may be posted for at least ten days in at least two locations, one of which shall be the
438 property upon which the violation is alleged to exist and the other of which shall be at the
439 front door of the city hall. Proof of posting shall be by affidavit of the person posting the
440 notice, which affidavit shall include a copy of the notice posted and the date and places of
441 its posting.

442 Notice by publication may run concurrently with, or may follow, an attempt to provide
443 notice by hand delivery or by mail as required under subsection (a) of this section.

444 (c) Evidence that an attempt has been made to hand deliver or mail notice as provided in
445 subsection (a) of this section, together with proof of publication as provided in subsection
446 (b) of this section, shall be sufficient to show that the notice requirements of this article
447 have been met, without regard to whether or not the alleged violator actually received
448 such notice.

449

450 **Sec. 14-45. Provisions supplemental**

451 It is the intent of this article to provide additional or supplemental means of obtaining
452 compliance with local codes and ordinances. Nothing contained in this article shall
453 prohibit the city from enforcing its codes by any appropriate civil action, or by referral to
454 the state attorney's office for prosecution in the case of a criminal violation, and/or by
455 presentation to any other city board or agency with jurisdiction to hear and act upon the
456 alleged code or ordinance violation.

457

458 **Secs. 14-46–14-70. Reserved**

459

460 **SECTION 3. Inclusion in the Code of Ordinances.**

461

462 It is the intention of the City Council and it is hereby ordained that the
463 amendments to the Code of Ordinances adopted by this Ordinance shall be included and
464 become a part of the Code of Ordinances of the City of Marco Island. The sections of
465 this Ordinance, as adopted, may be renumbered or relettered and that the word
466 “ordinance” may be changed to “section,” “article,” or other appropriate word.

467 **SECTION 4. Conflicts and Severability.**

468 If any word, phrase, clause, subsection, or section of this Ordinance is for any
469 reason held unconstitutional or invalid for any reason or cause, the remaining portion of
470 this Ordinance shall remain in full force and effect and shall be valid as if the invalid
471 portion was not included in the Ordinance. All sections or parts of sections of all existing
472 ordinances in conflict with this Ordinance shall be and the same are hereby repealed to
473 the extent of such conflict.

474

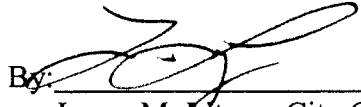
475 **SECTION 5. Effective Date.**

476 This Ordinance shall take effect immediately upon adoption.

477 ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND

478 THIS 1st day of June, 2009.

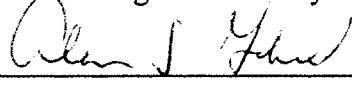
479 Attest: CITY OF MARCO ISLAND, FLORIDA

480
481
482 By: 
483 Laura M. Litzan, City Clerk

By: 
Robert J. Popoff, Chairman

484
485 (SEAL)

486
487
488 Reviewed for legal sufficiency:

489
490 By: 
491 Alan L. Gabriel, City Attorney

492
493
494
495
496
497

Note:
~~Strikethrough~~ words are deletions to the existing words in the Land Development Code.
Underlined words are additions to the existing words in the Land Development Code.