

CITY OF MARCO ISLAND
MARCO ISLAND, FLORIDA

ORDINANCE NO. 09-15

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA, APPROVING CERTAIN AMENDMENTS TO THE CITY CHARTER PENDING THE RESULTS OF A SPECIAL ELECTION; CALLING A SPECIAL ELECTION ON THE PROPOSED AMENDMENTS TO THE CITY CHARTER TO BE HELD ON TUESDAY, JANUARY 26, 2010; PROVIDING FOR SUBMISSION TO THE ELECTORS FOR APPROVAL OR DISAPPROVAL OF A SERIES OF PROPOSED CHARTER AMENDMENTS; PROVIDING FOR REQUISITE BALLOT LANGUAGE; PROVIDING FOR PROCEDURE FOR BALLOTING; PROVIDING FOR NOTICE; PROVIDING FOR RELATED MATTERS; PROVIDING FOR INCLUSION IN CHARTER; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council has determined that certain amendments are needed to the City Charter (the "Charter Amendments") in order to clarify and update the Charter and to provide for certain additional amendments as provided herein; and

WHEREAS, pursuant to Section 166.031, Florida Statutes, the City Council is required to submit the Charter Amendments to the electors of the City for approval or rejection.

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

Section 1: That the foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

Section 2: That pursuant to Section 166.031, Florida Statutes, the City Charter of the City of Marco Island, Florida, is amended to read, in its entirety, as follows:¹

¹Proposed additions to existing Charter text are shown by underlining; proposed deletions from existing Charter text are shown by ~~strike through~~.

**ARTICLE I – INCORPORATION-CORPORATE EXISTENCE; FORM OF
GOVERNMENT; POWERS**

Section 1.01 – Incorporation-Corporate Existence

~~There is hereby created and confirmed a municipal corporation, established August 27, 1997, in Collier County, Florida, by and under the name of the City of Marco Island, which henceforth shall comprise and include the lands in said county hereinafter described, and which city shall have the jurisdiction, powers, rights, and privileges set forth in this Charter.~~

A municipal corporation known as the City of Marco Island (the "City"), established August 27, 1997, in Collier County, Florida, is hereby confirmed and continued pursuant to this Charter and the Constitution of the State of Florida.

Section 1.02. Form of government.

The City shall have a Council-Manager form of government.

Section 1.023 – Municipal Powers.

All powers possible are granted to the eCity under the Constitution and the laws of the State of Florida. The eCity shall have all governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services. The eCity may exercise any power for municipal purposes unless expressly prohibited by law. ~~The powers of the city shall be liberally construed in favor of the city.~~

Section 1.034 – Expenditure Limitations.

(1) ~~Notwithstanding section 1.023 above, operating expenditures shall be limited to an increase from the prior year's expenditures of three percent (3%) plus the then-current Federal C.O.L.A. (Department of Labor, Bureau of Statistics, Consumer Price Index) per annum following the third full year of incorporation; except that this shall not apply to: emergencies; capital expenditures as provided in section 6.01; expenditures relating to projects or programs funded by grants, gifts, or impact fees; and expenditures, including debt service payments, relating to utility or other enterprise funds which are intended to be self-supporting for governmental accounting purposes; expenditures related to extension of the City's wastewater utility system to serve unsewered areas provided such expenditures are funded by general obligation bonds or other obligations, including loans, approved by referendum of the electors of the City; and debt service payments related to such obligations.~~

(2) The spending cap shall be retained. Notwithstanding the results of the calculation conducted under Section 1.04(1) above, in those circumstances where the results of the calculation would otherwise mandate a reduction of appropriations from one year to the next year, Council shall have the authority to approve operating expenditures in an amount up to that which was expended in fiscal year 2008 plus annual increases of 3% plus C.O.L.A.

(3) Any expenditures exceeding 12 million dollars (\$12,000,000) shall be adopted by Ordinance. Notwithstanding the foregoing, the City shall have the authority to approve expenditures, by Resolution, for the creation of, or improvements to, the Septic Tank Replacement Program and the Wastewater Treatment Facility expansion to accommodate the Septic Tank Replacement Program.

Section 1.045 Dissolution.

The eCharter of the eCity may not be revoked except in accordance with the dissolution procedures of Chapter 165, Florida Statutes.

Section 1.06. Construction.

This Charter and The powers of the City shall be construed liberally in favor of the City.

ARTICLE II – CORPORATE LIMITS

Section 2.01 – Description of Corporate Limits.

~~The following shall constitute the Corporate Limits of the City of Marco Island:~~

~~A Corporate Line lying offshore from Marco Island, in portions of Township 52 South, Range 26 East, Collier County, Florida, which line is described as follows: From the corner common to Sections 17, 18, 19, and 20, Township 52 South, Range 26 East, run Westerly along the line common to said Sections 18 and 19 to a point 2,640 feet offshore in the Gulf of Mexico from the Mean High Tide Line Section 18 and the point of beginning. From said point of beginning, run Southerly 2,640 feet offshore from the Mean High Tide Line of Marco Island, past the Southerly point of said Island to the mouth of Caxambas Pass, thence run Northeasterly in the waters of Caxambas Pass to the center line of the channel of said Caxambas Pass; thence run Easterly along the centerline of the channel of Caxambas Pass, to a point intersecting a marked channel running Northerly towards Barfield Bay; thence run Northerly along the centerline of said channel to a point 300 feet offshore in Barfield Bay from the Mean High Tide Line of the Easterly end of lands formerly known as J. M. Barfield Subdivision, thence run Northerly, Easterly, and Southerly, 300 feet offshore in Barfield Bay from the Mean High Tide Line of Marco Island to intersection with the centerline of Blue Hill Creek; thence run Southeasterly along the centerline of Blue Hill Creek to a point 300 feet offshore in Blue Hill Bay from the Mean High Tide Line of Marco Island; thence continue Northerly, Easterly, and Southerly 300 feet offshore in Blue Hill Bay from the Mean High Tide Line of Marco Island to centerline of the aforementioned Blue Hill Creek, thence run Northeasterly along the centerline of Blue Hill Creek, but to a point intersecting the line common to Range 26 East and Range 27 East, Township 52 South, Collier County, Florida; thence run Northerly along the line common to said Range 26 and 27, but to a point intersecting the centerline of the channel of the Big Marco River, thence Northerly, Northwesterly, and Westerly along the centerline of the aforementioned Big Marco River and out through the marked Capri Pass, being 2,640 feet offshore from the Mean High Tide Line of Marco Island; thence run Southwesterly, Southerly, and Southeasterly 2,640 feet offshore from the Mean High Tide Line of Marco Island to the point~~

~~of Beginning lying along the East-West line common to Sections 18 and 19, Township 52 South; Range 26 East.~~

The boundaries of the City are depicted on the map dated February 10, 2005, which is on file in the Office of the City Clerk. The map shall be deemed to be amended pursuant to annexation authorized by City Ordinance.

ARTICLE III – LEGISLATIVE

Section 3.01 – City Council.

~~(1) All legislative authority shall be vested in a seven-member eCity eCouncil elected from and representing the eCity at-large. The seven separate Council seats shall be designated as seat one through seat seven (individually each is a “Seat”).~~

~~(2) If at any time subsequent to the initial election, the electorate and/or the city council conclude that the demographics of the city warrant that some of the city council seats should represent certain city districts while still being voted on by all the city electors, such changes can be effected as provided for in the Municipal Home Rules Powers Act, chapter 166, Florida Statutes, or as provided for in section 6.01 and section 7.01 of this charter.~~

Section 3.02 – Terms.

~~(1) The term of office shall be four years and no eCouncil mMember shall serve more than two full consecutive terms. No Council Member (or former Council Member) shall serve more than eight years in office during his/her lifetime, except those whose terms were extended by changes to the election date.~~

~~(2) The terms shall be staggered such that elections to fill four seats shall be conducted during presidential primary election years, and three seats during non-presidential primary election years. The election beginning with the 2012 election, the election for Council Seats 1, 3, 5 and 7 shall be held on the first Tuesday following the first Monday in November 2012, and every four (4) years thereafter. The election for Council Seats 2, 4, and 6 shall be held on the first Tuesday following the first Monday in November 2014, and every four (4) years thereafter.~~

~~Section 3.03 – Seats.~~

~~There shall be seven separate council seats designated as seat one through seat seven.~~

Section 3.043 – Compensation.

The salary compensation of each eCouncil mMember, except for the eChairman, shall be \$6,000 per year, payable in equal monthly installments. The salary compensation of the eChairman shall be \$9,000 per year, payable in equal monthly installments. No increase in the salary of council members shall be effective until after the next election for each office. Effective April 1, 2010, a one-time increase of the annual Federal C.O.L.A. for each year since the City’s incorporation shall be applied to the annual compensation of each Council Member and the Chairman. Beginning January 1, 2011, and every year thereafter, the compensation of each Council Member and the Chairman shall increase from the prior year by the current Federal C.O.L.A. (Department of Labor, Bureau of Statistics, Consumer Price Index).

Section 3.054 - General Provisions.

(1) The eCouncil shall elect a eChairman and vVice-eChairman to serve for a term of one year, at the first meeting following the eCouncil election and the annual anniversary thereafter.

(2) The eChairman shall preside at meetings of the eCouncil, shall have a voice and vote in its proceedings, and shall be recognized as head of eCity government for ceremonial purposes and for purposes of military law.

(3) The vVice-eChairman, in the absence of the eChairman, shall have all the power and prerogative to perform the duties of the eChairman.

(4) No former eCouncil mMember shall hold any compensated eCity position until four years after the expiration of the term for which the eCouncil mMember was elected.

(5) No eCouncil mMember shall direct or request, or participate in, the appointment or removal by the eCity mManager of any employee in the administrative service of the eCity. ~~Any council member in violation of this provision shall be subject to recall.~~

(6) Except for the purpose of inquiry, the eCouncil and its mMembers shall deal with the administrative service solely through the eCity mManager and neither the eCouncil nor any mMember thereof shall give orders to any subordinates of the eCity mManager, either publicly or privately. ~~Any council member violating the provisions of this section shall be subject to recall.~~

(7) Notwithstanding the provisions of (6) above, upon the affirmative vote of five (5) or more Council Members, the Council shall conduct investigations into the activities or the performance of any City department, agency, administration, City Manager, staff or employee. Investigations may be conducted by the Council as a whole or delegated by Council to any Council Member(s), or to another person(s) and/or entity. Council shall act on any such findings as it may determine to be in the best interest of the City.

Section 3.065 – Vacancies.

(1) The sSeat held by a eCouncil mMember shall become vacant upon resignation, death, removal from office as authorized by law, or by forfeiture of office.

(2) A Council mMember shall forfeit the ~~office~~Seat held upon determination of the eCouncil by a majority vote of the eCouncil mMembers seated, that the eCouncil mMember:

- (a) Ceases to maintain permanent residence in the eCity or otherwise ceases to be a qualified elector of the eCity,
- (b) Is absent from six regular meetings of eCouncil during any calendar year, or ~~for~~ from any four consecutive regular meetings of eCouncil, whether or not during the same calendar year, unless excused by a majority vote of the eCouncil,~~or~~
- (c) Is ~~disabled~~ incapacitated and unable to fulfill the responsibility of the office.

(3) A vacancy on the eCouncil shall be filled as follows:

- (a) If a vacancy occurs and the remainder of the unexpired term is 28 months or less, the remaining eCouncil mMembers shall, within sixty (60) days following the occurrence of such vacancy, by majority vote of the eCouncil mMembers ~~seated~~, appoint a person to fill the vacancy for the remainder of the unexpired term.

- (b) If the remainder of the unexpired term exceeds 28 months, the remaining eCouncil mMembers shall, within sixty (60) days following the occurrence of such vacancy, by majority vote of the eCouncil mMembers seated, appoint a person to fill the vacancy until the next regularly scheduled eCity election at which the balance of the term for the seat shall be filled in accordance with Article V.
- (c) If four or more eCouncil vacancies occur at one time, the Governor shall fill such vacancies until successors are chosen at the next regular election.

Section 3.076 – Meetings and Procedures.

(1) The eCouncil shall schedule a minimum of twelve (12) regular meetings each year. Special meetings may be held at the call of the eChairman or a majority of mMembers and, except in an emergency, all meetings shall be upon at least 24 hours notice to each mMember and the public.

(2) A majority of the eCouncil shall constitute a quorum. No action by the eCouncil shall be valid unless adopted by the affirmative vote of at least a majority of eCouncil mMembers present and voting at the eCity eCouncil meeting. Nothing herein shall prohibit the eCity eCouncil from enacting an ordinance which provides for a supermajority vote unless otherwise required or prohibited by law.

(3) All eCouncil mMembers present shall vote on all matters before the eCity eCouncil except on those matters on which a eCouncil mMember announces a conflict of interest or the eCity attorney determines there is a conflict of interest.

Section 3.087 – Appropriations.

(1) Pursuant to Section 1.043, the eCouncil shall have full authority to make or reduce appropriations as deemed necessary in accordance with general law.

(2) The eCity manager shall have authority to transfer unencumbered appropriation balances within a City fund, department, office, or agency. The eCouncil may transfer part or all of any unencumbered appropriation balance from one fund, department, office, or agency to another.

ARTICLE IV – ADMINISTRATIVE

Section 4.01 - City Manager.

There shall be a eCity manager who shall be the chief administrative officer of the eCity. The eCity manager shall be responsible to the eCouncil for the administration of all eCity affairs placed in the manager’s charge by or under this eCharter and the City Code.

Section 4.02 - Appointment; Removal; Residency; Compensation.

(1) *Appointment.* ~~The council shall appoint a city manager by a vote of five of the seven council members. The city manager shall serve at the will of the council and shall not be given a fixed term by resolution, ordinance, contract, or otherwise. The Council by an affirmative vote of five of its seven members shall appoint a City Manager for an indefinite term.~~ The City Manager shall be appointed on the basis of executive and administrative qualifications.

(2) *Removal.* The eCouncil may remove the eCity manager, by the affirmative vote of at least four members of the eCouncil. Upon request by the eCity manager, to be made

within 5 days after receipt of written notification of such vote, a public hearing shall be held within 10 days after receipt of such request. After such hearing, the eCouncil by affirmative vote of at least four eCouncil mMembers shall decide whether to reconsider its previous action.

(3) *Residency.* The City mManager need not be a resident of the eCity or sState at the time of the manager's appointment, but may reside outside the eCity while in office only with the approval of the eCouncil.

(4) *Compensation.* The compensation of the eCity mManager shall be fixed by the eCouncil.

Section 4.03 – Powers and Duties of the City Manager

The eCity mManager shall:

(1) Appoint, suspend, demote, or dismiss any eCity employee under the eCity mManager's jurisdiction in accordance with law, and may authorize any department head to exercise these powers with respect to subordinates in that department.

(2) Direct and supervise the administration of all departments of the eCity except the offices of the eCity aAttorney, ~~and shall.~~

(3) aAttend all eCity eCouncil meetings unless excused by the eCouncil, and shall have the right to take part in discussions, but not vote.

~~(3)~~(4) See that all laws, eCharter provisions, ordinances, resolutions, and other acts of the eCouncil subject to enforcement are faithfully executed, and perform such other duties as are specified in this Charter and the City Code.

~~(4)~~(5) Submit the annual budget, budget message, and capital program to the eCouncil and shall keep the eCouncil fully advised as to the financial condition and future needs of the eCity, and shall make such recommendations to the eCouncil concerning the affairs of the eCity as the eCity mManager deems appropriate. The City Manager shall promptly communicate to Council his/her reasonable expectation of any deviations of \$250,000 (plus or minus) from an expenditure identified within the annual budget.

~~(5)~~(6) Shall designate a qualified eCity employee to exercise the powers and perform the duties of eCity mManager during any temporary absence or ~~disability~~ incapacity of the eCity mManager. The eCouncil may revoke such designation at any time and appoint another qualified person, other than a currently seated eCouncil mMember, to serve as acting eCity mManager until the City Manager returns or his/her incapacity shall cease.

~~(6)~~(7) Shall appoint an employee to serve as eCity eClerk who shall give notice of public meetings, keep a journal of eCity eCouncil proceedings, attest documents, and perform other duties as assigned.

Section 4.04 - City Attorney.

There shall be a eCity aAttorney, appointed by eCouncil, who shall serve as chief legal advisor to the eCouncil and eCity administrators and shall represent the eCity in all legal proceedings and perform such other related duties, as the eCouncil may deem necessary. The eCity aAttorney may be full time or part time or on retainer as the eCouncil may deem necessary. If the position of eCity aAttorney is full time, the provisions of section 4.02 applicable to the eCity mManager shall be equally applicable to the eCity aAttorney.

ARTICLE V. NOMINATIONS AND ELECTIONS

Section 5.01 - Electors.

Any person who is a resident of the eCity, who has qualified as an elector of this state, and who registers as prescribed by law, shall be an elector of the eCity.

Section 5.02 - Nonpartisan Elections.

All elections shall be conducted on a nonpartisan basis without any designation of political party affiliation.

Section 5.03 – Qualifying.

(1) Each candidate for eCity eCouncil shall be a qualified elector of the eCity and must have been a resident of the eCity for at least one year prior to qualifying.

(2) To qualify as a candidate, petitions shall be obtained from and submitted to the ~~city manager or designee, City Clerk at a time established by ordinance by the qualifying deadline,~~ and shall contain signatures of qualified electors of the eCity equal to one (1) percent of the total number of eCity electors registered in the last general election. Each candidate's nominating petition must be accompanied by a certification of the Collier County Supervisor of Elections that the candidate had sufficient petitions signed by qualified voters of the eCity.

~~Section 5.04 – Form of Ballots.——~~

~~The city council shall prescribe the form of the ballot by ordinance.~~

Section 5.054- Elections.

~~(1)—— The regular municipal election shall be held on the second Tuesday in March of even numbered years and shall be by mail ballot except in presidential primary years when the election shall be held concurrently with the state primary election, unless the state primary election is changed from March to another month.~~

~~(2)—— At all elections the qualifying candidates receiving the highest number of votes cast shall be elected.~~

~~(3)—— Those persons certified as duly elected shall take office at Noon on the Monday following their election.~~

~~(4)—— Special elections, when required, shall be scheduled by the council at such times and in such manner as shall be consistent with this charter.~~

Pursuant to Section 100.3605(2), Florida Statutes, qualifying periods for candidates for City Council and the election of members to the City Council shall be specified by Ordinance.

Section 5.065 - Canvass of Elections.

For the canvass of votes for any election held pursuant to this eCharter, except for an election held concurrently with any regular sState or countywide election, the canvassing board shall be composed of ~~the chairman or designee if chairman is opposed or incapacitated,~~ the eCity mManager, the City Clerk and the eCity aAttorney.

Section 5.076 – Recall.

The qualified electors of the eCity shall have the power to recall and to remove any elected official as prescribed by Section 100.361(9) of the Florida Statutes, or as subsequently amended.

Section 5.087 – Adoption of Florida Election Code.

All elections required under any article or section of this eCharter shall be conducted in accordance with the provisions of the Florida Election Code in its entirety and as it is subsequently amended, except as otherwise provided in this eCharter.

ARTICLE VI – INITIATIVE, REFERENDUM, RECALL

Section 6.01 – Initiative and Referendum.

(1) Ten percent (10%) of the qualified electors of the eCity shall have the power to petition the eCouncil to propose an ordinance or to require reconsideration of an adopted ordinance, provided that such power shall not extend to the budget or capital program or to any ordinances relating to appropriations of money, levy of taxes, or salaries of eCity officers or employees, but shall extend to an ordinance providing any single capital expenditure in excess of \$250,000. If the eCouncil fails to adopt such ordinance so proposed, or to repeal such adopted ordinance, without any change in substance, the eCouncil shall place the proposed ordinance, or the repeal of the adopted ordinance, on the ballot at the next general election, or, in eCouncil’s discretion, at a special election.

(2) A minimum of five (5) electors may commence initiative or referendum proceedings by filing with the eCity mManager or other designated official, an affidavit stating they will constitute the petitioners’ committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered. Promptly after the affidavit of the petitioner’s committee is filed, the eCity mManager or other official designated by the eCouncil shall, at the committee’s request, issue appropriate blank petitions to the petitioner’s committee at the committee’s expense.

Section 6.02 - Petition.

(1) *Number of Signatures.* Initiative and referendum petitions must be signed by qualified voters of the eCity equal in number to at least 10 percent of the total number of qualified voters as of the last regular eCity election.

(2) *Form and Content.* All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be followed by the printed name and current street address of the person signing and the date on which the petition was signed. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered. Petitions must be accompanied by certification of the Collier County Supervisor of Elections as to the number of petitions signed by qualified voters of the eCity. There can be only one signature per petition form.

(3) *Time for Filing Referendum Petitions.* Referendum petitions must be filed within 45 days after adoption by the eCouncil of the ordinance sought to be reconsidered.

Section 6.03 - Procedure for Filing.

(1) *Process for Petitioning.* City initiative petition proceedings shall commence only after petitioners have filed ~~appropriate papers~~ the petition and supporting documentation with the eCity mManager forming a political action committee as required by the general election laws of the State of Florida. The format and content of the petition to be circulated shall conform to the requirements of general law for amending municipal charters and the general election laws and administrative rules for initiative petitions. Prior to circulation of any petition, it shall be submitted to the eCity aAttorney for review of the petition's format for technical sufficiency. The eCity aAttorney shall provide written comment of that review within seven (7) days. No review as to the legal sufficiency of the proposed amendment's text is to be undertaken by the city attorney. The number of valid voter signatures are as provided in section 166.031, Florida Statutes. Petitions for amendments of the eCity eCharter or proposing ordinances for the eCity shall be received and considered by eCouncil only if accompanied by a certificate from the County's Supervisor of Elections as to the number of valid eCity electors thereon.

(2) Within twenty (20) business days after certification of the registered voters is received from the Supervisor of Elections, the eCity mManager or other official designated by the eCouncil shall complete a certificate as to its sufficiency, or, if it is insufficient, specifying the particulars wherein it is defective, and shall promptly send a copy of the certificate to the petitioner's committee by registered mail. Grounds for insufficiency are only those specified in section 6.05. No petitions shall be circulated which are deficient as to form or compliance with section 6.05 pursuant to the written review by the eCity aAttorney in subsection (1) of this section. If the number of signatures is insufficient, the eCouncil shall notify the committee filing the petition and allow thirty (30) additional days for filing of additional petition papers, at the end of which time the sufficiency or insufficiency of the petition shall be finally determined.

Section 6.04 - Referendum Petition; Suspension of Effect of Ordinance.

When a referendum petition is filed with the eCity mManager or other official designated by the eCouncil and deemed sufficient, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- (1) The petitioner's committee withdraws the petition;
- (2) The eCouncil repeals the ordinance; or
- (3) After a vote of the eCity electors on the ordinance has been certified.

Section 6.05 - Action on Petitions.

(1) *Action by Council.* Once the certification of valid eCity electors is received, eCouncil shall take appropriate action addressing the sufficiency of the petition pursuant to section 166.031, Florida Statutes. If the petition is sufficient, eCouncil shall schedule the item for an election or, if appropriate under section 6.02 of this eCharter, eCouncil may repeal or amend an existing ordinance thereby negating the need for an election. The eCouncil, in its discretion, may schedule the matter at either the next city election or a special election. If the petition is to repeal an ordinance, eCouncil shall determine whether or not to repeal or amend the existing ordinance at the next regularly scheduled council meeting following the determination of petition sufficiency. If eCouncil, in its discretion, determines not to amend or repeal the ordinance petitioned for repeal, a special election shall be called not less than ninety (90) days from the date of determination of petition sufficiency. The special election on the repeal of an

ordinance shall be by mail ballot unless such election can be scheduled concurrently with a eCity, county, state, or federal election occurring within that time period.

(2) *Submission to Voters.* If eCouncil decides a special election is to be held, it shall be conducted by mail ballot not less than ninety (90) days from the date of eCouncil's determination of the need for a special election if there is no intervening city, county, state or federal election on which this matter could be placed. Passage of the times provided in subsection (1) without action by the eCouncil shall be considered rejection, refusal, or declination. Copies of the proposed ordinance shall be made available to the voters – either at the polls or by mail ballot, whichever is appropriate. Any petition rejected by the voters may not be submitted again for one year. If repeal of a law is rejected by the voters, the law shall not again be suspended until repeal is supported by the voters or the eCouncil repeals it.

(3) *Withdrawal of Petitions.* An initiative or referendum petition may be withdrawn at any time prior to the fortieth day preceding the day scheduled for a vote of the eCity by filing with the eCity mManager or other official designated by the eCouncil a request for withdrawal signed by at least four members of the petitioner's committee. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated. Any and all costs, including labor, associated with the preparation and acquisition of supplies for the conduct of an election scheduled, but subsequently canceled because of the withdrawal of the petition, shall be reimbursed by the eCity to the Supervisor of Elections in full.

Section 6.06 - Results of Election.

(1) *Initiative.* If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the eCouncil. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

(2) *Referendum.* If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

ARTICLE VII – GENERAL PROVISIONS

Section 7.01 - Charter Amendment.

This eCharter may be amended in accordance with the provisions for charter amendments as specified in ~~the Municipal Home Rules Powers Act, Chapter Section 166.031~~, Florida Statutes, ~~or its successor.~~ The form, content, and certification of any petition to amend shall be established by ordinance.

Section 7.02 - Code of Ethics.

Public officers, employees, members of City licensing or advisory boards, and candidates for elective office shall conform to the "Code of Ethics for Public Officials and Employees," Part III of chapter 112, Florida Statutes.

~~ARTICLE VII – TRANSITION, SEVERABILITY, EFFECTIVE DATE~~

~~Section 8.01 – County Ordinances and Services During Transition Period.~~

~~(1) Pursuant to Article VIII of the Florida Constitution, the ordinances, rules, and regulations of Collier County shall continue to be in effect within the boundaries of the City of~~

~~Marco Island, except that a county ordinance, rules, or regulation in conflict with an ordinance, rule, or regulation of the City of Marco Island shall not be effective to the extent of such conflict. Any existing Collier County ordinances, rules, and regulations, as of August 29, 1997, shall not be altered, changed, rescinded, or added to, nor shall any variance be granted thereto insofar as such action would affect the City of Marco Island, without the approval of the city council.~~

~~**Section 8.02 – Effect of Incorporation on Certain Existing Indebtedness.**~~

~~Nothing in this act shall affect the obligation of the city, or any property owners therein, for their rightful share of any indebtedness incurred through the Collier County Public Park and Recreation Municipal Service Taxing Unit or the Marco Water and Sewer District in existence and legally due as of the date of incorporation.~~

~~**Section 87.03 – Severability.**~~

~~If any article, section, subsection, sentence, clause, or provision of this charter or the application thereof shall be held invalid for any reason, the remainder of the charter and any ordinances or regulations made thereunder shall remain in full force and effect.~~

~~**Section 8.04 – Effective Date.**~~

~~This charter shall take effect upon the approval of a majority of the registered electors of the city voting in a referendum election.~~

ARTICLE VIII - CONTINUATION

Section 8.01. Continuance of rights, powers, privileges, property, Ordinances, Resolutions, taxes, fees, offices, departments, boards, and agencies of City.

(a) All Ordinances and Resolutions passed by the City shall remain in effect to the extent that they are not inconsistent with this Charter.

(b) All taxes and fees passed by the City shall remain in effect to the extent that they are not inconsistent with this Charter.

(c) All offices, departments, boards, and agencies created and established by the City shall continue to the extent that they are not inconsistent with this Charter.

Section 8.02. Time of taking effect.

Any proceeding, action, Resolution or Ordinance that was commenced or the adoption of which was initiated prior to the effective date of this Charter may be completed under the provisions of either the former Charter or this Charter.

Section 3. Election Called. That a special election is hereby called, to be held on Tuesday, the 26th day of January, 2010 in conjunction with the city-wide municipal election, to present to the qualified electors of the City of Marco Island, the ballot questions provided in Section 4 of this Ordinance.

Section 4. Form of Ballot. That the form of ballot for the Charter amendments provided for in Section 2 of this Ordinance shall be substantially as follows:

Ballot Questions:

A. Clarification and Update of City Charter.

It has been proposed that the City Charter be comprehensively amended, including changes made for style, clarity and consistency, along with amendments clarifying the duties, responsibilities, authority and qualifications of City officers, and amendments updating the Charter to conform with State law provisions, and removing matters covered by City Ordinances.

Shall the above-described Charter Amendment be adopted?

Yes []

No []

B. Council Member Term Limits.

The Charter currently provides that no Council Member shall serve more than two full consecutive four year terms. It is proposed that the Charter be amended to provide that current or former Council Members are prohibited from serving more than 8 years in office during their lifetime, except where Council Member terms were extended by change in the election date.

Shall the above-described Charter Amendment be adopted?

Yes []

No []

C. Council Member and Chairman Compensation.

The Charter sets the annual compensation of each Council Member at \$6,000 and the Chairman at \$9,000. It is proposed that the Charter be amended to (1) increase their annual compensation, effective April 1, 2010, by applying a one-time adjustment of the annual Federal C.O.L.A. for each year since the City’s incorporation, and (2) beginning January 1, 2011, annually increase their compensation by the yearly Federal C.O.L.A.

Shall the above-described Charter Amendment be adopted?

Yes []

No []

D. Duty of City Manager to Communicate Budget Deviations.

The Charter currently requires the City Manager to keep the Council fully advised as to the financial condition of the City. It is proposed that the Charter be amended to require the City Manager to promptly communicate to Council his or her reasonable expectation of any deviations of \$250,000 (plus or minus) from an expenditure identified within the annual budget.

Shall the above-described Charter Amendment be adopted?

Yes []

No []

E. City Council Directed Investigations.

The Charter currently requires the Council to handle administrative service and staff issues through the City Manager. It is proposed that the Charter be amended to authorize the Council to conduct, by Council or a party delegated by Council, investigations into the activities of any City department, agency, administration, City

Manager, staff or employee upon the affirmative vote of five (5) or more Council Members.

Shall the above-described Charter Amendment be adopted?

Yes []

No []

F. Operating Expenditure Limitations. [Modified Spending Cap]

The Charter limits annual expenditures to an increase of 3% plus C.O.L.A from the prior year's expenditures. It is proposed that the spending cap be retained, but the Charter be amended to enable Council to apply the spending cap based on the amount that was expended in fiscal year 2008 plus annual increases of 3% plus C.O.L.A.

Shall the above-described Charter Amendment be adopted?

Yes []

No []

G. Ordinance Requirement for Expenditures Exceeding 12 Million Dollars.

The Charter authorizes the use of Resolutions and Ordinances to approve City expenditures. It is proposed that the Charter be amended to require an Ordinance of the City Council for approval of all expenditures exceeding 12 million dollars (\$12,000,000), except expenditures for the creation of, or improvements to, the Septic Tank Replacement Program and the Wastewater Treatment Facility expansion to accommodate the Septic Tank Replacement Program.

Shall the above-described Charter Amendment be adopted?

Yes []

No []

Section 5. Balloting. That balloting shall be conducted and delivered through the U.S. mail system. Marked ballots must be mailed or delivered in person to the Collier County (the "County") Supervisor of Elections so that the ballots are received no later than 7:00 p.m. on January 26, 2010. Absentee ballots shall be available. All qualified City electors who are timely registered in accordance with law shall be entitled to vote. The City Clerk is authorized to obtain any necessary election administration services from the County Supervisor of Elections. The County registration books shall remain open at the Office of the County Supervisor of Elections until the date at which the registration books shall close in accordance with the provisions of the general election laws. The City Clerk and the County Supervisor of Elections are hereby authorized to take all appropriate action necessary to carry into effect and accomplish the provisions of this resolution. Pursuant to Sections 101.6101-101.6107, Florida Statutes, this election shall be canvassed by the City Clerk with assistance from the County Supervisor of Elections or as required by law.

Section 6. Notice of Election. That notice of said election shall be published in accordance with Section 100.342, Fla. Stat., in a newspaper of general circulation within the City at least 30 days prior to said election, the first publication to be in the fifth week prior to the election, and the second publication to be in the third week prior to the election, and shall be in substantially the following form:

“NOTICE OF SPECIAL ELECTION

PUBLIC NOTICE IS HEREBY GIVEN THAT PURSUANT TO ORDINANCE NO. _____ ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA, AN ELECTION HAS BEEN CALLED AND ORDERED TO BE HELD BY MAIL BALLOT ON TUESDAY, THE 26TH DAY OF JANUARY, 2010, AT WHICH TIME THE FOLLOWING CHARTER AMENDMENT PROPOSALS SHALL BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE CITY. MARKED BALLOTS MUST BE MAILED OR DELIVERED IN PERSON TO THE COLLIER COUNTY SUPERVISOR OF

ELECTIONS AND RECEIVED BY THE SUPERVISOR OF ELECTIONS NO
LATER THAN 7:00 P.M. ON JANUARY 26, 2010.

Ballot Questions:

A. Clarification and Update of City Charter.

It has been proposed that the City Charter be comprehensively amended, including changes made for style, clarity and consistency, along with amendments clarifying the duties, responsibilities, authority and qualifications of City officers, and amendments updating the Charter to conform with State law provisions, and removing matters covered by City Ordinances.

Shall the above-described Charter Amendment be adopted?

Yes []

No []

B. Council Member Term Limits.

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Shall the above-described Charter Amendment be adopted?

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Shall the above-described Charter Amendment be adopted?

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Manager, staff or employee upon the affirmative vote of five (5) or more Council Members.

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Shall the above-described Charter Amendment be adopted?

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Shall the above-described Charter Amendment be adopted?

Yes []

No []

Ballot information and the full text of the proposed Charter Amendments as set forth in the enabling Ordinance are available at the office of the City Clerk located at 50 Bald Eagle Drive, Marco Island, Florida 34145.

City Clerk

Section 7. Copies. That copies of this Ordinance concerning the Charter Amendments are on file at the office of the City Clerk located at 50 Bald Eagle Drive, Marco Island, Florida 34145, and are available for public inspection during regular business hours.

Section 8. Effectiveness.

- A. That each of the Charter amendments which are provided for in Sections 2 and 4 above shall become effective only if the majority of the qualified electors voting on the specific Charter amendment vote for its adoption, and it shall be considered adopted and effective upon certification of election results.
- B. That the City Council, with advice from the City Attorney, is authorized to revise the Charter to the extent necessary to assure that any amendments adopted conform to one another and are properly included in the publication of the revised City Charter. Further, that in the event that some, but not all, of the Charter amendments are approved by the electors, conforming amendments shall be deemed to be adopted and the City Attorney is authorized to reflect and implement such revisions of the Charter, including the revision of transitional provisions, to the extent necessary to assure that all amendments adopted conform to one another and to all remaining Charter provisions. If conflicting Charter amendments are adopted at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

C. That following the adoption of the Charter amendments, the City Clerk shall file the adopted Charter amendments with the Florida Department of State.

Section 9. Inclusion in the Charter. That subject to the requirements of Section 8 above, it is the intent of the City Council and it is hereby provided that the Charter amendments shall become and be made a part of the Charter of the City of Marco Island, Florida, and that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intention.

Section 10. Application of Amendments. That each of the Charter amendments adopted by the electors shall be applied prospectively only. Further, the Charter amendments proposed in Section 4 of this Ordinance shall be effective in accordance with the transition provisions related thereto and shall not operate to impair or affect the existing term of office of any City Council Member.

Section 11. Severability. That the various parts, Sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, Section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby. In the event of a subsequent change in applicable law, so the provision which had been held invalid is no longer invalid, the provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding under this Ordinance.

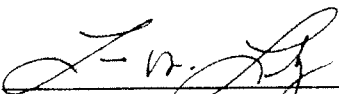
Section 12: Effective Date. That this Ordinance shall take effect immediately upon adoption.

PASSED FIRST READING: October 19, 2009.


PASSED AND ADOPTED ON SECOND READING: November 9, 2009.

Attest:

CITY OF MARCO ISLAND, FLORIDA

By: 

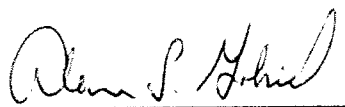
Laura M. Litzan, City Clerk

By: 

Robert J. Popoff, Chairman

(SEAL)

Reviewed for legal sufficiency:

By: 

Alan L. Gabriel, City Attorney