

**CITY OF MARCO ISLAND
ORDINANCE NO. 10-15**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES,
CITY OF MARCO ISLAND, CHAPTERS 6 AND 30,
CONCERNING REGULATIONS RELATED TO
MANUFACTURE, STAGING, REPAIR AND REMOVAL OF
SEAWALLS ON VACANT RESIDENTIAL LOTS UNDER
CONSTRUCTION TEMPORARY USE PERMITS; PROVIDING
FOR INCLUSION IN THE CODE, 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 home rule powers to enable them to conduct municipal government, perform municipal functions, render municipal services, and 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 benefit of residents and governance of the City; and

WHEREAS, construction temporary use permits as currently allowed under Article XII, Sec. 30-793 provide for various kinds of temporary construction permits; and

WHEREAS, provisions related to the regulation of seawall manufacture and repair are currently in effect under Article III, Section 6-87 of the Code of Ordinances and changes to these Code provisions are desired, including the requirement that these provisions fall under Temporary Uses, Section 30-793; and

WHEREAS, the Marco Island Planning Board, sitting as the Local Planning Agency, held duly advertised public hearings on August 13 and September 24 and determined that the proposed changes contained in this Ordinance are consistent with the City of Marco Island Comprehensive Plan and Florida law, and recommended adoption of this Ordinance to the City Council by a vote of 6-0; and

WHEREAS, after reviewing the City of Marco Island Planning Board's recommendation, the recommendation of City staff, and comments from the public, the City Council finds that the proposed amendments to its Code of Ordinances are in compliance and consistent with Florida law and its adopted Comprehensive Plan; and

WHEREAS, the City Council further finds that adoption of this Ordinance is in the best interest of the residents of the City of Marco Island.

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

SECTION 2. Amendment and Adoption. The amendments to the Code of Ordinances contained in this Ordinance are hereby amended or created and adopted as follows:

1. Article XII, Temporary Use Permits

Sec. 30-793. Construction temporary use permit. During the construction of any development for which a site development plan has been approved or a building permit issued, the developer may request a temporary use permit subject to the following:

(3) In addition to the uses described above, a construction temporary use permit may be obtained for the use of a vacant lot for the manufacture, construction and repair of seawalls on other parcels under the following conditions:

(a) The contractor shall notify the City, as part of the building permit application process for seawall work, of its intentions to use a vacant lot for such purpose.

(b) The contractor shall have written permission from the property owner of the vacant lot. A copy shall be submitted to the City building services division and made a part of the temporary use permit application. The City shall require a signed document holding the city harmless from any claim by the property owner or the permit holder for any damage to the vacant lot or seawall. In addition, the permit application shall contain proof of notification of the proposed temporary use of the vacant lot to all property owners within a 300’ radius of the subject vacant lot, together with other conditions of the permit as may be required by the City.

(c) The contractor shall post the subject property with a permit board and all applicable permits including a copy of the temporary use permit and the vacant lot shall be posted with the temporary use permit.

(d) Manufacture of precast seawall panels and/or marine construction activities on a vacant lot shall only be performed for a maximum of 120 consecutive days while an associated repair permit is active. More than one permitted seawall repair or marine construction contract may be staged at the vacant lot concurrently. Upon completion of the use and prior to the expiration of the 120 day period, the contractor shall restore the lot to pre-use condition. Any vacant lot so used shall not be used for seawall or marine construction activities for an additional 365 days following issuance of the last associated Certificate of Completion or CO, with the exception of an emergency repair to the seawall at the subject vacant lot.

(e) Failure to comply with the provisions of this subsection shall constitute a violation of this Code. Contractors in violation shall not be granted additional permits for the period of time a violation exists or until all assessed fines have been paid in full.

(f) Special Exceptions: The contractor may seek an administrative extension beyond the 120 day period provided the City Manager or designee is presented sufficient information justifying the contractor's need. Justification may include inclement weather, unavailability of materials or other unexpected conditions beyond the control of the contractor. Staff may provide a maximum 60 day extension provided the request is justified. Exceptions shall not be used to extend use of the vacant lot beyond 180 consecutive days.

(g) No work shall be conducted within the setback areas established for the applicable zoning district.

(h) Demolition of old seawall panels is allowed if done for the purpose of creating rip-rap for a current permitted job; otherwise only to the extent that it is necessary to place the panels into a dumpster or other container; demolition, if by cutting, shall require a wet saw method; placement of this material in a dumpster or other container shall occur within 5 working days of arrival on the vacant lot, unless the contractor fences the property with a minimum 6' high screened fence; demolition activity may not occur outside of the hours of 8:00 AM to 5:00 PM, Monday through Saturday.

(i) Manufactured seawalls shall not be stacked more than 5 feet in height.

(j) The Public Works Department shall determine whether temporary structures will be required to protect the swale area and proper stormwater conveyance.

(k) Boat and barge repair shall not be allowed on vacant or adjacent lots, unless involving an emergency repair of a vessel used in the subject seawall repair. The use of any such boat, barge or vessel shall be subject to the specific requirements of Code Sections 54-111 and 54-112(i).

(l) A separate dumpster may be used for construction and demolition debris associated with other marine construction activities if disclosed as part of the temporary use permit application; the City Manager or designee will determine, based on the level of activity on the vacant lot, whether screened fencing will be required.;

(m) Only equipment and vehicles directly associated with the permitted repairs will be allowed on the property, and only during an open permit.

~~(4)~~ (3) All construction temporary use requests shall require the submission of a conceptual plan which demonstrates that provisions will be made to adequately address the following:

- a. Parking.
- b. Landscaping.

- c. Fire protection.
- d. Handicapped access.
- e. FEMA (floodplain management ordinance).

2. Article III, Building Construction Code

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Division 2. Seawalls and Revetments

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Sec. 6-87. Manufacture of precast seawall panels on vacant lots.

Manufacture of seawalls and marine construction activities may be undertaken subject to all applicable rules in the Code of Ordinances, and subject to the specific requirements of Code Section 30-793.

~~The following criteria provide regulations for utilizing vacant lots for manufacturing seawall panels and marine construction activities:~~

- ~~(1) The contractor shall notify the city, as part of the building permit application process for seawall work, of intentions to use a vacant lot for such purpose;~~
- ~~(2) The contractor shall have written permission of the property owner of the vacant lot. A copy shall be submitted to the city building services division and be made part of the permit application;~~
- ~~(3) The contractor shall post the subject property and/or vacant lot with a permit board and all applicable permits;~~
- ~~(4) Manufacture of precast seawall panels and/or marine construction activities on a vacant lot shall only be performed for a maximum of 120 days. Upon completion of use and prior to the expiration of the 120 day period, the contractor shall restore the lot to pre-use condition. Any vacant lot so used shall not be used more than 120 days within a consecutive 365 day period;~~
- ~~(5) Failure to comply with provisions of this Code shall constitute a violation of this Code. Contractors in violation shall not be granted additional permits for the period of time a violation exists;~~
- ~~(6) Special exceptions. The contractor may seek an administrative extension beyond the 120-day period provided the community development director is presented sufficient information justifying the contractors need to stay onsite beyond the 120-day period. Justification may be as follows: multiple seawall contracts in vicinity of the vacant lot, length of seawall greater than 100 feet, inclement weather, and availability of materials. Staff may provide a maximum 60-day extension, provided the request is justified. Exceptions shall not be used to extend use of the vacant lot beyond 180 consecutive days;~~
- ~~(7) No work shall be conducted within the setback areas established for the applicable zoning district; and~~

~~(8) Dumpsters may not be located on the lot for more than 14 days within the 120 day period.~~

SECTION 3. Inclusion in the Code of Ordinances. It is the intention of the City Council and it is hereby ordained that the amendments to the City of Marco Island Code of Ordinances made by this Ordinance shall become part of the City of Marco Island Code of Ordinances, that the sections of this Ordinance may be renumbered and relettered as necessary, and that the word "Ordinance" may be changed to "Section, "Article" or other appropriate word.

SECTION 4. Conflicts. All ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 5. Severability. If any section, clause, sentence, or phrase of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 6. Effective Date. This Ordinance shall be effective immediately upon adoption by the City Council on second reading.

ADOPTED BY THE CITY COUNCIL of the City of Marco Island this 1st day of November 2010.

Attest:

CITY OF MARCO ISLAND FLORIDA

By: 

Laura M. Litzan, City Clerk

By: 

Frank R. Recker, Chairman

(SEAL)

Reviewed for legal sufficiency:

By: 

Alan L. Gabriel, City Attorney

