

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

**CITY OF MARCO ISLAND**

**ORDINANCE NO. 12-07**

**AN ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA, AMENDING CHAPTER 54, ENTITLED "WATERWAYS AND BEACHES", ARTICLE VI, ENTITLED "WATERWAYS AND BOATING SAFETY"; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR REPEAL OF CONFLICTS AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS, in 2006, the City Council adopted Ordinance 06-05, codified as Chapter 54, Article VI, entitled "Waterways and Boating Safety", to establish regulation of the use and operation of vessels on the public waters of the City; and**

**WHEREAS, since that time it has become necessary to make certain changes to Chapter 54, Article VI, to more clearly reflect regulations that are consistent with Federal and State laws; and**

**WHEREAS, after having received input from and participation by interested members of the public and staff, the City Council finds the proposed amendments to its Code of Ordinances are in the best interest of the City, the residents of Marco Island and its visitors; and**

**WHEREAS, City Council has conducted a first and second reading of this Ordinance at duly noticed public hearings as required by law.**

**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 following sections of Chapter 54, Article VI, of the City of Marco Island Code of Ordinances are hereby amended or created and adopted as follows:**

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.  
# 109447 v1

42 1. Section 54-164, entitled "Definitions" are hereby amended as follows:

43

44 ~~Not engaged in the exercise of rights of navigation means a vessel anchored within the City~~  
45 ~~for more than 72 consecutive hours.~~

46

47 2. Section 54-166, entitled "Interference With Navigation", is hereby amended as  
48 follows:

49

50 Sec. 54-166. Interference with navigation.

51

52 Consistent with Section 327.44, Florida Statutes, as may be subsequently modified or  
53 amended from time to time, no person shall anchor, operate, or permit to be anchored,  
54 except in case of emergency, or operated a vessel or carry on any prohibited activity in a  
55 manner which shall unreasonably or unnecessarily constitute a navigational hazard or  
56 interfere with another vessel. Anchoring under bridges or in or adjacent to heavily  
57 traveled channels shall constitute interference if unreasonable under the prevailing  
58 circumstances.

59 ~~No person shall operate, or permit anyone to operate, a vessel, anchor a vessel, or drift in~~  
60 ~~a vessel, in a manner that interferes with navigation, except in case of emergency.~~

61

62 3. Section 54-167, entitled "Anchoring and mooring" is hereby amended as  
63 follows:

64

65 Sec. 54-167. Anchoring and mooring.

66

67 It shall be unlawful:

68

69 (1) To anchor or moor a live-aboard vessel or floating structure within the city. A  
70 "floating structure" shall have the same meaning as used in Section 327.02, Florida  
71 Statutes, as may be subsequently modified or amended from time to time.

72

73 ~~(2) To anchor or moor under or within 300 feet of the County Road 92 or State Road~~  
74 ~~951 bridges at the Marco River.~~

75

76 (3) (2) \_\_\_\_\_ To moor a vessel at a dock, mooring, piling or seawall of a property owner  
77 without the consent of the owner or person in control of the premises, except in an  
78 emergency. Failure to provide written evidence of such permission shall be considered as  
79 prima fascia evidence of lack of permission. Any such mooring must comply with all  
80 applicable regulations of the city Code.

81

82 ~~(4) To anchor or moor a commercial vessel for a time period greater than 12 consecutive~~  
83 ~~hours, except:~~

84

85 a. ~~When engaged in a commercial activity permitted by the city.~~

86  
87 ~~b. When anchored or moored at a commercial marina lawfully permitted pursuant to the~~  
88 ~~zoning code. Any such anchoring or mooring must comply with all applicable regulations~~  
89 ~~of city Code.~~  
90  
91 ~~e. When anchored or moored within the special anchorage in factory bay designated on~~  
92 ~~NOAA Chart 11430.~~  
93  
94 ~~d. When the vessel is in need of emergency repairs, for a reasonable period to complete~~  
95 ~~the repairs, which shall not exceed seven days.~~  
96  
97 ~~e. When anchored or moored to provide safe harbor during inclement weather.~~  
98  
99 ~~f. When anchored or moored during a verifiable emergency for a reasonable time which~~  
100 ~~shall not exceed seven days.~~  
101  
102 ~~g. When anchored or moored while awaiting a low tide sufficient for transit under a~~  
103 ~~bridge to and/or from an indirect waterway for the purpose of engaging in and/or leaving~~  
104 ~~commercial activity permitted by the city; such time not to exceed 15 days. This~~  
105 ~~exception shall apply to only those vessels utilized by licensed marine construction~~  
106 ~~contractors for dock/seawall construction and repair.~~  
107  
108 ~~h. When anchored or moored while awaiting relocation from one city permitted activity~~  
109 ~~to another; such time not to exceed seven days. This exception shall apply to only those~~  
110 ~~vessels utilized by licensed marine construction contractors for dock/seawall construction~~  
111 ~~and repair.~~  
112  
113 ~~(5) (4) \_\_\_\_\_ To intentionally place or moor a commercial vessel on a beach for more~~  
114 ~~than four hours without a permit from the city.~~  
115  
116 ~~(6) To anchor a vessel as prohibited in this article or to anchor a vessel in a position that~~  
117 ~~endangers, interferes, impedes, with the navigation of other vessels through the~~  
118 ~~waterways, canals, and channels.~~  
119  
120 ~~(7) For a power driven vessel and sailing vessel anchored at night to fail to display~~  
121 ~~anchor lights, except vessels less than 20 meters in length are not required to display~~  
122 ~~anchor lights when anchored in the special anchorage designated on NOAA chart 11430~~  
123 ~~in factory bay.~~  
124  
125 ~~(8) To anchor a vessel during a hurricane warning by utilizing an anchor or series of~~  
126 ~~anchors, without being affixed to a dock or seawall. During a hurricane warning each~~  
127 ~~vessel operator shall secure their vessel to prevent the vessel, and/or its parts or contents~~  
128 ~~from damaging the property of others.~~  
129

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.

- 130 ~~(9) To anchor vessels without adequate ground tackle to hold the vessel at anchor.~~  
131 ~~Vessels at anchor shall maintain a firm anchor and the operator shall insure that the~~  
132 ~~vessel is not slipping anchor and changing its location.~~  
133
- 134 ~~(10) To leave any anchored vessel unattended without the following information posted~~  
135 ~~securely on deck in a weather proof housing or format such as laminated paper:~~  
136
- 137 ~~a. Vessel owner's name, address (local and other, if applicable) and phone number(s);~~  
138
- 139 ~~b. A secondary contact person with his or her name, address (local and other if~~  
140 ~~applicable) and phone number(s). Secondary contacts shall live or work within Collier,~~  
141 ~~Lee, or Dade Counties and be authorized to act in the owner's behalf should the vessel~~  
142 ~~become endangered.~~  
143
- 144 ~~(11) To anchor any recreational vessel not engaged in the exercise of the rights of~~  
145 ~~navigation except:~~  
146
- 147 ~~a. When proof of marine sanitation device holding tank pump out, or other satisfactory~~  
148 ~~evidence of sufficient holding tank capacity, is provided to a City of Marco Island Police~~  
149 ~~Officer and a permit is issued allowing an additional 72-hour anchoring period.~~  
150
- 151 ~~b. When moored at a commercial marina lawfully permitted pursuant to the zoning~~  
152 ~~code.~~  
153
- 154 ~~c. When anchored within the special anchorage in factory bay designated on NOAA~~  
155 ~~chart 11430.~~  
156
- 157 ~~d. When the vessel is in need of emergency repairs, for a reasonable period to complete~~  
158 ~~the repairs, which shall not exceed seven days.~~  
159
- 160 ~~e. To provide safe harbor during inclement weather.~~  
161
- 162 ~~f. During a verifiable emergency for a reasonable period which shall not exceed seven~~  
163 ~~days.~~  
164
- 165 ~~(12) Once a vessel is anchored within the city, the vessel shall be deemed to have been~~  
166 ~~continuously anchored from the time at which it was first anchored. The vessel need not~~  
167 ~~have been continuously anchored in the same location within the city limits. It is the~~  
168 ~~express purpose of this article to prohibit evasion of the time limitations contained in this~~  
169 ~~article by relocation from one anchoring location within the city to another.~~  
170
- 171 ~~(13) To anchor or moor any recreational vessel closer than 300 feet to any seawall,~~  
172 ~~bridge, dock, shoreline, or manmade structure for a time period greater than 12~~  
173 ~~consecutive hours, except:~~

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.

174  
175  
176  
177  
178  
179  
180  
181  
182  
183  
184  
185  
186  
187  
188  
189  
190  
191  
  
192  
193  
194  
195  
196  
  
197  
198  
199  
  
200  
201  
202  
203  
  
204

~~a. At a dock, mooring, piling or seawall of a property owner with the consent of the owner or person in control of the premises. Failure to provide written evidence of such permission shall be considered as prima facie evidence of lack of permission. Any such dockage or mooring must comply with all applicable regulations of the city Code including those detailed in article IV of this chapter.~~

~~b. When actively engaged in recreational fishing and not interfering with navigation.~~

~~c. When anchored or moored within the special anchorage in factory bay designated on NOAA chart 11430.~~

~~d. The intent of this section is to maintain a channel for safe navigation, to reduce visual intrusion, and to prevent noise complaints.~~

**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.**

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.  
# 109447 v1

205 This Ordinance shall become effective immediately upon adoption by the City  
206 Council on second reading.

207  
208 **PASSED AND ADOPTED on first reading this 4th day of September, 2012.**  
209

210  
211 **PASSED AND ADOPTED on second reading this 17th day of September, 2012.**  
212

213

214 Attest:

**CITY OF MARCO ISLAND FLORIDA**

215

216

217

218

219

220

221

222

223

224

225

226

227

228

By:   
\_\_\_\_\_  
Laura M. Litzan, City Clerk

By:   
\_\_\_\_\_  
Larry Magel, Chairman

(SEAL)

Reviewed for legal sufficiency:

By:   
\_\_\_\_\_  
Burt L. Saunders, City Attorney