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**CITY OF MARCO ISLAND  
ORDINANCE NO. 12-14**

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**AN ORDINANCE AMENDING THE CODE OF ORDINANCES,  
CITY OF MARCO ISLAND, CHAPTER 30, SECTION 793 (3),  
CONCERNING REGULATIONS RELATED TO THE  
TEMPORARY USE OF VACANT LOTS FOR SEAWALL  
CONSTRUCTION, REPAIR AND REMOVAL UNDER  
CONSTRUCTION TEMPORARY USE PERMITS; PROVIDING  
FOR INCLUSION IN THE CODE, CONFLICT AND  
SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

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**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

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**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 staging lots are currently in effect under Article XII, Section 30-793 (3) of the Code of Ordinances and changes to these Code provisions are desired; and

**WHEREAS**, the Marco Island Planning Board, sitting as the Local Planning Agency, held duly advertised public hearings on August 3, 2012 and September 7, 2012, and determined that the proposed changes contained in this Ordinance are consistent with the City of Marco Island Comprehensive Plan and Florida law; 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.

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

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48 **SECTION 1. Recitals.** The foregoing “WHEREAS” clauses are hereby ratified and  
49 confirmed as being true, correct and reflective of the legislative intent underlying this Ordinance  
50 and are hereby made a specific part of this Ordinance.

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

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55 **1. Article XII, Temporary Use Permits**

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

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

68  
69 (a) The contractor shall notify the city, as part of the building permit application process for  
70 seawall work, of its intentions to use a vacant lot for such purpose.

71  
72 (b) The contractor shall have written permission from the property owner of the vacant lot. A  
73 copy shall be submitted to the city building services division and made a part of the temporary  
74 use permit application. The city shall require a signed document holding the city harmless from  
75 any claim by the property owner or the permit holder for any damage to the vacant lot or seawall.  
76 In addition, the permit application shall contain proof of notification of the proposed temporary  
77 use of the vacant lot to all property owners within a 300-foot radius of the subject vacant lot,  
78 together with other conditions of the permit as may be required by the city.

79  
80 (c) The contractor shall post the subject property with a permit board and all applicable permits  
81 including a copy of the temporary use permit and the vacant lot shall be posted with the  
82 temporary use permit.

83  
84 (d) Manufacture of precast seawall panels ~~and/or marine construction activities~~ on a vacant lot  
85 shall only be performed for a maximum of 120 consecutive days while an associated repair  
86 permit is active. More than one permitted seawall repair or ~~marine~~ construction contract may be  
87 staged at the vacant lot concurrently. Upon completion of the use and prior to the expiration of  
88 the 120-day period, the contractor shall restore the lot to pre-use condition. Any vacant lot so  
89 used shall not be used again for seawall ~~or marine~~ construction activities ~~for an additional~~ 365

90 ~~days following issuance of the last associated certificate of completion or CO, with the exception~~  
91 ~~of an emergency repair to the seawall at the subject vacant lot.~~

92  
93 (e) Failure to comply with the provisions of this subsection shall constitute a violation of this  
94 Code. Contractors in violation shall not be granted additional permits for the period of time a  
95 violation exists or until all assessed fines have been paid in full.

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97 (f) Special exceptions: The contractor may seek an administrative extension beyond the 120-day  
98 period provided the city manager or designee is presented sufficient information justifying the  
99 contractor's need. Justification may include inclement weather, unavailability of materials or  
100 other unexpected conditions beyond the control of the contractor. Staff may provide a maximum  
101 60-day extension provided the request is justified. Exceptions shall not be used to extend use of  
102 the vacant lot beyond 180 consecutive days.

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

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

114  
115 (h) A dumpster or other container must be on the property prior to the demolition of old seawall  
116 panels or boat docking facilities. After the demolition of a seawall or boat docking facilities, old  
117 seawall panels or boat docking facilities must immediately be placed in the dumpster or  
118 container and removed from the site within five working days. Demolition, if by cutting, shall  
119 require a wet saw method. Demolition activity may not occur outside of the hours of 8:00 A.M.  
120 to 5:00 P.M., Monday through Saturday.

121  
122 (i) Manufactured seawalls shall not be stacked more than five feet in height.

123  
124 (j) The public works department shall determine whether temporary structures will be required to  
125 protect the swale area and proper stormwater conveyance.

126  
127 (k) Boat and barge repair shall not be allowed on vacant or adjacent lots, unless involving an  
128 emergency repair of a vessel used in the subject seawall repair. The use of any such boat, barge  
129 or vessel shall be subject to the specific requirements of Code sections 54-111 and 54-112(i).

130  
131 ~~(l) A separate dumpster may be used for construction and demolition debris associated with other~~  
132 ~~marine construction activities if disclosed as part of the temporary use permit application; the~~  
133 ~~city manager or designee will determine, based on the level of activity on the vacant lot, whether~~  
134 ~~screened fencing will be required.~~

135

136 ~~(m)~~ (l) Only equipment and vehicles directly associated with the permitted repairs will be  
137 allowed on the property, and only during an open permit.  
138

139 (m) Only natural rock can be used for the creation of rip-rap. Any material placed on the  
140 property not outlined in Article III, Section 6-85 will be considered illegal dumping of material  
141 and will be a violation of this code.  
142

143 (n) Failure to comply with the provisions of this subsection shall constitute a violation of this  
144 Code. Contractors in violation shall receive a revocation of permits and will not be granted  
145 additional permits for the period of time a violation exists.  
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147 **SECTION 3. Inclusion in the Code of Ordinances.** It is the intention of the City  
148 Council and it is hereby ordained that the amendments to the City of Marco Island Code of  
149 Ordinances made by this Ordinance shall become part of the City of Marco Island Code of  
150 Ordinances, that the sections of this Ordinance may be renumbered and relettered as necessary,  
151 and that the word "Ordinance" may be changed to "Section, "Article" or other appropriate word.  
152

153 **SECTION 4. Conflicts.** All ordinances or parts of ordinances and all resolutions or  
154 parts of resolutions in conflict with the provisions of this Ordinance are hereby repealed.  
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156 **SECTION 5. Severability.** If any section, clause, sentence, or phrase of this Ordinance  
157 is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding  
158 shall not affect the validity of the remaining portions of this Ordinance.  
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160 **SECTION 6. Effective Date.** This Ordinance shall be effective immediately upon  
161 adoption by the City Council on second reading. All outstanding permits shall be required to  
162 become concurrent with this Amendment.  
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164 **SECTION 7. Termination Date.** This Ordinance shall terminate six months after  
165 adoption by the City Council.  
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167 **ADOPTED BY THE CITY COUNCIL** of the City of Marco Island this 1<sup>st</sup> day of  
168 October, 2012.  
169

170 Attest:

CITY OF MARCO ISLAND FLORIDA

171  
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173 By:   
174 Laura M. Litzan, City Clerk

By:   
Larry Magel, Chairman

175  
176 (SEAL)  
177

178 Reviewed for legal sufficiency:

179  
180 By:   
181 Burt L. Saunders, City Attorney