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**ORDINANCE NO. 12-16**

**AN ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA AMENDING THE CODE OF ORDINANCES, CHAPTER 6: ARTICLE IV, TO ADD SEC. 6-107.6.1 BUILDING PERMITS ISSUED ON THE BASIS OF AN AFFIDAVIT; SEC. 6-114 RESERVED; SEC. 6-115 RESERVED; SEC. 6-116 RESERVED; SEC. 6-117 VARIANCES IN FLOOD HAZARD AREAS AND SEC. 6-117.1 FLOOD HAZARD AREAS; PROVIDING FOR DEFINITIONS, STANDARDS, REPEAL OF CONFLICTING PROVISIONS AND 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**, the City of Marco Island desires to provide for a single ordinance for the administration of the 2010 Florida Building Code, enforced by the City of Marco Island; and

**WHEREAS**, after reviewing 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

**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:

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51 **SECTION 107 CONSTRUCTION DOCUMENTS**  
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55 **107.6 Affidavits.**

56 The Building Official may accept a sworn affidavit from a registered architect or engineer stating that  
57 the plans submitted conform to the technical codes. For buildings and structures, the affidavit shall  
58 state that the plans conform to the laws as to egress, type of construction and general arrangement  
59 and, if accompanied by drawings, show the structural design and that the plans and design conform to  
60 the requirements of the technical codes as to strength, stresses, strains, loads and stability. The  
61 Building Official may without any examination or inspection accept such affidavit, provided the  
62 architect or engineer who made such affidavit agrees to submit to the Building Official copies of  
63 inspection reports as inspections are performed and upon completion of the structure, electrical, gas,  
64 mechanical or plumbing systems a certification that the structure, electrical, gas, mechanical or  
65 plumbing system has been erected in accordance with the requirements of the technical codes. Where  
66 the Building Official relies upon such affidavit, the architect or engineer shall assume full  
67 responsibility for compliance with all provisions of the technical codes and other pertinent laws or  
68 ordinances. The Building Official shall ensure that any person conducting plans review is qualified as  
69 a plans examiner under part XII of Chapter 468, Florida Statutes, and that any person conducting  
70 inspections is qualified as a building inspector under part XII of Chapter 468, Florida Statutes.  
71

72 **107.6.1 Building permits issued on the basis of an affidavit.** Pursuant to the requirements of  
73 federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59  
74 and 60), the authority granted to the Building Official to issue permits, to rely on inspections, and to  
75 accept plans and construction documents on the basis of affidavits and plans submitted pursuant to  
76 105.14 and Section 107.6, shall not extend to the flood load and flood resistance construction  
77 requirements of the *Florida Building Code*.  
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81 **SECTION 114 RESERVED**

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84 **SECTION 115 RESERVED**

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87 **SECTION 116 RESERVED**

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90 **SECTION 117 VARIANCES IN FLOOD HAZARD AREAS**

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92 **117.1 Flood hazard areas.** Pursuant to section 553.73(5), F.S., the variance procedures adopted in  
93 the local floodplain management ordinance shall apply to requests submitted to the Building Official  
94 for variances to the provisions of Section 1612.4 of the *Florida Building Code, Building* or, as  
95 applicable, the provisions of R322 of the *Florida Building Code, Residential*. This section shall not  
96 apply to Section 3109 of the *Florida Building Code, Building*.  
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**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 12th day of November, 2012.

ATTEST:


CITY OF MARCO ISLAND FLORIDA

By:   
Laura M. Litzan, City Clerk

By:   
Joe Batte, Chairman

(SEAL)

Reviewed for legal sufficiency:

By:   
Burt L. Saunders, City Attorney

