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**CITY OF MARCO ISLAND**

**ORDINANCE NO. 13-02**

**AN ORDINANCE OF THE CITY OF MARCO ISLAND,  
FLORIDA AMENDING THE CODE OF ORDINANCES,  
CHAPTER 54: ARTICLE IV. BOAT DOCKING FACILITIES,  
TO AMEND SECTIONS 54-101 AND 54-112; 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 Council of the City of Marco Island, Florida (“City Council”) recognizes that changes to the adopted Code of Ordinances are periodically necessary in order to ensure that the City’s Codes are current and consistent with the City’s planning and regulatory needs; and

**WHEREAS**, Section 54-101 provides definitions and there is sufficient reason to add definitions for a mooring cover and mooring cover assists system; and

**WHEREAS**, Section 54-112 sets forth additional requirements for boat docking facilities and there is a need to provide requirements for mooring cover assists systems; and

**WHEREAS**, the Marco Island Planning Board, sitting as the Local Planning Agency, held a duly advertised public hearing on 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 recommended adoption of this Ordinance to the City Council; 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:**

49           **SECTION 1. Recitals.**

50  
51           The foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true, correct  
52 and reflective of the legislative intent underlying this Ordinance and are hereby made a specific part  
53 of this Ordinance.

54  
55           **SECTION 2. Amendment and Adoption.**

56  
57           The amendments to the Code of Ordinances contained in this Ordinance are hereby amended or  
58 created and adopted as follows:

59  
60                           **Chapter 54. WATERWAYS**  
61                           **Article IV. Boat Docking Facilities**

62  
63           \*\*\*\*\*   \*\*\*\*\*   \*\*\*\*\*

64  
65           **Sec. 54-101. – Definitions.**

66  
67           [The following words, terms and phrases, when used in this article, shall have the meanings  
68 ascribed to them in this section, except where the context clearly indicates a different meaning:]  
69 Associated infrastructure means seawalls, revetments, caps, support piles, whalers, riprap, and like  
70 physical improvements which support a boat dock facility in conjunction with the upland host  
71 property.

72  
73           Boat cover means a portable or fixed aluminum, PVC, galvanized or similar structure which is  
74 attached to a dock or boatlift and which structure is covered with canvas, vinyl, aluminum or  
75 similar materials and utilized for protecting a vessel over or contiguous to navigable water. A boat  
76 cover shall not be considered or qualify as a boathouse and shall not be installed, repaired or  
77 reconstructed. A covering, commonly referred to as a mooring cover, which is fixed to the vessel  
78 for the purpose of protecting the vessel shall not be considered a boat cover.

79  
80           Boat docking facility means any structure, whether fixed in position or floating, constructed on or  
81 over a waterway for the primary purpose of mooring a boat and that provides access to a vessel  
82 from the adjacent upland property. This includes docks, walkways, piers, boatlifts, personal  
83 watercraft lifts, davits, mooring piles, dolphins, boathouses and the like.

84  
85           Boathouse means a structure with a roof which is constructed of palm fronds, cedar shakes, or the  
86 same material and color of the principal structure on the property, accessory use to a residential  
87 structure over or contiguous to navigable water, open on all sides and providing covered protection  
88 to a boat and accessories customary thereto.

89  
90           Boatlift means any mechanical structure, including a davit, capable of lifting or raising a vessel  
91 clear of the water.

92  
93           Live-aboard vessel shall have the same meaning as used in F.S. • 327.02, as may be subsequently  
94 modified or amended from time to time.

95  
96           Marginal dock means a dock which protrudes five feet or less into the waterway.

97  
98 Moored vessel, for the purposes of this article, shall refer to the overall length of the vessel,  
99 including the pulpit, motor, and any other accessories attached to the vessel.

100  
101 Mooring cover means a tailored canvas covering which is affixed to the vessel for the purpose of  
102 protecting the vessel.

103  
104 Mooring cover assist system means a cantilevered structure with a mono rail track to support the  
105 full weight of a tailored mooring cover as it is removed or installed on a vessel. The assist's  
106 mooring cover is attached directly to the vessel when in the covered position but may also be  
107 mechanically connected to the underside of the overhead mono rail track so that the mooring cover  
108 is ready to be removed or installed on a vessel utilizing the assist.

109  
110 Personal watercraft (PWC) means a vessel less than 16 feet in length which uses an inboard motor  
111 powering a water jet pump as its primary source of power and which is designed to be operated by a  
112 person sitting, standing or kneeling on, rather than the conventional manner of sitting or standing  
113 inside the vessel.

114  
115 Personal watercraft (PWC) lift means any mechanical structure capable of lifting or raising a PWC  
116 clear of the water.

117  
118 Riparian line means an imaginary line beginning at the point at which property lines intersect the  
119 mean high water line of a waterway and continuing into the waterway indefinitely. The purpose of  
120 the riparian line, as employed by this article, is to provide a point of reference from which to  
121 measure setbacks for docking facilities. Riparian lines shall be established according to the  
122 following unless contradicted or approved by the state board of trustees of the internal improvement  
123 trust fund:

124  
125 (1) Lots at the end or side end of a waterway with a regular shoreline are established by a  
126 line extending from the corner of an end lot and side end lot into the waterway bisecting  
127 equidistantly the angle created by the two intersecting lots.

128 (2) Riparian lines for all other lots should be established by generally accepted methods,  
129 taking into consideration the configuration of the shoreline, and allowing for the equitable  
130 apportionment of riparian rights. Included, but not limited to, are lines drawn perpendicular  
131 to the shoreline for regular (linear) shorelines, or lines drawn perpendicular to the centerline  
132 (thread) of the waterway, or perpendicular to the line of deep water (line of navigability or  
133 edge of navigable channel) as appropriate for irregular shorelines. No boat docking facility  
134 shall be constructed so as to encroach upon the riparian rights of other property owners.

135  
136 Riparian rights shall have the same meaning as used in F.S. • 253.141, as may be subsequently  
137 modified or amended from time to time. This term is currently defined as follows: Riparian rights  
138 are those incidental to land bordering upon navigable waters. They are rights of ingress, egress,  
139 boating, bathing, and fishing and such others as may be or have been defined by law. Such rights  
140 are not of a proprietary nature. They are rights inuring to the owner of the riparian land but are not  
141 owned by him or her. They are appurtenant to and are inseparable from the riparian land. The land  
142 to which the owner holds title must extend to the ordinary high watermark of the navigable water in  
143 order that riparian rights may attach. Conveyance of title to or lease of the riparian land entitles the

144 grantee to the riparian rights running therewith whether or not mentioned in the deed or lease of the  
145 upland.

146  
147 Seawall support pilings means pilings which are installed against the waterward side of a seawall  
148 for the purpose of providing additional support to the seawall and/or providing protection to the  
149 seawall from vessels.

150  
151 Setback means a line marking the minimum open space distance between a property line, right-of-  
152 way line, bulkhead line, shoreline, seawall, mean high water mark, access easement line, or other  
153 defined location, whichever is most restrictive, and the beginning point of a required yard or the  
154 buildable area.

155  
156 Sovereign submerged lands shall have the same meaning as used in F.A.C. • 18-21.003, as may be  
157 subsequently modified or amended from time to time.

158  
159 Sovereign submerged land lease shall have the same meaning as used in F.A.C. • 18-21.003, as may  
160 be subsequently modified or amended for time to time.

161  
162 Swivel PWC lift means any mechanical structure capable of lifting or raising a PWC clear of the  
163 water and which swivels so that the vessel is stored on the property or on top of a boat docking  
164 facility.

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167  
168 **Sec. 54-112. - Additional requirements.**

169  
170 (a) All boat docking facilities are subject to, and shall comply with, all federal and state  
171 requirements and permits, including but not limited to the requirements and permits of the state  
172 department of environmental protection, the U.S. Army Corps of Engineers, and the U.S.  
173 Environmental Protection Agency.

174  
175 (b) Any proposed expansion of or addition to (excluding boatlifts or mooring cover assist systems)  
176 an existing nonconforming boat docking facility, whether attached to or detached from an existing  
177 boat docking facility, shall require the entire boat docking facility be brought into conformance with  
178 the requirements of this article. Any repair or replacement of the structure within the existing  
179 footprint shall not require that the facility be brought into compliance with the standards set forth in  
180 this article.

181  
182 (c) All boat docking facilities, regardless of length or protrusion, shall have blue or white reflectors  
183 installed facing the water at the outermost end of the boat docking facility on both sides. Red and  
184 green reflectors are prohibited.

185  
186 (d) All boat dock facilities, regardless of length or protrusion, shall have house numbers, which are  
187 a minimum of four inches in height and a contrasting color from the area of installation, installed  
188 facing the water at the outermost end of the boat docking facility on both sides.

189  
190 (e) Live-aboard vessels may not anchor or tie up in waters under the jurisdiction of the city except  
191 at anchorage sites identified on official National Oceanographic and Atmospheric Administration

192 (NOAA) navigational charts or at facilities located in zoning districts permitting such use and at  
193 facilities within such districts designated for such use and meeting city, county, and state health  
194 standards for such use.

195  
196 (f) Use of boat docking facilities to moor boats for boat rentals, boat repair, boat sales, associated  
197 boat supplies storage, or the rental of boat docking facilities in all single and multifamily districts is  
198 expressly prohibited.

199  
200 (g) Any outside lighting on a boat docking facility shall comply with the lighting regulations set  
201 forth in chapter 6, article V of this Code. Further, the use of red or green lights or lights that emit  
202 red or green light due to a lens or other method are prohibited.

203  
204 (h) No owner shall allow the boat docking facility and/or associated infrastructure located at the  
205 owner's lot to become dilapidated, deteriorated, structurally unsound, unsightly or a safety hazard.

206  
207 (i) A crane or barge may not sit idle for more than 15 business days. An extension of up to an  
208 additional 15 business days may be approved administratively if the barge or crane cannot be  
209 moved within the initial 15 business days due to mechanical problems.

210  
211 (j) Seagrass bed protection:

212 (1) Where new boat docking facilities or boat dock extensions are proposed, the location and  
213 presence of seagrass or seagrass beds within 200 feet of any proposed dock facility shall be  
214 identified on an aerial photograph having a scale of one inch = 200 feet when available, or a  
215 scale of one inch = 400 feet when such photographs are not available. The location of  
216 seagrass beds shall be verified by a site visit by the community development director or his  
217 designee prior to the approval of any boat dock extension or the issuance of any building  
218 permit.

219 (2) All proposed boat docking facilities shall be located and aligned to stay at least ten feet  
220 from any existing seagrass beds, except where a continuous bed of seagrasses exists off the  
221 shore of the property and adjacent to the property, and shall minimize negative impacts to  
222 seagrasses and other native shoreline, emergent and submerged vegetation and hard bottom  
223 communities.

224 (3) Where a continuous bed of seagrasses exists off the shore of the property and adjacent to  
225 the property, the applicant shall be allowed to build a boat docking facility across the  
226 seagrasses or within ten feet of seagrasses. Such boat docking facilities shall comply with  
227 the following conditions:

- 228 a. The dock shall be at a height of at least 3.5 feet N.G.V.D.  
229 b. The terminal platform of the dock shall not exceed 160 square feet.  
230 c. The access dock shall not exceed a width of four feet.  
231 d. The boat docking facility shall be sited to impact the smallest area of seagrasses  
232 possible.

233 (4) The applicant or petitioner shall be required to demonstrate how negative impacts to  
234 seagrasses and other native shoreline vegetation and hard bottom communities have been  
235 minimized prior to the approval of any boat dock extension or the issuance of any building  
236 permit.

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238 | (k) Mooring Cover Assist Systems shall be allowed.

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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 7<sup>th</sup> day of January, 2013.


**CITY OF MARCO ISLAND FLORIDA**

By:   
Joseph R. Batte, Chairman

Attest:

By:   
Laura M. Litzan, City Clerk

Reviewed for legal sufficiency:

By:   
Burt L. Saunders, City Attorney