

## ORDINANCE 17-10

**AN ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA, RELATING TO LAND DEVELOPMENT; MAKING FINDINGS; AMENDING SECTION 30-10 BY ADOPTING NEW DEFINITIONS; REVISING SECTION 30-488 RELATING TO MINIMUM PARKING REQUIREMENTS; REVISING THE SECTION TITLE; REVISING PARKING REQUIREMENTS FOR SHOPPING CENTERS; PROVIDING FOR SEVERABILITY/INTERPRETATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Section 38-40(1), City Code of Ordinances, the Planning Board serves as the City's Local Planning Agency and Land Development Regulation Commission; and

**WHEREAS**, Section 163.3174(4)(c), Florida Statutes, provides:

(4) The local planning agency shall have the general responsibility for the conduct of the comprehensive planning program. Specifically, the local planning agency shall:

(c) Review proposed land development regulations, land development codes, or amendments thereto, and make recommendations to the governing body as to the consistency of the proposal with the adopted comprehensive plan, or element or portion thereof, when the local planning agency is serving as the land development regulation commission or the local government requires review by both the local planning agency and the land development regulation commission.

(emphasis added); and

**WHEREAS**, Section 163.3194(2) and (3)(a), Florida Statutes, provides:

(2) After a comprehensive plan for the area, or element or portion thereof, is adopted by the governing body, no land development regulation, land development code, or amendment thereto shall be adopted by the governing body until such regulation, code, or amendment has been referred either to the local planning agency or to a separate land development regulation commission created pursuant to local ordinance, or to both, for review and recommendation as to the relationship of such proposal to the adopted comprehensive plan, or element or portion thereof. Said recommendation shall be made within a reasonable time, but

no later than within 2 months after the time of reference. If a recommendation is not made within the time provided, then the governing body may act on the adoption.

(3)(a) A development order or land development regulation shall be consistent with the comprehensive plan if the land uses, densities or intensities, and other aspects of development permitted by such order or regulation are compatible with and further the objectives, policies, land uses, and densities or intensities in the comprehensive plan and if it meets all other criteria enumerated by the local government.

(emphasis added); and

**WHEREAS**, Section 30-62(8)b., Code of Ordinances of the City of Marco Island, Florida, provides:

8) *Other proposed amendments.* When pertaining to other proposed amendments of these zoning regulations, the planning board shall consider and study:

\* \* \*

b. The relationship of the proposed amendment to the purposes and objectives of the city's comprehensive, with appropriate consideration as to whether the proposed change will further the purposes of these zoning regulations and other city codes, regulations, and actions designed to implement the growth management plan.

(emphasis added); and

**WHEREAS**, Objective 1.8 of the Future Land Use ("FLU") Element of the Comprehensive Plan provides:

The City shall coordinate future transportation, park, and infrastructure improvements to ensure compatibility and appropriateness of adjacent land uses and to promote the Island's small town character; and

**WHEREAS**, parking space requirements are a transportation-related improvement; and

**WHEREAS**, the Planning Board, sitting as the Local Planning Agency, finds that this Ordinance is consistent with FLU Element Objective 1.8, because the allocation of shopping center parking requirements pursuant to this Ordinance make the requirements

more equitable for shopping centers without disturbing the small town character of Marco Island; and

**WHEREAS**, Objective 1.11 of the FLU Element of the Comprehensive Plan provides:

Objective 1.11: The City will take affirmative steps to discourage urban sprawl both on and off Marco Island; and

**WHEREAS**, the Planning Board, sitting as the Local Planning Agency, finds that this Ordinance is consistent with FLU Element Objective 1.11, because this Ordinance will not cause urban sprawl; and

**WHEREAS**, Policy [sic] 1.4 of the Transportation Element of the Comprehensive Plan provides:

Policy 1.4: Maintain designated Levels of Service for arterial, collector and local roads on Marco Island; and

**WHEREAS**, the Planning Board, sitting as the Local Planning Agency, finds that this Ordinance is consistent with Transportation Element Policy [sic] 1.4, because this Ordinance affects transportation-related improvements that will not detract from the required level of service for arterial, collector, and local roads; and

**WHEREAS**, the Planning Board, sitting as the City's Local Planning Agency, has determined that the relationship of this Ordinance with the Comprehensive Plan is that it is not inconsistent with the City of Marco Island Comprehensive Plan; and

**WHEREAS**, this Ordinance clarifies that parking for any and all outdoor restaurant seating in a shopping center that is used for on-site consumption of food or beverages, whether prepared on-site or prepackaged, shall be provided at the same ratio established in the LDC for a sit down restaurant at one parking space per four (4) seats; and

**WHEREAS**, this Ordinance also requires that restaurant space in a shopping center exceeding twenty percent (20%) of the center's gross floor area shall be provided at a rate of one parking space per four (4) seats, which is the same requirement for "stand alone", or free-standing, sit down restaurants; and

**WHEREAS**, this Ordinance provides a waiver of the required rear access for patrons and employees where: (i) such parking is intended to be utilized solely by employees of the various shopping center businesses and for deliveries and sales calls; (ii) each business in the shopping center has a direct access from the rear of the shopping center parking area; and (iii) the rear parking area has signage identifying the parking as "employee parking"; and

**WHEREAS**, this Ordinance adds a definition to the LDC for "takeout prepared food establishments" and in so doing clarifies that takeout prepared food establishments are not to be considered to be restaurants under the LDC; and

**WHEREAS**, Section 30-62(8)a., Code of Ordinances of the City of Marco Island, Florida, requires that the Planning Board determine the need and justification for a Land Development Code ("LDC") amendment; and

**WHEREAS**, the justification for this Ordinance is that in comparing parking requirements for various other counties and municipalities, this Ordinance will make the City of Marco Island's parking standards for shopping centers more consistent with other local governments; and

**WHEREAS**, Section 30-488 currently treats parking in shopping centers in excess of 20% of the gross floor area in sit down restaurant use as requiring one parking space per sixty (60) square feet of restaurant gross floor area above the twenty percent (20%) threshold; and

**WHEREAS**, the foregoing allocation is more burdensome for a sit down restaurant than for a fast food restaurant (a higher traffic generator) which requires one parking space per seventy (70) square feet of restaurant gross floor area; and

**WHEREAS**, the justification and need for this Ordinance is too make the shopping center restaurant parking regulations more equitable; and

**WHEREAS**, the Ordinance will make the parking standard for all shopping center restaurant parking the same as for "stand alone" or free-standing sit down restaurants; and

**WHEREAS**, an additional justification for this Ordinance is that it defines what a "takeout prepared food establishment" is, which is a use with a specific parking standard pursuant to the LDC; and

**WHEREAS**, the Planning Board has found that, as a result of the foregoing, this Ordinance will promote the public health, safety, aesthetics, and welfare of the community; and

**WHEREAS**, the City Council adopts the findings of the Planning Board, also sitting as the City's Local Planning Agency.

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

**SECTION 1. Recitals.** Each and all of the foregoing recitals be and the same are hereby incorporated into this Ordinance as if specifically set forth herein.

**SECTION 2. Amendment and Adoption.** That section 30-10 of the Code of Ordinances, City of Marco Island, Florida, is hereby amended to read as follows:

**Sec. 30-10. - Definitions.**

\* \* \*

(c) *Definitions enumerated.* [The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

\* \* \*

*Affordable housing rental unit.* See section 30-67.

Alcoholic beverage shall be defined as set forth in section 4-2 of the city code of ordinances.

**[DRAFTER's NOTE:** Section 4-2 of the City Code defines an alcoholic beverage" as "any beverage containing more than one percent of alcohol by weight." This is slightly in excess of s. 561.01(4)(a), Florida Statutes, which defines an alcoholic beverage as meaning "distilled spirits and all beverages containing one-half of 1 percent or more alcohol by volume."]

*Alley* means a public or approved private way which affords a secondary means of access to abutting commercial properties and which is not intended for general traffic circulation.

\* \* \*

*Eating establishment* means an establishment deriving fifty-one percent (51%) ~~54 percent~~ or more of its gross revenue from the retail sale of food and nonalcoholic beverages for on-premises or immediate consumption. Eating establishments may include drive-through restaurants, fast food restaurants, sit-down restaurants, walk-up restaurants, and takeout prepared food establishments, ~~stores~~ as defined by this code.

**[DRAFTER's NOTE:** The percentage is consistent with the requirements of s. 561.20(2)(a), Florida Statutes, relating to alcoholic beverage regulation relating to condominiums, hotels, motels, and food service establishments.]

\* \* \*

*Landscaping, cultivated* means any landscaping that is installed, planted, sown, improved by labor, etc., and that is not naturally occurring.

LDC means this Land Development Code.

*Level of service (LOS)* means an indicator of the extent or degree of service provided by, or proposed to be provided by, a public facility based on and related to the operational characteristics of the public facility, as adopted in the comprehensive plan. LOS shall indicate the capacity per unit of demand for each public facility. (See article X, Concurrency Management.)

\* \* \*

*Surface waters* means those which have been precipitated on the land or forced to the surface in springs, and which have then spread over the surface of the ground. They appear as puddles, sheet or overland flow, rills, streams and lakes, and continue to be surface waters until they disappear by infiltration, evaporation, or discharge into the sea.

*Takeout prepared food establishment* means a retail establishment which provides ready-to-eat food, primarily for take away or carry out, and off-premises consumption. It includes, but is not limited to, delicatessens, ice cream and cookie stores, retail bakeries, coffee shops, and similar types of establishments. It does not include retail uses which sell prepackaged or bulk ready-to-eat foods with no on-site food preparation area, nor does it include restaurants, as defined in this code.

*Temporary use* means a prospective use intended for a limited duration. Temporary uses require a permit pursuant to the conditions set forth in code and may include the placement of signage, merchandise, temporary structures and equipment.

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**SECTION 3. Amendment and Adoption.** That section 30-488 of the Code of Ordinances, City of Marco Island, Florida, is hereby amended to read as follows:

**Sec. 30-488. - Minimum off-site parking requirements.**

Irrespective of any other requirement of this article, each and every separate individual store, office, or other business shall be provided with at least two off-street parking spaces, unless specific provision is made to the contrary. The city manager or his designees may determine the minimum parking requirements for a use which is not specifically referenced below or for which an applicant has provided evidence that a specific use is of such a unique nature that the applicable minimum parking ratio listed in this code should not be applied. In making such a determination the city manager or his designees may require submission of parking generation studies; evidence of parking ratios applied by other counties and municipalities for the specific use; and other conditions and safeguards deemed to be appropriate to protect the public health, safety and welfare.

\* \* \*

(5) *Off-street parking space and stacking requirements.* Minimum off-street parking space requirements are set forth below. Where stacking is required, the amount listed does not include the first vehicle being serviced (for drive-in windows, stacking starts ten feet behind the middle of the pickup window) and is computed at 20 feet per vehicle (turns are computed at 22 feet per vehicle, measured at the outside of the driveway). Stacking for one lane may be reduced if the reduction is added to the other lane(s).

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| Convenience store/<br>delicatessen/takeout<br>prepared food<br>establishment store | 1 per 200 square feet plus 1 for each 2 seats provided for<br>food patrons. |
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| Nursing home   | Family care facility, group care facility (category I and category II), and care unit, see LDC for group housing parking requirements.  |
| Restaurant (walk-up or drive-through with walk-up window and/or outdoor seating) | 1 per 80 square feet for public use areas including outdoor eating areas or 1 per 2 seats, whichever is greater, and for non-public use areas (kitchen, storage, freezer, etc.) 1 per 200 square feet. A stacking area of 9 vehicles for the first drive-through lane and 6 for any additional drive-through lanes.   |
| Restaurant (drive-through with no walk-up window or outdoor seating)             | 1 per 100 square feet. A stacking area of 10 vehicles for the first drive-through lane and 7 for any additional drive-through lanes.  |
| Restaurant (fast food)   | 1 per 70 square feet for public use areas including outdoor eating areas or 1 per 2 seats, whichever is greater, and for non public use areas (kitchen, storage, freezer, etc.) 1 per 200 square feet. A stacking area of 9 vehicles for the first drive-through lane and 4 for any additional drive-through lanes.   |
| Restaurant (sit down)  | 1 parking space per 4 seats for both indoor and outdoor seating. Credit for boat slip parking is allowed where the slips have all necessary permits and are located on navigable waterways, using the formula 1 boat slip = 1 vehicle space, provided that each and all boat skips credited shall not be leased or rented for boat storage or utilized for any purpose other than customers frequenting said restaurant. Credit for boat slip parking shall be limited to a maximum of <del>ten</del> 10 percent (10%) of a restaurant's required parking not to exceed a total credit of 10 parking spaces, with the amount credited determined by the city manager or his designees based on the likelihood of restaurant customers using these wet slips during peak business hours of the restaurant. |
| Retail shop or store (not otherwise listed) and department stores                | 1 per 250 square feet of indoor/outdoor retail and office areas plus 1 per 500 square feet for indoor/outdoor storage areas that have no access for the general public and partly enclosed or open air garden centers.  |
| Schools:   |   |

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| Business school/vo-tech       | 2 per 5 students plus 4 per 5 faculty/staff members.  |
| Elementary/junior high school | 5 per 4 staff/faculty members.  |
| Senior high school            | 1 per faculty/staff member plus 1 per 5 students.   |
| Shopping center               | <p>1 space per 250 square feet for centers <u>having</u> with a gross floor area (GFA) of at least 16,000 square feet and not having significant cinemas/theaters (none or those with a total cinema/theater seating capacity of less than 5 seats per 1,000 square feet of the shopping center's gross floor area). <u>Parking for outdoor seating utilized by patrons for onsite consumption of food or beverages, whether prepared on-site or prepackaged, shall be provided at the same ratio established in this LDC for "restaurant (sit down).</u></p> <p><del>No more than twenty percent (20%) 20 percent of a shopping center's GFA floor area can shall be composed of utilized for restaurant restaurants space without providing additional parking for that portion of the restaurant the floor area which exceeds over twenty percent (20%) 20 percent of the center's total GFA. The parking requirement for restaurant space floor area exceeding twenty percent (20%) 20 percent of the center's total GFA shall be calculated at the rate set forth in this LDC for "restaurants (sit down)." 4 parking space per 60 square feet including outdoor waiting and/or seating areas, or 1 per 2 seats, whichever is greater.</del></p> <p>Rear parking requirements: When more than <u>ten percent (10%) 40 percent</u> of a shopping center's total parking requirement is <u>located placed</u> in the rear of the shopping center, the center shall have convenient and <u>well-lit well-lighted</u> front and rear <u>pedestrian access accesses</u> for patrons and employees and the rear buildings shall be architecturally finished adjacent to rear <u>access accesses</u>. <u>The requirement to provide such access may be waived by the city council where: (1) such parking is intended to be utilized solely by employees of the various businesses of the center and for deliveries or sales calls; (2) each business has direct access</u></p> |



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|  | from the rear of the center; and (3) the rear parking has<br>signage identifying the parking as "employee parking." |
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**SECTION 4. Severability/Interpretation.**

(a) If any term, section, clause, sentence or phrase of this Ordinance is for any reason held to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the other or remaining terms, sections, clauses, sentences, or phrases portions of this Ordinance, and this Ordinance shall be read and/or applied as if the invalid, illegal, or unenforceable term, provision, clause, sentence, or section did not exist.

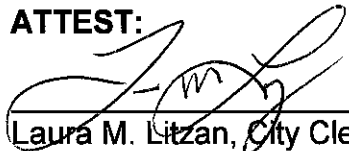
(b) In interpreting this Ordinance, underlined words indicate additions to existing text, and ~~stricken through~~ words include deletions from existing text. Asterisks ( \* \* \* ) indicate a deletion from the Ordinance of text, which continues to exist in the Code of Ordinances. It is intended that the text in the Code of Ordinances denoted by the asterisks and not set forth in this Ordinance shall remain unchanged from the language existing prior to adoption of this Ordinance.

(c) Sections 1., 4., and 5. shall not be codified. The Drafter's Notes shall not be codified.

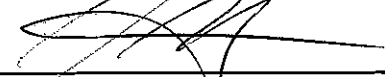
**SECTION 5. Effective Date.** This Ordinance shall be effective immediately upon adoption by the City Council on second reading.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND this 4<sup>th</sup> day of December 2017.

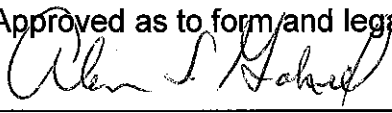
**ATTEST:**

  
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Laura M. Litzan, City Clerk

**CITY OF MARCO ISLAND, FLORIDA**

By:   
\_\_\_\_\_  
Jared Grifoni, Chairman

Approved as to form and legal sufficiency:

  
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Alan L. Gabriel, City Attorney

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