

ORDINANCE 18-08

AN ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA, RELATING TO BOAT DOCKING FACILITY REGULATIONS; MAKING FINDINGS; AMENDING SECTION 54-111; REVISING LANGUAGE AND ADOPTING EXHIBITS RELATING TO BOAT DOCKING FACILITY PROTRUSION LIMITATIONS AND DRAWINGS RELATING TO WATER FRONT LOT SIDE YARD SETBACK REQUIREMENTS; 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 two 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, the Comprehensive Plan includes few goals, objectives, or policies which specifically relate to this Ordinance; and

WHEREAS, this Ordinance supports the Comprehensive Plan by making certain land development regulations relating to waterways clearer to the general public and easier to discern; 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, 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 54-111(a) and (b) of the Code of Ordinances, City of Marco Island, Florida, is hereby amended to read as follows:

Sec. 54-111. - Dimensional standards.

(a) Protrusion limitations for boat docking facilities.

(1) On waterfront lots located on waterways which are 100 feet or greater in width the combination of a boat docking facility and moored vessel(s) shall not protrude more than thirty (30) ~~30~~ feet into the waterway, provided the combination of a boat docking facility and moored vessel(s) does not protrude more than twenty-five 25 percent (25%) of the platted width of the waterway in order to ensure reasonable width for navigation. The protrusion of boat docking facilities, which are located at the

intersection of two waterways or in areas where the waterway widens may in cases exceed twenty-five (25) 25 feet but not more than thirty (30) 30 feet into the waterway. Boat docking facilities located at the end of a canal shall not protrude more than twenty-five 25 percent (25%) of the platted width of the waterway. See See Exhibits One and Three. In the event of a conflict between the text of this section and exhibits one or three below, the exhibits shall prevail.

[CODIFICATION NOTE: THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK; EXHIBITS ONE AND THREE TO FOLLOW]

**PROTRUSION LIMITATIONS FOR BOAT DOCKING FACILITIES
(Waterway Width 100 Ft and Greater)**

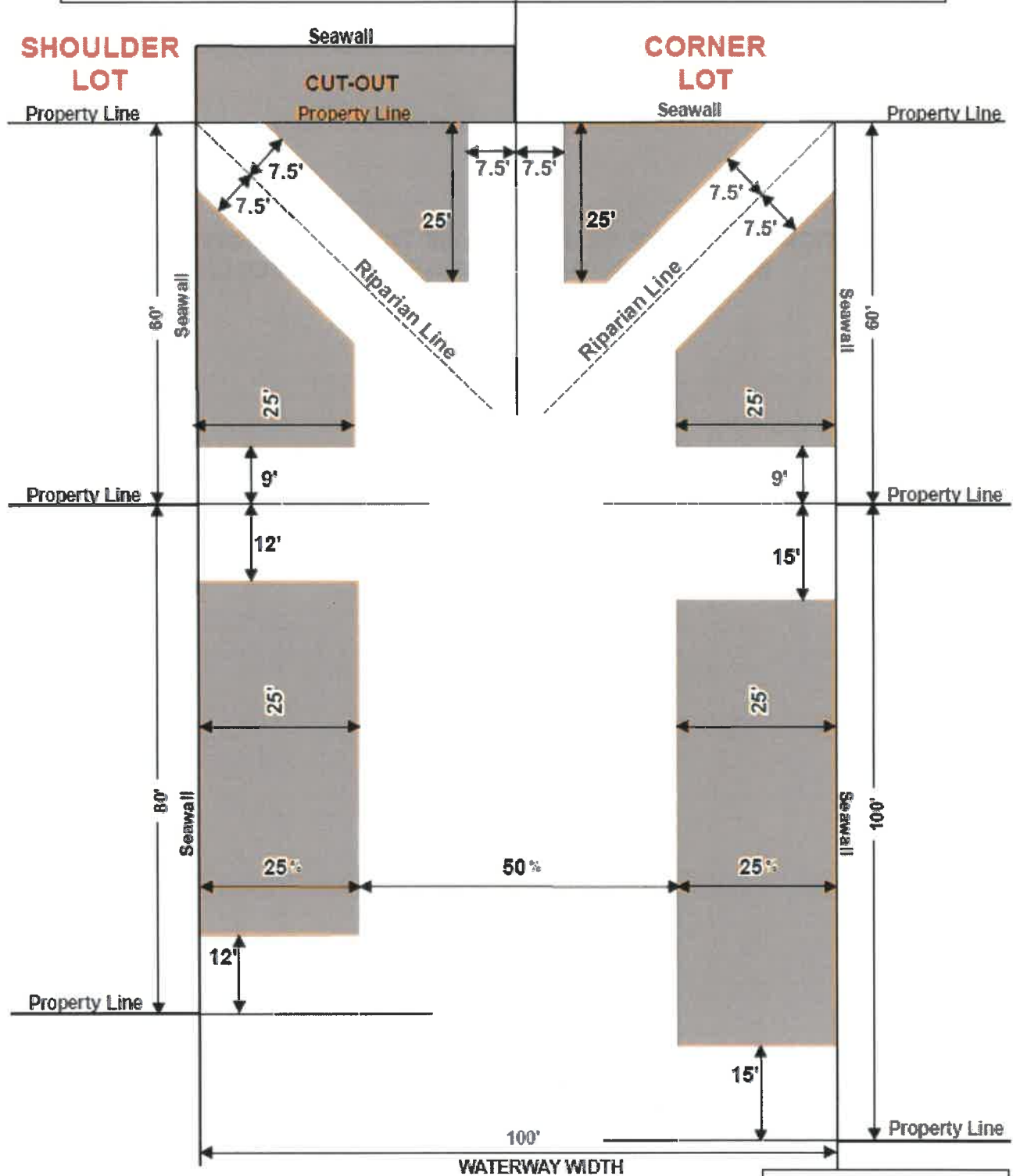


EXHIBIT ONE

**PROTRUSION LIMITATIONS FOR BOAT DOCKING FACILITIES
(Waterway Intersections and Bay Areas)**

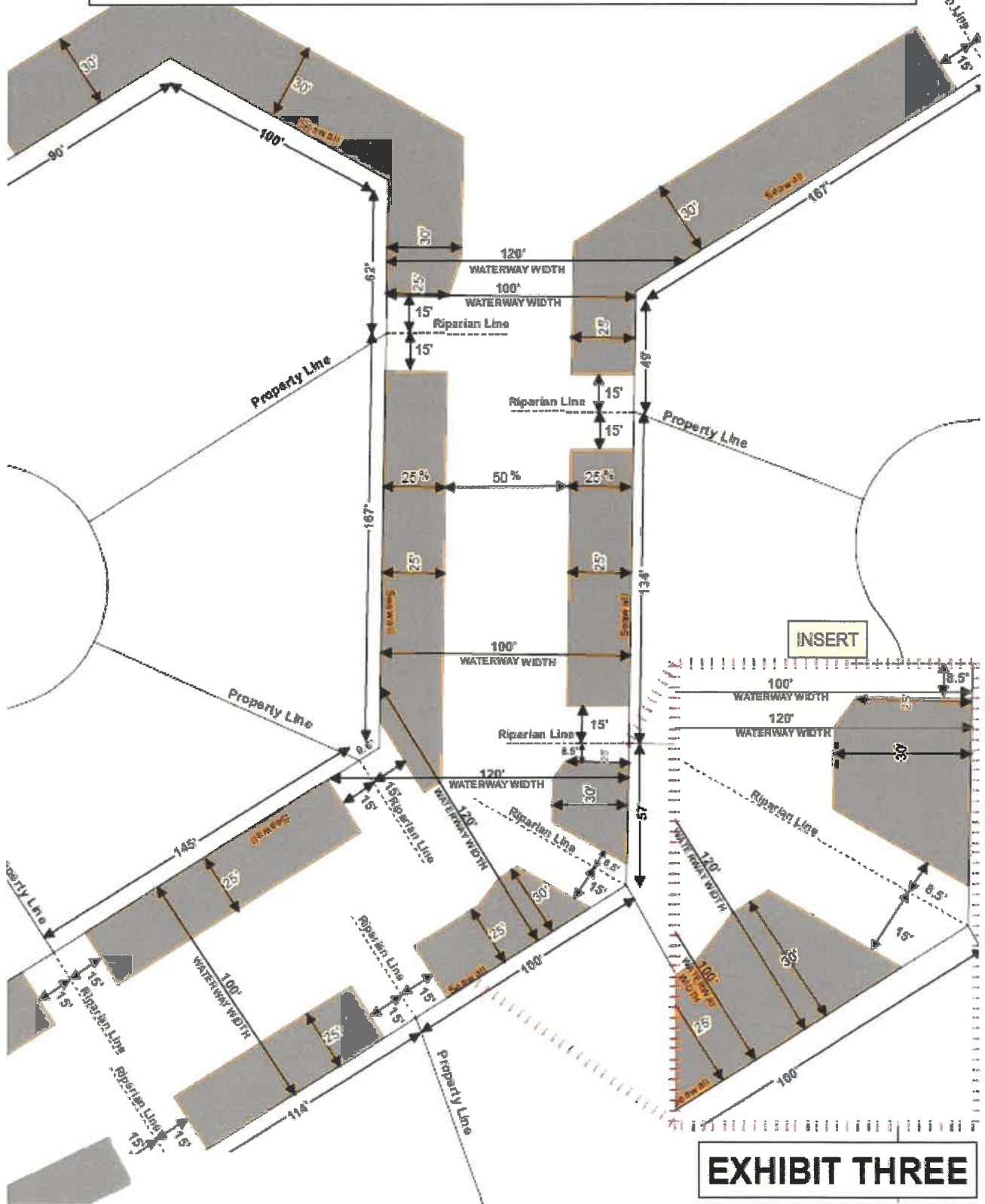


EXHIBIT THREE

(2) On waterfront lots located on waterways which are less than 100 feet in width the combination of a boat docking facility and moored vessel(s) shall not protrude more than ~~twenty~~ 20 percent (20%) of the platted width of the waterway, except that on waterfront lots with a marginal dock as defined in section 54-101 the combination of the dock and moored vessel(s) shall not exceed ~~twenty-five~~ 25 percent (25%) of the platted width of the waterway or ~~twenty-five~~ (25) 25 feet, whichever is more restrictive. The protrusion of boat docking facilities, which are located at the intersection of two waterways or in areas where the waterway widens may in cases exceed ~~twenty~~ (20) 20 feet but not more than ~~thirty~~ (30) 30 feet into the waterway. Boat docking facilities located at the end of a canal shall not protrude more than ~~twenty~~ 20 percent (20%) of the platted width of the waterway. See See Exhibits Two (below) and Three (above). In the event of a conflict between the text of this section and exhibits two or three below, the exhibits shall prevail.

[CODIFICATION NOTE: THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK; EXHIBIT TWO TO FOLLOW]

PROTRUSION LIMITATIONS FOR BOAT DOCKING FACILITIES
 (Waterway Width Less Than 100 Ft)

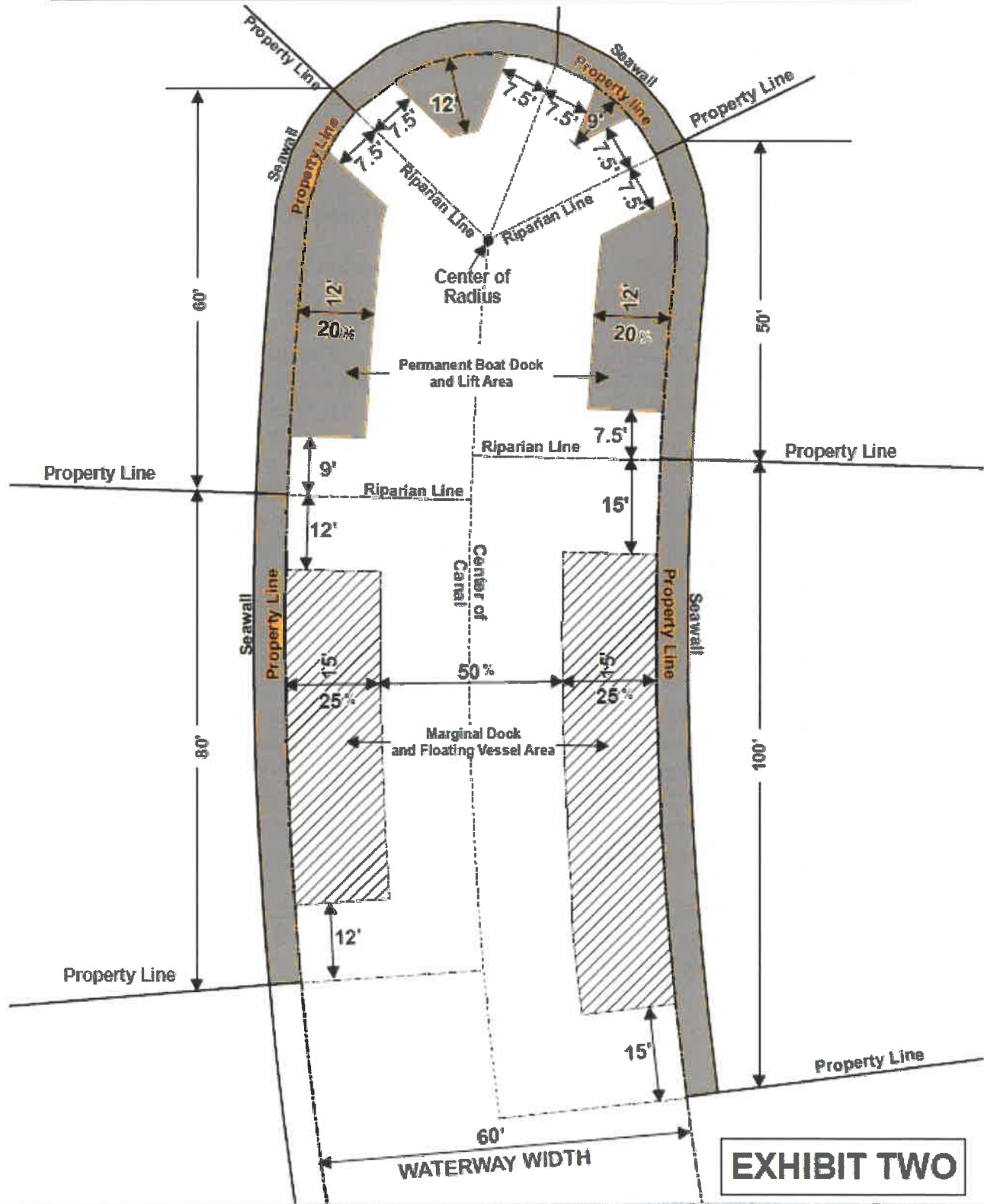


EXHIBIT TWO

(3) No piling, boatlift, or other structure necessary to moor a vessel shall be permitted unless that structure meets the protrusion requirements set forth herein or a boat dock extension has been approved.

(4) Protrusion shall be measured from the face of the seawall. On lots where the property line extends into the water, the protrusion shall be measured from the property line.

(5) The platted width of the waterway shall be defined by the recorded plat.

(6) City staff Staff shall determine whether or not the proposed location and design of the boat docking facility and moored vessel(s) in combination is such that it may infringe upon the use of neighboring properties, including any existing boat docking facilities.

(7) Protrusion measurement into a waterway from a waterfront lot shall include the combination of the boat docking facility, mooring piles, and moored vessel(s). Outboard motor(s), inboard propeller(s), lower unit transmission(s) propeller(s), bow pulpit(s), navigational light(s), ladder(s), and other vessel appurtenances attached to the moored vessel shall also be included in the protrusion measurement.

(8) Boat dock decking and dock area shall comply with any other applicable local, state, or federal law, rule, regulation or policy.

(9) Waterfront lots located within multifamily and commercial zoning districts may provide a parallel waterfront walkway along the waterway side of the seawall from lot line to lot line (riparian lines) not to exceed a maximum width of six (6) feet. City staff Staff shall determine whether or not the waterfront walkway interferes with adjacent boat docking facilities.

(10) Wet slip mooring may be provided in the side yard setback adjacent to side yard property lines/riparian lines in multifamily and commercial zoning districts, provided boat docks, mooring piles, and access piers comply with side yard setbacks set forth herein.

(11) If the platted width of a waterway is unclear from available information, a waterfront property owner may, at the waterfront property owner's expense, provide a survey, which is dated no earlier later than ninety (90) days ~~three months~~ from the date of the waterfront property owner's boat dock extension application, to staff as additional information regarding the actual width of the waterway.

(b) Side yard setback requirements for boat docking facilities and swivel PWC lifts:

(1) Boat docking facilities shall have side yard setbacks equivalent to fifteen ~~45~~ percent (15%) of the seawall length, as measured along the waterfront and from each applicable riparian line.

a. The minimum required setback shall be seven and one-half (7.5) 7.5 feet.

b. The maximum required setback shall be fifteen (15) 15 feet.

c. Waterfront corner lots that have less than 80 feet of water frontage shall have required setbacks of seven and one-half (7.5) 7.5 feet from each riparian line. Lots located adjacent to waterfront corner lots, regardless of their waterfront length, shall have a seven and one-half (7.5) 7.5 foot setback, but only from the riparian line shared with the waterfront corner lot. A waterfront corner lot is a "lot, corner" on the "waterfront" as defined in section 30-10 and is also known as a "lot, shoulder" as defined in section 30-10.

d. The setback shall apply to that portion of the boat dock facility and moored vessel waterward of the property line.

(2) Boat docking facilities which are constructed in an existing cut-in boat slip shall have a minimum side yard setback of ten (10) feet.

(3) Any decked area which is extended or located past the waterward side of the seawall shall be considered part of the boat docking facility. All height limitations and setback requirements contained herein shall apply to such decked area, terrace or patio extensions.

(4) Any boat, accessory attached to a boat, or PWC stored on the decking of a boat docking facility must meet the setback requirements set forth in this section.

(5) Seawall support pilings which are not part of a boat docking facility and meet the height limitations set forth in this article shall not be required to comply with side yard setback requirements.

(6) Typical setback and protrusion requirements for boat docking facilities and swivel PWC lifts are set forth on six (6) exhibits set forth below. See Exhibits Four, Five, Six, Seven, Eight, and Nine (below). In the event of a conflict between the text of this section and exhibits four, five, six, seven, eight, and nine, below, the exhibits shall prevail.

[CODIFICATION NOTE: THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK; EXHIBITS FOUR, FIVE, SIX, SEVEN, EIGHT, AND NINE TO FOLLOW.]

Typical Interior Lot

Waterway (Less than 100 feet wide)

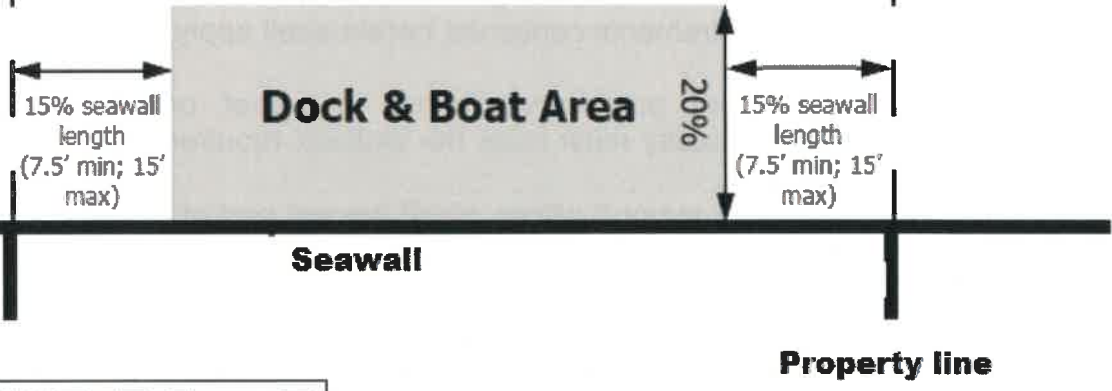


EXHIBIT FOUR

Typical Interior Lot

Waterway (100+ feet wide)

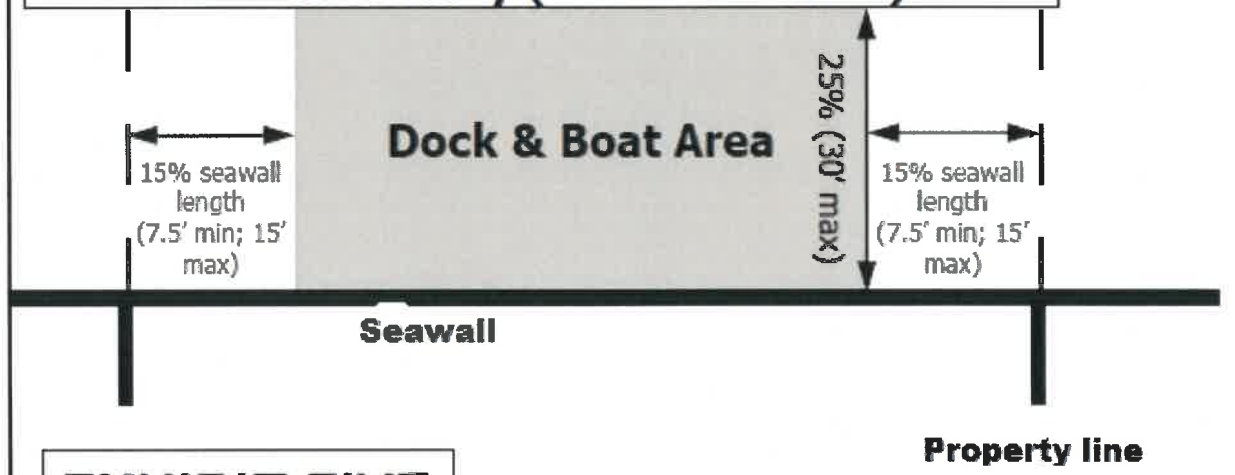


EXHIBIT FIVE

**Typical Side End Lot
Waterway (Less than 100 feet wide)**

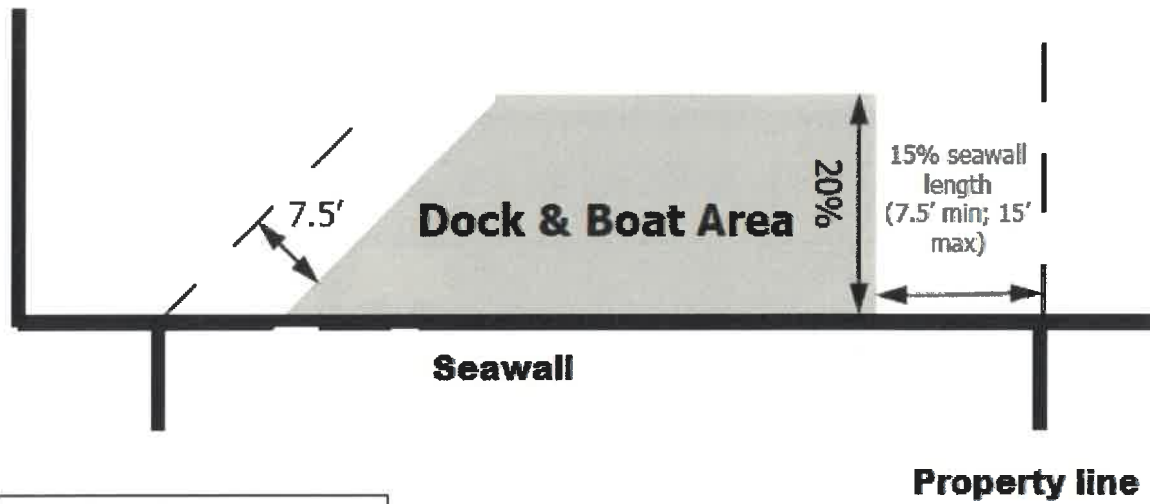


EXHIBIT SIX

**Typical Side End Lot
Waterway (100+ feet wide)**

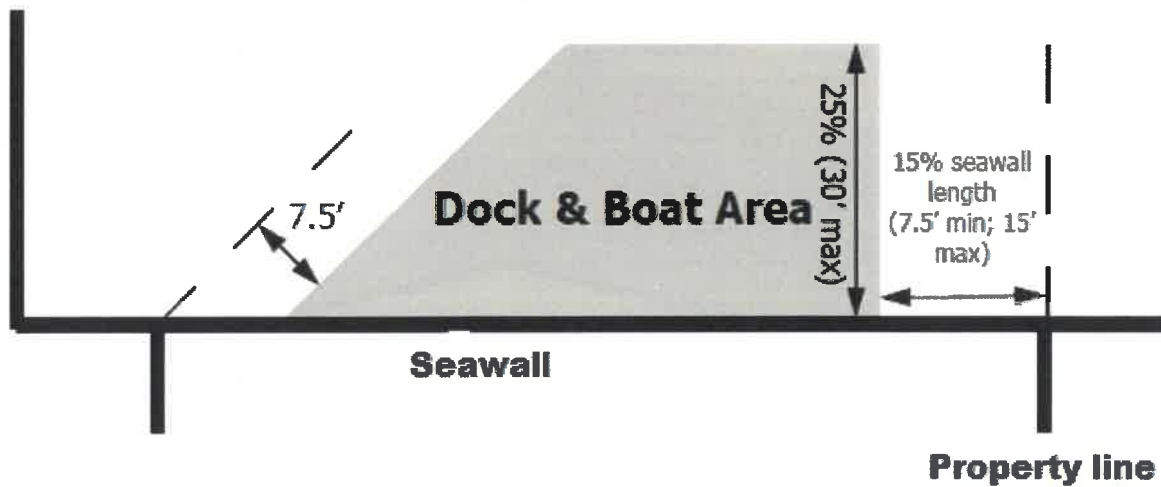
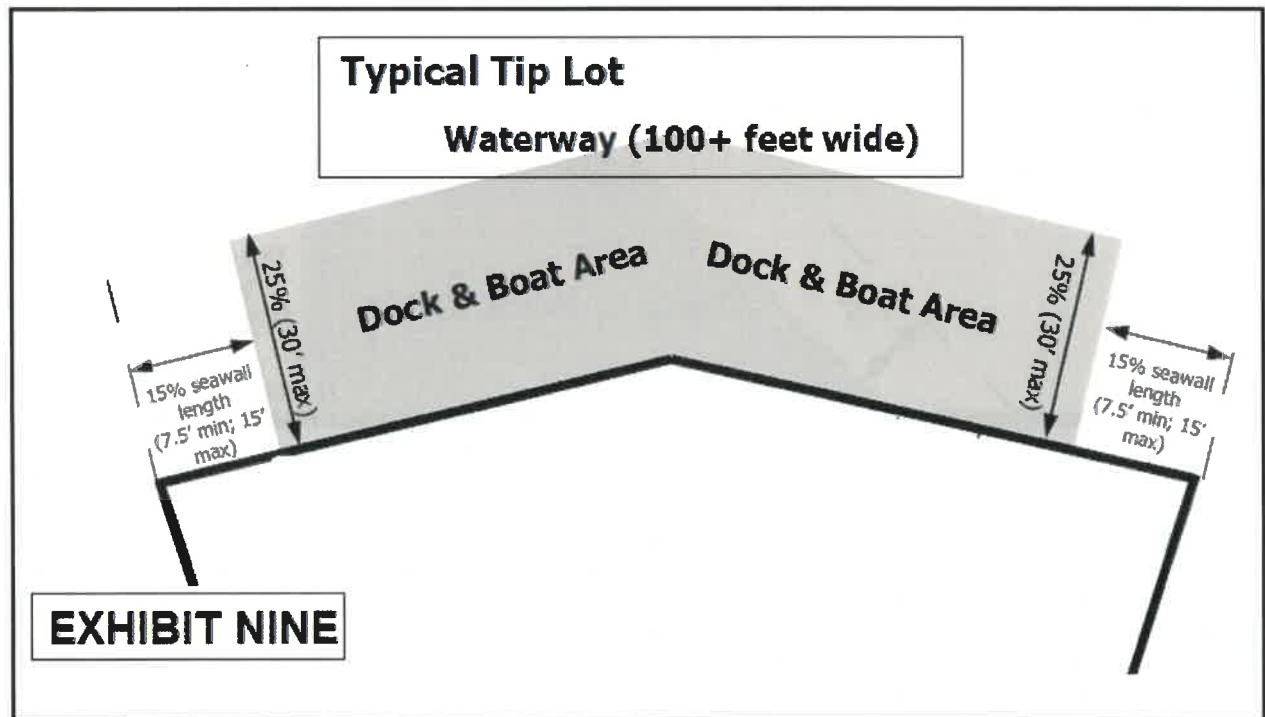
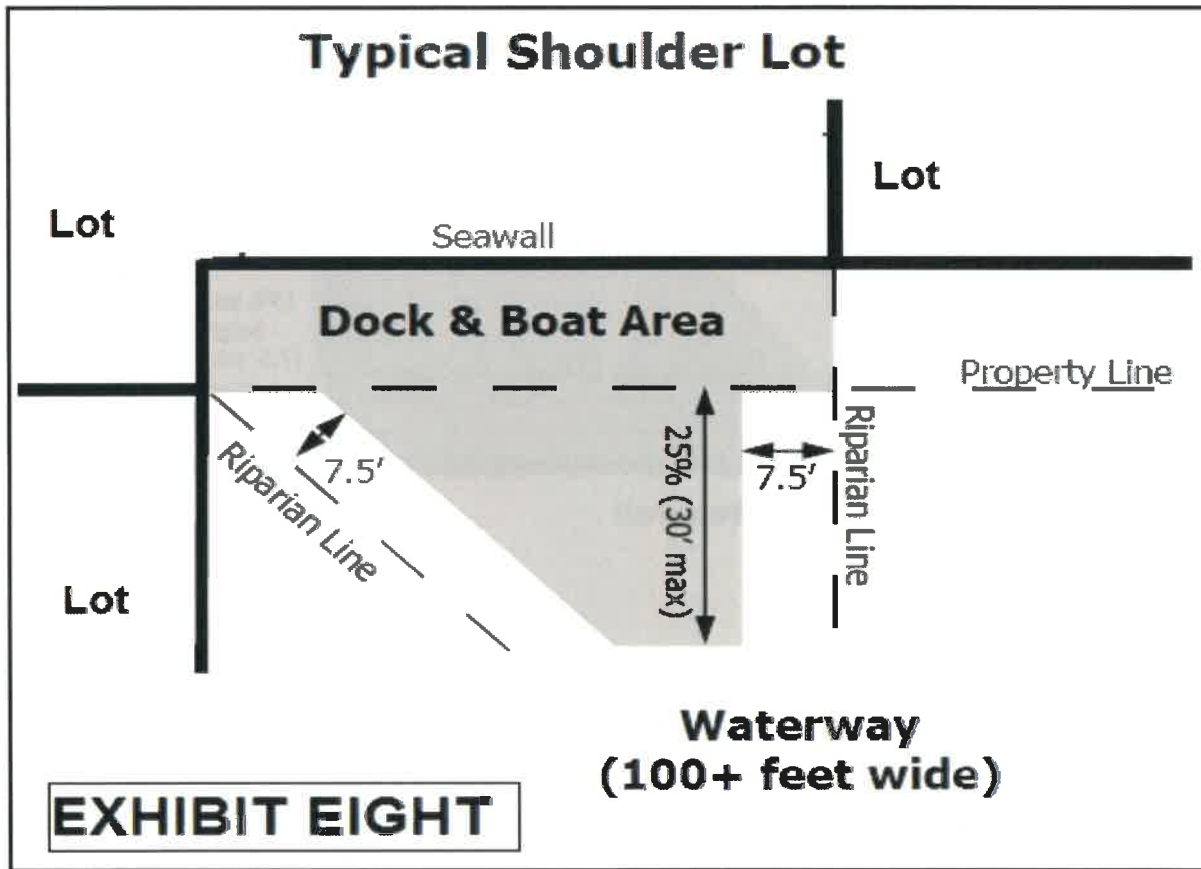


EXHIBIT SEVEN



SECTION 3. 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.

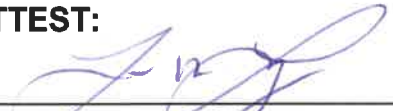
(b) In interpreting this Ordinance, underlined words indicate additions to existing text, and ~~stricken through~~ words include deletions from existing text. Asterisks (* *) indicate a deletion from the Ordinance of text, which continues to exist in the Code of Ordinances. It is intended that the text 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) Codification notes as set forth herein shall not be codified, but the exhibits and drawings shall be set forth in the code at the locations shown.

SECTION 4. 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 7th day of May 2018.

ATTEST:



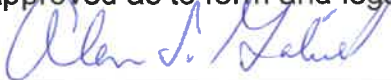
Laura M. Litzan, City Clerk

CITY OF MARCO ISLAND, FLORIDA

By: 

Jared Grifoni, Chairman

Approved as to form and legal sufficiency:



Alan L. Gabriel, City Attorney

