

**ORDINANCE 18-12**

**AN ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA, RELATING TO HURRICANE PREPAREDNESS PROPERTY MAINTENANCE; MAKING FINDINGS; AMENDING SECTION 6-1 RELATING TO WEATHER EMERGENCIES AND MAINTENANCE OF DEVELOPED AND CONSTRUCTION SITES; PROVIDING FOR SEVERABILITY/INTERPRETATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, in the interest of public safety, the City Council has determined that hurricane, tropical storm, or inclement weather preparedness actions for construction sites and developed sites should be undertaken when directed by the City Manager, or said Manager's designees, or when the National Weather Service issues a hurricane warning, tropical storm warning or similar inclement weather advisory for parts of Collier County; and

**WHEREAS**, the City Council further finds that in the interest of public health and safety, adoption of this Ordinance will be in the best interest of the citizens 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.** 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 6-1 of the Code of Ordinances, City of Marco Island, Florida, is hereby amended to read as follows:

**Sec. 6-1. - Hurricane preparedness property maintenance.**

(1) *Title.* This article shall be referred to as the "Marco Marco Island Hurricane Preparedness Property Maintenance Code" Ordinance.

(2) *Weather emergencies.*

(a) *Declaration.* The provisions of this article apply at the direction of the city manager, or said manager's designee, in the event of significant inclement weather conditions, or other similar types of inclement weather warnings for any part of Collier County when the National Weather Service, National Hurricane Center or appropriate weather agency declares a hurricane warning for any portion of the Collier County.

(b) *Construction sites.*

1. All construction materials, including roof tiles, within the city shall be secured, stored or removed so as not to create a safety hazard because of hurricane or tropical storm force winds, or similar inclement weather.

2. Media broadcasts or notices issued by the National Weather Service or National Hurricane Center of a hurricane or tropical storm warning shall be deemed sufficient notice to the owner of real property upon which construction is occurring or any contractor responsible for the construction to secure, store or remove loose construction debris and loose construction materials against the effects of high wind.

3. Materials stockpiled on top of any structure under construction shall be permanently installed by the property owner or contractor at the direction of the city manager, or said manager's designee upon issuance of a hurricane warning. However, if such installation cannot be timely completed, then the property owner or contractor shall:

a. Band together the construction materials and mechanically fasten them to the top of the structure in such a manner so a threat of becoming airborne during a tropical storm or hurricane is not experienced;

b. Remove the construction materials from the top of the structure and mechanically tie them down to the ground;

c. Remove the construction materials from the job site; or

d. Store the construction materials inside a protected structure.

4. Interiors of structures under construction shall be secured to prevent materials from becoming airborne.

5. All debris on a construction site shall be stored in commercial containers and shall be properly secured.

6. Commercial containers and portable toilets must be removed from a construction site or mechanically tied to the ground.

7. Piles of dirt, sand, and stone on a construction site shall be located away from the canals, right of ways, adjoining properties, swales, culverts, and inlet grates.

8. All construction materials or debris required to be secured, stored or removed shall remain secure, stored or removed hereunder from the property until the National Weather Service, National Hurricane Center or other appropriate weather agency has removed all portions of Collier County from those areas included in a hurricane or tropical storm warning, or the city manager, or said manager's designee, lifts an inclement weather directive pursuant to this code section, whichever event shall first occur.

9. In the event of a violation of this article, in addition to all other remedies provided in this code or otherwise by law, the city may take whatever emergency action it deems necessary to secure, store or remove all loose construction materials and debris, including, but not limited to, roof tiles and roofing materials. In such circumstances, the city shall bill the property owner or his/her agent for all charges and expenses incurred to eliminate these potentially unsafe conditions by any means necessary. The securing of an outside contractor to perform these services shall be deemed to be the securing of emergency services and shall not require the city to utilize a competitive bid process to select a contractor. A notice of violation shall be posted at the job site and mailed to the property owner or contractor. The written notice shall

constitute a stop work order and shall remain in effect until the bill is paid. Upon receipt of payment, the building official or his designee shall allow resumption of work. If the bill for such services remains unpaid for a period of 30 days or more, the city may record a claim of lien encumbering the property and thereafter proceed according to law to enforce the lien.

10. The owner of the property and the contractor shall be jointly and severally responsible for compliance with the provisions of this article.

11. The owner or contractor, personally or through their agent or representative, shall have the right to appeal the decision of the city ordering the cessation of all work and appear before the board of adjustments and appeals at a specified time and place to show cause why they should not be responsible for weather emergency code compliance.

(c) *Developed sites.*

1. On all developed property, all household furnishings including, but not limited to furniture and lawn equipment, not secured by a fence or screen enclosure, shall be secured, stored or removed so as to not create a safety hazard due to hurricane force winds.

2. All materials and household furnishings required to be secured, stored or removed shall remain secure, stored or removed hereunder from the property at the direction of the city manager, or said manager's designee, lifts an inclement weather directive pursuant to this code section, or until the National Weather Service, National Hurricane Center or other appropriate agency has removed all portions of Collier County from those areas included in a hurricane or tropical storm warning, whichever event occurs first.

3. Media broadcasts or notice at the direction of the city manager, or said manager's designee issued by the National Weather Service or National Hurricane Center of a hurricane or tropical storm warning for Collier County shall be deemed sufficient notice to the owner of developed real property to store or secure furnishings or to remove furnishings not secured or stored from the property.

(3) *Penalties.*

(a) *Penalty.* The violation or failure to comply with any provision of this Code shall constitute an offense against the city. Penalties shall be assessed in accordance with section 1-14 of the city's code of ordinances, ~~Code of Ordinances~~ or its successor.

(b) *Stop work order; order to abate.* Additionally, where a violation related to any construction or condition for which a permit has been issued; or is subject to issuance, the violation may be enforced by the building official or designee through the issuance of a stop work order in accordance with the procedures set forth in the Florida Building Code; or an order to repair, restore or demolish the work; to vacate the premises; or otherwise to abate the violation enforceable.

(c) *Nuisance.* Any violation of this article is subject to abatement as a public nuisance.

(d) The provisions of this article are cumulative with and in addition to any other remedy provided by law.

**SECTION 3. Severability/Interpretation.**

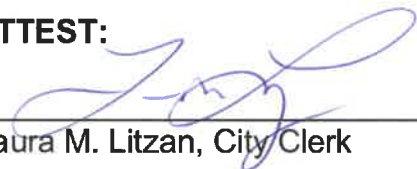
(a) If any term, section, clause, sentence or phrase of this Ordinance is for any reason held to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the other or remaining terms, sections, clauses, sentences, or phrases portions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

**SECTION 4. Effective Date.** This Ordinance shall be effective immediately upon adoption by the City Council on second reading.

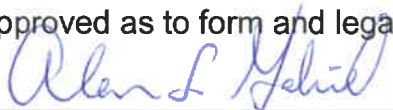
ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND this 4<sup>th</sup> day of September 2018.

**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