

**ORDINANCE 19-10**

**AN ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA, AMENDING CHAPTER 2, ADMINISTRATION, OF THE CODE OF ORDINANCES; CREATING A NEW DIVISION 4, CAPITAL EXPENDITURES, SECTION 2-401, DEFINITIONS; SECTION 2-402, SUPER MAJORITY VOTE REQUIRED FOR LOCAL IMPROVEMENT APPROVAL; SECTION 2-403, SUPER MAJORITY VOTE REQUIRED TO AMEND OR REPEAL THIS DIVISION; SECTION 2-404, APPLICABILITY; REQUIRING A SUPER MAJORITY VOTE OF CITY COUNCIL FOR THE APPROVAL OF CAPITAL EXPENDITURES THAT EXCEED 10 PERCENT OF THE AVERAGE OF THE LAST FOUR (4) FISCAL YEAR'S GENERAL FUND REVENUE; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Marco Island's ("City") residents, businesses and visitors expect a high degree of fiscal responsibility from their local government; and

**WHEREAS**, this Ordinance is in response to the citizens' support for Florida's Constitutional Amendment 5 (2018), which requires a two-thirds vote in both legislative chambers to approve tax increases and City Council desires to act consistent with the citizens support of fiscally conservative values; and

**WHEREAS**, Section 166.041(6), Florida Statutes provides that by future ordinance or charter amendment, a municipality may specify additional requirements for the adoption or enactment of ordinances and resolutions; and

**WHEREAS**, Section 3.06 of the City Charter provides that the City Council has the authority to require a super majority vote unless otherwise required or prohibited by law; and

**WHEREAS**, City Council desires to require a super majority affirmative vote of the City Council to approve certain City capital improvements; and

**WHEREAS**, City Council finds that this Ordinance is in the best interest of the residents, businesses and visitors of the City.

**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 of this Ordinance.

## **SECTION 2.**

That the Code of Ordinances of the City of Marco Island, Florida, Chapter 2, entitled "Administration", is hereby amending by creating a new Division 4 to be entitled "Capital Expenditures", which Division shall read as follows:

### **CHAPTER 2 – ADMINISTRATION**

#### **DIVISION 4. – CAPITAL EXPENDITURES**

##### **Sec. 2-401. Definitions.**

Capital cost – All or any portion of the expenses that are properly attributable to the acquisition, design, construction, installation, reconstruction, renewal or replacement (including demolition, environmental mitigation and relocation) of local improvements under generally accepted accounting principles, including reimbursement to the city for any funds advanced for capital cost and interest on any loan for such purposes.

Capital Improvement - A non-recurring expenditure or any expenditure for physical improvements, including costs for: acquisition of existing buildings, land, or interests in land; construction of new buildings or other structures, including additions and major alterations; construction of streets and highways or utility lines; acquisition of fixed equipment; landscaping; and similar expenditures.

City Council -- City Council of the City of Marco Island, Florida.

General Fund Revenue – All general purpose tax revenue and other unrestricted general purpose revenue of the City, including state and federal revenue sharing monies, credited to the City general fund and from which appropriations may be made.

Government property – Property owned by the United States of America, the state of Florida, a county, a special district, a municipal corporation, or any of their respective agencies or political subdivisions.

Local improvement(s) – A capital improvement constructed or installed by the City, for a municipal benefit.

Obligations -- Bonds or other evidence of indebtedness, including but not limited to, external or interfund loans, notes, commercial paper, capital leases or any other obligations issued or incurred to finance any portion of the capital cost of local improvements.

Super majority vote – Unless otherwise required or prohibited by law, at least five (5) members of Council shall be required when seven (7) Council members are present; at least four (4) members of Council when six or less Council members are present.

**Sec. 2-402. Super Majority Vote Required for Capital Improvement Approval.**

- A. Approval by a super majority vote of City Council shall be required for any capital expenditure that exceeds 10 percent of the average of the last four (4) fiscal year's general fund revenue.
- B. A super majority vote shall not apply to local improvement(s) which are:
- a. Mandated by applicable regulation or existing bond covenants;
  - b. Funded through Enterprise Funds, including without limitation, Water/Sewer Utility Improvement or Maintenance Projects;
  - c. Funded through Grant Funds;
  - d. Funded through Discretionary Tax Funds;
  - e. Funded with proceeds of Obligations which shall be secured by and/or payable from Grant Funds, Enterprise Funds or Discretionary Tax Funds; or
  - f. Occasioned by an emergency and is accompanied by an official declaration of emergency issued by the Council Chair and City Manager, including without limitation a hurricane or other natural disaster.

**Sec. 2-403. Super Majority Vote Required to Amend or Repeal this Division.**

An affirmative vote by a super majority of City Council shall be required to amend or repeal any section or portion of this Division 4.

**Sec. 2-404. Applicability.**

Unless otherwise exempted as provided in Section 2-402(B), this Vote Requirement shall apply to all capital improvement expenditures requiring initial approval subsequent to the date of adoption of this Ordinance.

**SECTION 3. Codification.**

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 constitute a new Division 4 of the City of Marco Island Code of Ordinances, and that the sections of this Ordinance may be renumbered and re-lettered 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 superseded and resolved to the extent of any conflict in favor of the provisions of this Ordinance.

**SECTION 5. Severability.**

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 applied as if the invalid, illegal, or unenforceable term, provision, clause, sentence or section did not exist.

**SECTION 6. Effective Date.**

This Ordinance shall become effective upon its adoption.

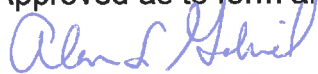
ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND on this 15<sup>th</sup> day of April 2019.

**ATTEST:**

  
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Laura M. Litzan, City Clerk

**CITY OF MARCO ISLAND, FLORIDA**  
By:   
\_\_\_\_\_  
Erik Brechnitz, Chairman

Approved as to form and legal sufficiency:

  
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Alan L. Gabriel, City Attorney