

## ORDINANCE 20-03

**AN ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA AMENDING THE CITY OF MARCO ISLAND CODE OF ORDINANCES BY AMENDING CHAPTER 30, "LAND DEVELOPMENT CODE," ARTICLE I, "IN GENERAL," SECTION 30-10, "DEFINITIONS," TO CLARIFY THE DEFINITION OF "MEDICAL MARIJUANA" SO AS TO INCLUDE FLORIDA STATUTORY REFERENCES FOR MEDICAL MARIJUANA, AND TO EXCLUDE MEDICAL MARIJUANA DEVICES; AMENDING ARTICLE II, "ZONING," DIVISION 9, "COMMERCIAL INTERMEDIATE (C-3) DISTRICT," SECTION 30-222, "PERMITTED USES," TO PROVIDE FOR CLARIFICATION AS TO THE MISCELLANEOUS STORE USES THAT ARE PERMITTED IN THE COMMERCIAL INTERMEDIATE DISTRICT (C-3) TO EXCLUDE RECREATIONAL MARIJUANA STORES; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, on August 18, 2020, a majority of the qualified electors in the City of Marco Island (the "City") voted to approve a proposed initiative ordinance to amend the City's Land Development Code to prohibit the sale, manufacturing, cultivation, distribution, and warehousing of recreational marijuana in all zoning districts in the City (the "Ordinance"). On August 18, 2020, these election results were certified by the County Canvassing Board of Collier County; and

**WHEREAS**, the intent of the Ordinance was to prohibit the sale, manufacturing, cultivation, distribution, and warehousing of recreational marijuana in all zoning districts in the City, but not the sale of medical marijuana and medical marijuana devices which is authorized and defined by Florida law, or licensed Medical Marijuana Treatment Centers as permitted under Florida law; and

**WHEREAS**, in order to correct the error in the Ordinance, the City Council finds that it is necessary and appropriate, and consistent with the vote of the City's electorate to amend the City's Land Development Code to remove the sale of medical marijuana and medical marijuana devices from the Ordinance provisions approved by the electorate on August 18, 2020; and

**WHEREAS**, the City Council finds that this Ordinance serves a municipal and public purpose, and is in the best interest of the health, safety, and welfare of the citizens and residents of the City of Marco Island.

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

## **Section 1. Recitals.**

The foregoing "WHEREAS" clauses are true and correct and reflective of the legislative intent underlying this Ordinance and are hereby ratified and made a specific part of this Ordinance.

## **Section 2. Chapter 30, "Land Development Code," of the City Code of Ordinances is Amended.**

That Chapter 30, "Land Development Code," Article I, "In General," Section 30-10, "Definitions," of the City of Marco Island Code of Ordinances be, and the same is hereby amended to read as follows:

### **Chapter 30 Land Development Code**

#### **Article I - In General**

#### **Section 30-10 - Definitions**

\* \* \*

*Recreational Marijuana* – The cultivation, manufacture, warehousing, distribution, and sale of Marijuana or any derivative or synthetic form of Marijuana, and paraphernalia associated with Marijuana use, excepting any Hemp derived products (including CBD products) containing 0.3% or less of THC (dry weight), as defined and described in the Federal Agricultural Act of 2018. Also exempted is Medical Marijuana, as defined in Section 381.986(1)d through (f), Florida Statutes as may be amended from time to time, and excluding Medical Marijuana Devices as defined in Section 381.986(1)(f), Florida Statutes, as may be amended from time to time and licensed Medical Marijuana Treatment Centers are permitted under Florida law.

## **Section 3. Chapter 30, "Land Development Code," of the City Code of Ordinances is Amended.**

That Chapter 30, "Land Development Code," Article II, "Zoning," Division 9, "Commercial Intermediate (C-3) District," Section 30-222, "Permitted Uses," of the City of Marco Island Code of Ordinances be, and the same is hereby amended to read as follows:

### **Chapter 30 Land Development Code**

#### **Article II - Zoning**

## **Division 9 – Commercial Intermediate (C-3) District**

### **Section 30-222 – Permitted Uses**

The following uses, as defined with a number from the North American Industry Classification System (1997), or as otherwise provided for within this section, are permitted as of right, or as uses accessory to permitted uses in the commercial intermediate district (C-3); uses permitted as of right in the C-1 and C-2 commercial zoning districts shall also be permitted as of right hereunder:

\* \* \*

(29) Miscellaneous store retailers (Groups 45311, 45321, 45322, 45331, 45391, 45392, 453991, ~~453998~~) and Medical Marijuana, excluding Recreational Marijuana stores.

### **Section 4. 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 new provisions within the 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 5. 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 6. 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 7. Effective Date.**

This Ordinance shall become effective upon its adoption.

**ADOPTED BY THE CITY COUNCIL** of the City of Marco Island this 5<sup>th</sup> day of October 2020.

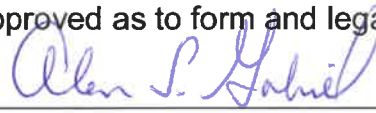
**ATTEST:**

  
\_\_\_\_\_  
Laura M. Litzan, City Clerk

**CITY OF MARCO ISLAND, FLORIDA**

By:   
\_\_\_\_\_  
Erik Brechnitz, Chairman

Approved as to form and legal sufficiency:

  
\_\_\_\_\_  
Alan L. Gabriel, City Attorney