

## **ORDINANCE 22-05**

**AN ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA; REVISING SECTION 54-101, "DEFINITIONS"; AND AMENDING SECTION 54-116, "BOATHOUSES" OF THE CITY OF MARCO ISLAND CODE OF ORDINANCES TO PROVIDE FOR THE USE OF BOAT CANOPIES; MAKING FINDINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INTERPRETATION; 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 30-62(c)(3)d., Code of Ordinances of the City of Marco Island, Florida, requires that the Planning Board determines consistency with the City Comprehensive Plan; and

**WHEREAS**, Article VIII of the State Constitution and Chapter 166, Florida Statutes, provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law; and

**WHEREAS**, the City Council adopted Ordinance No. 00-04 on April 17, 2000, to adopt regulations to prohibit boathouse, boat covers, and similar structures; and

**WHEREAS**, City Council wishes to allow for boat canopies with construction standards; 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.

**WHEREAS**, the Future Land Use Element, Goal 5 states "Ensure that future development and redevelopment is timed with the availability of infrastructure, protects, and where possible, enhances natural resources, and results in an aesthetically pleasing built environment."; and

**WHEREAS**, the Future Land Use Element, Policy 5.1.5. states "The land development regulations and other applicable regulations will require that development and redevelopment projects provide adequate and appropriate landscaping, open space, buffering, and adhere to maximum lot coverage requirements. Such developments must also meet minimum architectural and other site design standards to provide an attractive and cohesive built environment that blends with the character of existing surrounding land uses."; and

**WHEREAS**, the Planning Board has found the need and justification for this Ordinance in conformance with our Comprehensive Plan; 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 the foregoing recitals be and the same are hereby incorporated into this Ordinance as if specifically set forth herein.

**SECTION 2.** That Section 54-101 and 54-116 of the City of Marco Island Code of Ordinances, be, and the same is hereby amended to read as follows:

**Sec. 54-101. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Boat dock canopy and boat lift canopy cover means a ~~portable or fixed permanent~~ aluminum, PVC, galvanized or similar structure which is attached to a dock or boat lift and which structure is covered with canvas, vinyl, ~~aluminum~~, or similar soft membrane materials and utilized for protecting a vessel over or contiguous to navigable water. A boat ~~cover~~ canopy shall not be considered or qualify as a boathouse and shall not be installed, repaired or reconstructed. A covering, commonly referred to as a mooring cover, which is fixed to the vessel for the purpose of protecting the vessel shall not be considered a boat canopy cover.

Boat docking facility means any structure, whether fixed in position or floating, constructed on or over a waterway for the primary purpose of mooring a boat and that provides access to a vessel from the adjacent upland property. This includes docks, walkways, piers, boatlifts, personal watercraft lifts, davits, mooring piles, dolphins, boathouses, nautical garages and associated cut-in boat slips/boat basins from any water body in single-family residential zoning district properties. A walkway immediately adjacent to or as part of a nautical garage in the rear yard setback across the cut-in boat slip/boat basin associated with the nautical garage is permitted as an encroachment into the rear yard setback provided no part of the walkway exceeds 30 inches above grade of the land within the rear yard setback.

Boat dock v-area means the cut-out area within the dock for mooring the boat.

Boathouse means a structure with a roof which is constructed of palm fronds, cedar shakes, or the same material and color of the principal structure

on the property, accessory use to a residential structure over or contiguous to navigable water, open on all sides and providing covered protection to a boat and accessories customary thereto.

*Mooring cover assist system means a system that supports the full weight of a tailored mooring cover as it is removed or installed on a vessel. The mooring cover assist system's mooring cover is attached directly to the vessel when in the covered position and does not act as a boat canopy when not attached to the vessel.* ~~cantilevered structure with a mono-rail track to support the full weight of a tailored mooring cover as it is removed or installed on a vessel. The assist's mooring cover is attached directly to the vessel when in the covered position but may also be mechanically connected to the underside of the overhead mono-rail track so that the mooring cover is ready to be removed or installed on a vessel utilizing the assist.~~

*Permanent structure means a structure erected for 180 days or more.*

**Sec. 54-116. Boathouses and Boat Dock Canopy and Boat Lift Canopy**

- (a) The city shall not permit the construction of new boathouses, ~~boat covers,~~ and gazebos, ~~or similar covered structures~~ extending over navigable waterways in any zoning district. The city may approve through the conditional use process, where authorized, nautical garages with cut-in boat slips.
- (b) Boathouses which were existing prior to September 21, 1998, may be repaired or rebuilt subject to the following:
  - (1) Approval of the community development director or his designee will be required prior to the issuance of a building permit to repair or rebuild within the existing footprint including the overhang of a structure that was lawfully permitted and for which a certificate of completion was issued.
  - (2) Boathouses which were legally permitted but did not receive a certificate of completion shall require public notice and public hearing by the planning board prior to the issuance of a building permit to repair or rebuild within the existing footprint.
  - (3) Boathouses which were not issued a building permit shall require public notice and a hearing by both the planning board and the city council acting as the board of zoning appeals prior to the issuance of a building permit to repair or rebuild within the existing footprint.
  - (4) The community development director, planning board and city council acting as the board of zoning appeals shall base its decision for approval, approval with conditions, or denial, on the following criteria:
    - a. Boathouse must have a minimum side yard setback of 15 feet, this setback requirement will not apply to boathouses located over a cut-in boat slip.

- b. Boathouses may not protrude more than 25 percent of the waterway width or 20 feet into the waterway, whichever is less.
- c. Boathouses may not be more than 15 feet in height as measured from the top of the decking to the top of the roof.
- d. Boathouses must be completely open on all four sides except that the header board can be covered with decorative finishing materials or lattice board no more than 12 inches below the bottom of the header board. Roofing material and roof color must be:
  - 1. Same as the material and color which are used on the principal structure; or
  - 2. Palm frond "chickee" style; or
  - 3. Cedar shake style.
  - 4. Roof must be hip, gable, mansard, or flat style roof, consistent with the roof style of the principal structure. When the roof must be changed to conform, the roof overhang shall not project more than 36 inches into the required side yard setbacks or more than 36 inches beyond the allowed protrusion.
  - 5. A roof shall not be utilized as a viewing platform, sunning deck, gathering place or similar use.
- e. No boathouse may be used for the purpose of human habitation or storage of materials other than recreational supplies.

(c) Boat dock canopy and boat lift canopy

- (1). Boat dock canopy and boat lift canopies shall be permitted within the City's required setback and protrusion limits over an existing boat dock/v-area or lift attached to a dock or lift legally permitted, by the requisite local, state and federal agencies, if the following criteria are met.
  - a. Canopy cover material shall be made of a soft membrane material.
  - b. Canopy cover material shall be of a uniform, non-reflective single color per primary residential building.
  - c. Canopy covers material shall not extend more than 27 inches beyond the width of the boat lift or dock/v-area on each side.
  - d. The sides of the canopy cover shall remain open on all sides, except that a drop curtain, not to exceed 18 inches, shall be permitted on the sides.

- e. Boat dock canopy and boat lift canopy shall meet the requirements of Awnings and Canopies in the Florida Building Code.
- f. No boat dock canopy or boat lift canopy shall be permitted at sites that contain either a boathouse, or any other covered accessory structure.
- g. Two (2) boat dock canopies or boat lift canopies are allowed per primary residential building.

### **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 2nd day of May 2022.


**ATTEST:**

  
Michael J. Sheffield, City Clerk

**CITY OF MARCO ISLAND, FLORIDA**

By:   
Erik Brechnitz, Chair

Approved as to form and legal sufficiency:

  
Alan L. Gabriel, City Attorney

