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ORDINANCE NO. 13-03

AN ORDINANCE AMENDING THE CODE OF ORDINANCES, CITY OF MARCO ISLAND, CHAPTER 30, SECTION 793 (3), CONCERNING REGULATIONS RELATED TO THE TEMPORARY USE OF VACANT LOTS FOR SEAWALL MANUFACTURE, CONSTRUCTION, REPAIR AND RELATED BOAT DOCK CONSTRUCTION ACTIVITIES UNDER CONSTRUCTION TEMPORARY USE PERMITS; PROVIDING FOR INCLUSION IN THE CODE, CONFLICT AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, Section 1.02 of the Marco Island City Charter empowers the City to adopt, amend, or repeal ordinances, resolutions and codes as may be required for the benefit of residents and governance of the City; and

WHEREAS, construction temporary use permits as currently allowed under Article XII, Sec. 30-793 provide for various kinds of temporary construction permits; and

WHEREAS, provisions related to the regulation of seawall staging lots are currently in effect under Article XII, Section 30-793 (3) of the Code of Ordinances and changes to these Code provisions are desired; and

WHEREAS, the Marco Island Planning Board, sitting as the Local Planning Agency, and the Waterways Advisory Committee held duly advertised public hearings on October 5, November 2, and December 7, 2012, and determined that the proposed changes contained in this Ordinance are consistent with the City of Marco Island Comprehensive Plan and Florida law, and recommended adoption of this Ordinance to the City Council by a vote of 5-0; and

WHEREAS, the Marco Island Planning Board and the Waterways Advisory Committee agreed that promotion of and hospitality towards the new seawall construction and repair technologies and methods are of a high importance; and

WHEREAS, after reviewing the City of Marco Island Planning Board's recommendation, the recommendation of City staff, and comments from the public, the City Council finds that the proposed amendments to its Code of Ordinances are in compliance and consistent with Florida law and its adopted Comprehensive Plan; and

WHEREAS, the City Council further finds that adoption of this Ordinance is in the best interest of the residents of the City of Marco Island.

50 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
51 MARCO ISLAND, FLORIDA:

52

53

54 SECTION 1. Recitals. The foregoing "WHEREAS" clauses are hereby ratified and
55 confirmed as being true, correct and reflective of the legislative intent underlying this Ordinance and
56 are hereby made a specific part of this Ordinance.

57

58 SECTION 2. Amendment and Adoption. The amendments to the Code of Ordinances
59 contained in this Ordinance are hereby amended or created and adopted as follows:

60

61

62 1. Article XII, Temporary Use Permits

63

64

65 *****

66

67 Sec. 30-793. Construction temporary use permit. During the construction of any development for
68 which a site development plan has been approved or a building permit issued, the developer may
69 request a temporary use permit subject to the following:

70

71

72

73 (3) In addition to the uses described above, a construction temporary use permit ~~may~~ shall be obtained
74 for the use of a vacant lot for ~~the~~ seawall manufacture, construction, and repair and related boat dock
75 construction activities of seawalls on other all vacant lots or parcels under the following conditions:

76

77 (a) The contractor shall notify the city, as part of the building permit application process for seawall
78 manufacture, construction, repair, and related boat dock construction activities ~~work~~, of its intentions
79 to use a vacant lot for such purpose.

80

81 (b) The contractor shall ~~have~~ provide written permission from the property owner of the vacant lot. A
82 copy shall be submitted to the city building services division and made a part of the temporary use
83 permit application. The city shall require a signed document holding the city harmless from any claim
84 by the property owner or the permit holder for any damage to the vacant lot or seawall. City staff shall
85 provide notification to the property owner indicating any vacant lot utilized for seawall manufacture,
86 construction, repair, and related boat dock construction activities may not be used again for an
87 additional 365 days following expiration of the last temporary use permit utilized for the subject vacant
88 lot. In addition, ~~the permit application shall contain proof of~~ City staff will provide notification of the
89 proposed temporary use of the vacant lot to all property owners within a 300-foot radius of the subject
90 vacant lot, together with other conditions of the permit as may be required by the city.

91

92 (c) The contractor shall post the subject property with a permit board and all applicable permits
93 including a copy of the temporary use permit. ~~and the vacant lot shall be posted with the temporary use~~
94 ~~permit.~~

95

96 (d) Manufacture of precast seawall panels and related boat dock construction activities on a vacant lot
97 shall only be performed for a maximum of ~~120~~ 100 consecutive days while an associated repair permit
98 is active. More than one permitted seawall repair or marine construction contract may be staged at the

99 vacant lot concurrently. Upon completion of the use and prior to the expiration of the ~~120~~ 100 -day
100 period, the contractor shall restore the lot to pre-use condition. Any vacant lot so used shall not be used
101 ~~again~~ for seawall manufacture, construction, repair, and related boat dock construction activities for an
102 additional 365 days following issuance of the last associated Certificate of Completion or CO, with the
103 exception of an emergency repair or replacement to the seawall at the subject vacant lot.

104
105 (e) Failure to comply with the provisions of this subsection shall constitute a violation of this Code. If
106 a violation is found, Code Compliance staff shall provide a notice of violation to the violator and allow
107 for up to ten business days to cure. If the violation is not corrected by the time specified for correction,
108 a Stop Work Order shall be issued by the City of Marco Island Building Services Department.
109 Contractors in violation shall receive a revocation of applicable permit(s) and shall not be granted any
110 additional permits for the period of time a violation exists or until all assessed fines have been paid in
111 full. If the violation has not been cured within time specified in the notice of violation, starting the next
112 day a fine of \$250 per day for a first violation and \$500 per day for a repeat violation shall be assessed
113 until the violation is corrected. If a violation is not corrected within 10 business days from the date of
114 issuance of the notice of violation, the City or City's designee may make all reasonable repairs which
115 are required to bring the property into compliance and charge the violator with the reasonable cost of
116 the repairs along with all fines imposed pursuant to this section. Future permits shall not be issued to
117 the contractor until all fees, fines, and costs have been paid in full. Assessed fines may be appealed to
118 the Code Enforcement Board. Repeat violation shall mean a violation of this code by a person who has
119 been previously found to have violated the same provision of this code within 5 years prior to the
120 violation, notwithstanding the violations occur at different locations.

121
122 (f) Special exceptions: The contractor may seek an administrative extension beyond the ~~120~~ 100 -day
123 period provided the city manager or designee is presented sufficient information justifying the
124 contractor's need. Justification may include inclement weather, unavailability of materials or other
125 unexpected conditions beyond the control of the contractor. Staff may provide a maximum ~~60~~ 45-day
126 extension provided the request is justified. Exceptions shall not be used to extend use of the vacant lot
127 beyond ~~180~~ 145 consecutive days.

128
129 (g) ~~No work shall be conducted within the setback areas established for the applicable zoning district.~~
130 The contractor shall provide a silt fence along the side yard property lines.

131
132 (h) ~~A dumpster or other container must be on the property prior to the demolition of old seawall panels~~
133 ~~or boat docking facilities. After the demolition of a seawall or boat docking facilities, old seawall~~
134 ~~panels or boat docking facilities must immediately be placed in the dumpster or container and removed~~
135 ~~from the site within five working days. Any type of demolition material shall be either removed from~~
136 ~~the lot or placed in a dumpster within five days. Piling, decking, and boat lift equipment that will be~~
137 ~~later reused on that lot, shall be permitted to remain on site. Demolition, if by cutting, shall require a~~
138 ~~wet saw method, except for steel rebar. Demolition activity may not occur outside of the hours of 8:00~~
139 ~~A.M. to 5:00 P.M., Monday through Saturday. Dumping or storage of any material not directly~~
140 ~~associated with current permitted job is expressly prohibited.~~

141
142 (i) Manufactured seawalls shall not be stacked more than five feet in height.

143
144 (j) The public works department shall determine whether temporary structures will be required to
145 protect the swale area and proper stormwater conveyance.

146
147 (k) Boat and barge repair shall not be allowed on vacant residentially zoned parcels ~~or adjacent lots,~~
148 ~~unless involving an emergency repair of a vessel used in the subject seawall repair.~~ The use of any

149 such boat, barge or vessel shall be subject to the specific requirements of Code sections 54-111 and 54-
150 112(i).

151
152 (l) Only equipment and vehicles directly associated with the permitted repairs will be allowed on the
153 property, and only during an open permit.

154
155 ~~(m) Only natural rock can be used for the creation of rip rap. Any material placed on the property not~~
156 ~~outlined in Article III, Section 6-85 will be considered illegal dumping of material and will be a~~
157 ~~violation of this code.~~

158
159 ~~(n) Failure to comply with the provisions of this subsection shall constitute a violation of this Code.~~
160 ~~Contractors in violation shall receive a revocation of permits and will not be granted additional permits~~
161 ~~for the period of time a violation exists.~~

162
163 **SECTION 3. Inclusion in the Code of Ordinances.** It is the intention of the City Council
164 and it is hereby ordained that the amendments to the City of Marco Island Code of Ordinances made
165 by this Ordinance shall become part of the City of Marco Island Code of Ordinances, that the sections
166 of this Ordinance may be renumbered and relettered as necessary, and that the word "Ordinance" may
167 be changed to "Section, "Article" or other appropriate word.

168
169 **SECTION 4. Conflicts.** All ordinances or parts of ordinances and all resolutions or parts of
170 resolutions in conflict with the provisions of this Ordinance are hereby repealed.

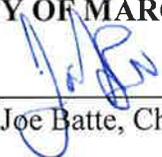
171
172 **SECTION 5. Severability.** If any section, clause, sentence, or phrase of this Ordinance is for
173 any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not
174 affect the validity of the remaining portions of this Ordinance.

175
176 **SECTION 6. Effective Date.** This Ordinance shall be effective immediately upon adoption
177 by the City Council on second reading. All outstanding permits shall be required to become
178 concurrent with this Amendment.

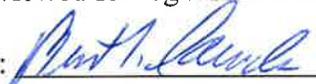
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180 ~~**SECTION 7. Termination Date.** This Ordinance shall terminate six months after adoption by~~
181 ~~the City Council.~~

182
183 **ADOPTED BY THE CITY COUNCIL** of the City of Marco Island this 4th day of March,
184 2013.

185
186
187 Attest: **CITY OF MARCO ISLAND FLORIDA**

188
189 By:  _____ By:  _____
190 Laura M. Litzan, City Clerk Joe Batte, Chairman

191
192
193 Reviewed for legal sufficiency:

194
195 By:  _____
196 Burt L. Saunders, City Attorney