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3 **ORDINANCE NO. 14-03**
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6 **AN ORDINANCE AMENDING THE CODE OF ORDINANCES, CITY OF MARCO**
7 **ISLAND, AMENDING CHAPTER 30, LAND DEVELOPMENT CODE REGULATIONS,**
8 **CHANGING THE LIST OF CONDITIONAL USES AND DIMENSIONAL STANDARDS IN**
9 **THE C-5 ZONING DISTRICT, PROVIDING THE OPPORTUNITY TO SEEK**
10 **CONDITIONAL USE APPROVAL TO INCREASE BUILDING HEIGHTS AT MARINAS**
11 **TO A MAXIMUM HEIGHT OF 60-FEET; AND TO CLARIFY HOW THE MAXIMUM**
12 **BUILDING HEIGHT IS TO BE MEASURED IN THE C-5 ZONING DISTRICT; AND**
13 **PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICT AND**
14 **SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE**
15

16 **WHEREAS**, Article VIII of the State Constitution and Chapter 166 of the Florida Statutes
17 provide that municipalities shall have the governmental, corporate, and proprietary home rule powers
18 to enable them to conduct municipal government, perform municipal functions, render municipal
19 services, and exercise any power for municipal purposes, except when expressly prohibited by law;
20 and
21

22 **WHEREAS**, Section 1.02 of the Marco Island City Charter empowers the City to adopt,
23 amend, or repeal ordinances, resolutions and codes as may be required for the benefit of residents and
24 governance of the City; and
25

26 **WHEREAS**, THE City Council of the City of Marco Island, Florida ("City Council")
27 recognizes that changes to the adopted Code of Ordinances and Land Development Code are
28 periodically necessary in order to ensure that the City's Codes are current and consistent with the
29 City's planning and regulatory needs; and
30

31 **WHEREAS**, the Marco Island Planning Board, sitting as the Local Planning Agency, held
32 duly advertised public hearings on January 3, 2014 and January 17, 2014 and determined that the
33 proposed changes contained in this Ordinance as presented are consistent with the City of Marco
34 Island Comprehensive Plan and Florida law, and recommended adoption of this Ordinance to the City
35 Council; and
36

37 **WHEREAS**, after reviewing the City of Marco Island Planning Board's recommendation, the
38 recommendation of City staff, and comments from the public, the City Council finds that the
39 proposed amendments to its Code of Ordinances are in compliance and consistent with Florida law
40 and its adopted Comprehensive Plan; and
41

42 **WHEREAS**, the City Council further finds that adoption of this Ordinance is in the best
43 interest of the residents of the City of Marco Island.
44

45 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF**
46 **MARCO ISLAND, FLORIDA:**
47
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49 **SECTION 1. Recitals.**

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51 The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true, correct and
52 reflective of the legislative intent underlying this Ordinance and are hereby made a specific part of
53 this Ordinance.

54
55 **SECTION 2. Amendment and Adoption.**

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57 The amendments to the Code of Ordinances contained in this Ordinance are hereby amended or created
58 and adopted as follows:

59
60 **DIVISION 11. - HEAVY COMMERCIAL (C-5) DISTRICT**

61
62 **Sec. 30-264. - Conditional uses.**

63 The following uses are permissible as conditional uses in the heavy commercial district (C-5), subject
64 to the standards and procedures established in the land development code; uses permissible as
65 conditional uses in the C-1, C-2, C-3 or C-4 commercial zoning districts shall also be permissible as
66 conditional uses hereunder, unless listed as a permitted use in the C-5 district:

- 67 (1) Agricultural services (veterinary services - 54194, pet care - 81291, both with outdoor kenneling).
68 (2) Amusement and recreation services, outdoor (racetracks - 711212, amusement and theme parks -
69 71311, golf courses and country clubs - 71391).
70 (3) Bottle clubs. (All establishments engaged in the retail sale of alcoholic beverages for on-premises
71 consumption are subject to the locational requirements of the land development code).
72 (4) Child day care services, provided:
73 a. All areas and surfaces readily accessible to children shall be free of toxic substances and hazardous
74 materials. This shall include all adjacent and abutting properties lying within 500 feet of the child-
75 care center's nearest property line.
76 1. For purposes of this subsection, the following definitions shall apply:
77 i. Hazardous materials: A material that has any of the following properties; ignitable, corrosive,
78 reactive and/or toxic.
79 ii. Toxic substances: A substance that is, or is suspected to be, carcinogenic, mutagenic, teratogenic,
80 or toxic to human beings.
81 b. It shall not be located within 500 feet of the nearest property line of land uses encompassing
82 wholesale storage of gasoline, liquefied petroleum, gas, oil, or other flammable liquids or gases.
83 c. It shall not be located on the same street customarily utilized by construction truck traffic from
84 asphalt plants and excavation quarries.
85 d. It shall have a minimum lot area of 20,000 square feet and a minimum lot width of 100 feet.
86 e. It shall provide a minimum usable open space of not less than 30 percent of the total square footage
87 of the lot area.
88 f. It shall provide that all open spaces to be used by children will be bounded by a fence of not less
89 than five feet in height, to be constructed of wood, masonry or other approved material.
90 g. It shall provide a landscape buffer in accordance with the land development code.
91 h. It shall comply with the state department of health and rehabilitative services child day care
92 standards, F.A.C. ch. 10M-12, effective March 11, 1986.
93 i. Where a child care center is proposed in conjunction with, and on the same parcel as, a facility
94 which is a permitted use, the requirements set forth in subparagraphs a. through h. above, with the
95 exceptions of [subparagraphs] d. and e., shall be used to provide the protections to children using the

child care center intended by this section consistent with the development of the proposed permitted use.

(5) Commercial fishing, hunting and trapping (fishing - 11411)

(6) Communications (radio and television broadcasting - 5131, cable networks and program distribution - 5132, telecommunications - 5133), with communications towers subject to the land development code.

(7) Fuel dealers (fuel dealers - 45431).

(8) Homeless shelters, as defined by this code.

(9) Increase in maximum building height from 35 feet up to 50 feet for those uses specifically permitted within the C-5 district only and up to 60 feet for the uses listed in section 30-242(16).

(10) Justice, public order and safety (correctional institutions - 92214, parole offices and probation offices - 92215).

(11) Local and suburban passenger transportation (bus and other motor vehicle transit systems - 485113, interurban and rural bus transportation - 48521, school and employee bus transportation - 48541, charter bus industry - 48551).

(12) Marina based open rack boat storage facilities located on navigable water frontage, pursuant to section 30-266.

(13) Permitted uses with less than 700 square feet of gross floor area in the principal structure.

(14) Recreational vehicle dealers (Group 44121).

(15) Soup kitchens, as defined by this code.

(16) Transfer stations (solid waste collection - 562111 [local refuse collection and transportation only]).

(17)

(18)

(19) Truck, utility trailer, and RV rental and leasing, outdoor display permitted (Group 53212).

Sec. 30-265. – Dimensional standards.

Except as noted, the following dimensional standards shall apply to all permitted, accessory and conditional uses in the heavy commercial district (C-5).

(1) Minimum lot area: 10,000 square feet.

(2) Minimum lot width: 100 feet.

(3) Minimum yard requirements:

a. Front yard: 25 feet.

b. Side yard: Zero or a minimum of ten feet except where the adjacent parcels are developed, in which case the required side yard may be zero to ten feet however in no case shall the separation between structures be less than ten feet.

c. Rear yard: Five feet. Principal and accessory building shall be setback a minimum of 25 feet from an alley right-of-way when vehicular parking spaces take direct access from the alley.

d. Any yard abutting a residential parcel: 25 feet.

e. Waterfront: 25 feet, except none for marinas.

(4) Maximum height: 35 feet. Height to be measured from the base flood elevations to the midpoint of the roof.

(5) Minimum floor area: 700 square feet gross floor area for each building on the ground floor.

(6) Maximum lot coverage: 76 percent of the total lot area.

(7) Maximum density: 26 units per acre for hotels, motels and timeshare facilities.

145 **SECTION 3. Inclusion in the Code of Ordinances.**

146
147 It is the intention of the City Council and it is hereby ordained that the amendments to the
148 City of Marco Island Code of Ordinances made by this Ordinance shall become part of the City of
149 Marco Island Code of Ordinances, that the sections of this Ordinance may be renumbered and re-
150 lettered as necessary, and that the word "Ordinance" may be changed to "Section, "Article" or other
151 appropriate word.

152
153 **SECTION 4. Conflicts.**

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155 All ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict with
156 the provisions of this Ordinance are hereby repealed.

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158 **SECTION 5. Severability.**

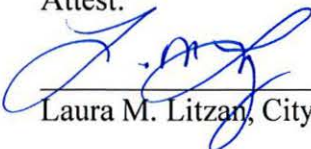
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160 If any section, clause, sentence or phrase of this Ordinance is for any reason held invalid or
161 unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the
162 remaining portions of this Ordinance.

163
164 **SECTION 6. Effective Date.**

165 This Ordinance shall be effective immediately upon adoption by the City Council on second
166 reading.

167
168 **ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND** this 7th day
169 of April, 2014.

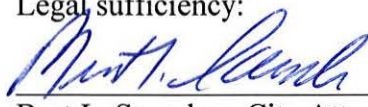
170
171
172 Attest:

173 
174 _____
175 Laura M. Litzan, City Clerk

CITY OF MARCO ISLAND, FLORIDA

176
177 BY: 
178 Kenneth E. Honecker, Chairman

179 Approved as to form and
180 Legal sufficiency:

181 
182 _____
183 Burt L. Saunders, City Attorney