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ORDINANCE 25-08

AN ORDINANCE OF THE CITY OF MARCO ISLAND FLORIDA, AMENDING CHAPTER 30, "LAND DEVELOPMENT CODE," ARTICLE II, "ZONING," DIVISION I, "GENERALLY," SECTION 30-62, "AMENDMENT PROCEDURES," SUB-SECTION(f)(2), "PUBLIC NOTICE PROCEDURES," OF THE CITY OF MARCO ISLAND CODE OF ORDINANCES, TO PROVIDE FOR THE DELIVERY OF NOTICE VIA FIRST CLASS U.S. MAIL AS OPPOSED TO CERTIFIED U.S. MAIL, RETURN RECEIPT REQUESTED; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, pursuant to Section 38-40(1), of the City of Marco Island 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, of the City of Marco Island Code of Ordinances, requires that the Planning Board determine the need and justification for a Land Development Code ("LDC") amendment, as well as the proposal's consistency with the City of Marco Island's Comprehensive Plan; and

WHEREAS, the need and justification for this Ordinance is to substitute the need for Certified Mail required for land-use public hearings with U.S. Mail; and

WHEREAS, Objective 1.1 of the Future Land Use Element, Policy 1.1.4 of the City of Marco Island Comprehensive Plan states as follows:

The City will encourage where appropriate, meaningful opportunities for public participation in the land development approval process for privately initiated development and redevelopment, and actively seek the input of its citizenry in implementing the Comprehensive Plan and LDC; and

WHEREAS, there is no need for Certified Mail to inform citizens of the City of Marco Island about public hearings regarding land use, as First Class Mail, newspapers, and notices using the City's webpage and social media are sufficient to ensure that residents and businesses receive notice of pending land use matters; and

WHEREAS, upon consideration of testimony by the City's Growth Management staff and consideration of this Ordinance, the Planning Board found that this Ordinance is consistent with the City's Comprehensive Plan, and in particular, Objective 1.1 of the City's Comprehensive Plan's Future Land Use Element; and

WHEREAS, the Planning Board has found that, as a result of the foregoing, this Ordinance will promote the public health, safety, aesthetics, and welfare of the community; and

47 **WHEREAS**, the City Council adopts the findings of the Planning Board, also sitting
48 as the City’s Local Planning Agency.

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

52
53 **SECTION 1. Recitals.** Each and all the foregoing recitals be and the same are
54 hereby incorporated into this Ordinance as if specifically set forth herein.

55
56 **SECTION 2. Amendment and Adoption.** That Chapter 30, “Land Development
57 Code,” Article II, “Zoning,” Division I, “Generally,” Section 30-62, “Amendment Procedures,”
58 of the City of Marco Island Code of Ordinances be, and the same is hereby amended to
59 read as follows:
60

61 **Sec. 30-62. Amendment procedures.**

62 (2) *Courtesy mailed notices.*

- 63 a. If required by this LDC, courtesy notices shall be provided in addition to any
64 legally required notice by state law. These notices are provided as a courtesy
65 to certain persons that may be affected by a development permit application
66 for the purpose of notifying those persons of the application and their ability to
67 review submitted information and participate in public hearings or
68 neighborhood information meetings. The failure of a property owner to receive
69 a courtesy notice shall not be deemed as a failure to furnish or receive legally
70 required written notice pursuant to this LDC. The failure of the applicant to send
71 a courtesy notice shall be deemed as a failure to furnish legally required written
72 notice pursuant to this LDC.
- 73 b. The cost of providing the courtesy notice as required by this LDC shall be the
74 sole responsibility of the development permit applicant or said applicant's
75 designated agent. Failure to comply with the provisions of this section in a
76 timely manner may result in a postponement of the scheduled hearing until the
77 notice is complete, or imposition by the department that a re-notice by the
78 applicant must be accomplished at the applicant's sole expense.
- 79 c. A courtesy notice shall be mailed to all real property owners of real property
80 any part of which is located within 300 feet of the real property subject to a
81 development permit application. The 300-foot radius shall be measured in a
82 straight line in all directions from the outermost boundary of the real property
83 subject to a development permit application to any real property any part of
84 which is within the 300-foot radius. Real property owners to whom a courtesy
85 notice shall be given by mail shall be the real property owners of record as
86 shown in the records of the county property appraiser at the time of mailing of
87 the notice. The failure of a property owner to receive a courtesy notice shall not

- 88 be deemed as a failure to receive legally required written notice pursuant to this
89 LDC subsection. The mailed notice shall be sent by first class ~~certified~~ mail,
90 ~~return receipt requested, postage prepaid,~~ by the applicant. Notice need not be
91 given to the trustees of the internal improvement fund as the owners of
92 submerged bottoms of real property. When mailing receipts ~~or returned certified~~
93 ~~mail receipt cards are received,~~ they shall be promptly filed with the city.
- 94 d. If any part of the "common elements", as defined in F.S. § 718.103, of a
95 condominium or any part of the "common areas," as defined in F.S. § 719.103,
96 of a cooperative building, is within the required notice limits, notice shall be sent
97 to the condominium or cooperative association as well as each unit owner in
98 the subject building. If real property within an adjacent governmental jurisdiction
99 is within the notice limits, notice shall be required to be given to each owner of
100 a parcel of land within the adjacent jurisdiction.
- 101 e. The courtesy notice shall be deposited in and postmarked by the U.S. mail at
102 least 15 days prior to the scheduled public hearing or neighborhood information
103 meeting, being noticed. The courtesy notice shall be mailed ~~postage prepaid,~~
104 first class, certified U.S. mail, ~~return receipt requested, by the applicant.~~
105 Copies of all mailing receipts shall be promptly filed with the city clerk. ~~Return~~
106 ~~receipt cards shall be addressed to the city clerk at city hall.~~

107 **SECTION 4. Severability/Interpretation.**

108
109 (a) If any term, section, clause, sentence or phrase of this Ordinance is for any
110 reason held to be invalid, illegal, or unconstitutional by a court of competent jurisdiction,
111 the holding shall not affect the validity of the other or remaining terms, sections, clauses,
112 sentences, or phrases portions of this Ordinance, and this Ordinance shall be read and/or
113 applied as if the invalid, illegal, or unenforceable term, provision, clause, sentence, or
114 section did not exist.

115
116 (b) In interpreting this Ordinance, underlined words indicate additions to
117 existing text, and ~~stricken through~~ words include deletions from existing text. Asterisks (*
118 * * *) indicate a deletion from the Ordinance of text, which continues to exist in the Code
119 of Ordinances. It is intended that the text in the Code of Ordinances denoted by the
120 asterisks and not set forth in this Ordinance shall remain unchanged from the language
121 existing prior to adoption of this Ordinance.

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123 **SECTION 5. Effective Date.** This Ordinance shall be effective immediately upon
124 adoption by the City Council on second reading.

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126 ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND this 8th day of
127 September 2025.

131 **ATTEST:**

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134 _____
Joan Taylor, City Clerk

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137 Approved as to form and legal sufficiency:

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140 _____
Alan L. Gabriel, City Attorney

CITY OF MARCO ISLAND, FLORIDA

By: _____

Erik Brechnitz, Chairman