

1 CITY OF MARCO ISLAND

2
3 ORDINANCE 24-14

4
5 AN ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA;
6 AMENDING CHAPTER 30, "LAND DEVELOPMENT CODE," ARTICLE
7 II, "ZONING," DIVISION 9, "COMMERCIAL INTERMEDIATE (C-3)
8 DISTRICT," SECTION 30-224, "CONDITIONAL USES," SUB-SECTION
9 (14), "MIXED RESIDENTIAL AND COMMERCIAL USES ONLY WITHIN
10 THE FOLLOWING ARCHITECTURAL OVERLAY DISTRICTS SUBJECT
11 TO THE FOLLOWING CRITERIA," OF THE CITY OF MARCO ISLAND
12 CODE OF ORDINANCES, TO CONDITIONALLY ALLOW FOR MIXED-
13 USE WITHIN THE C-3 ZONING DISTRICT, ARCHITECTURAL
14 OVERLAY DISTRICT TWO-A; MAKING FINDINGS; PROVIDING FOR
15 SEVERABILITY/ INTERPRETATION; AND PROVIDING AN EFFECTIVE
16 DATE.

17
18 **WHEREAS**, pursuant to Section 38-40(1), City of Marco Island Code of Ordinances, the
19 Planning Board serves as the City's Local Planning Agency and Land Development Regulation
20 Commission; and

21
22 **WHEREAS**, Section 30-62(c)(3)d., of the City of Marco Island Code of Ordinances
23 requires that the Planning Board determine the need and justification for a Land Development
24 Code ("LDC") amendment, as well as the proposals consistency with the City Comprehensive
25 Plan; and

26
27 **WHEREAS**, the justification for this Land Development Code amendment is to reinstate
28 the conditional use that was allowed prior to the City of Marco Island's 2006 Land Development
29 Code revision; and

30
31 **WHEREAS**, Objective 2.1, Policy 2.1.2 of the Future Land Use Element of the City of
32 Marco Island Comprehensive Plan states that the City will continue to thoroughly and
33 thoughtfully review and revise, as necessary, the list of permitted uses within the zoning districts
34 contained in the adopted LDC. The purpose for the reviews will be to ensure compatibility
35 between land uses, that the needs of residents, businesses, and those they serve are met on-
36 island to the extent possible, and that emerging and modern uses are addressed through the
37 City's regulatory framework; and

38
39 **WHEREAS**, the Future Land Use Element, Objective 3.2 of the City of Marco Island
40 Comprehensive Plan states that the City should ". . . accommodate orderly and well-planned
41 commercial and mixed-use development at appropriate locations to serve the residents,
42 businesses, and those they serve."; and
43

44 **WHEREAS**, the Future Land Use Element, Policy 3.2.2 of the City of Marco Island
45 Comprehensive Plan states the City will “evaluate necessary updates to the LDC regulations to
46 provide minimum standards and incentives for the conversion of strip commercial development
47 into compact, integrated commercial and mixed-use projects that emphasize multi-modal
48 access, public gathering space, interconnections between properties, and high aesthetic value”;
49 and

50
51 **WHEREAS**, the Future Land Use Element, Policy 3.2.4 of the City of Marco Island
52 Comprehensive Plan states “The Community Commercial future land use category is intended
53 to provide a range of commercial uses at arterial and collector intersections and nodes within
54 the City outside of the Town Center/Mixed Use future land use category. These areas will be
55 comprised of retail, office and mixed use land uses. Standard densities are limited to 12 du/acre.
56 Hotel/motel densities are limited to 26 du/acre; and

57
58 **WHEREAS**, upon consideration of testimony by the City’s growth management staff and
59 consideration of this Ordinance, the Planning Board finds that this Ordinance is consistent with
60 the City’s Comprehensive Plan’s Future Land Use Element; and

61
62 **WHEREAS**, Section 30-62(c)(3)d., of the City of Marco Island Code of Ordinances
63 requires that the Planning Board determine the justification for a Land Development Code
64 (“LDC”) amendment; and

65
66 **WHEREAS**, at the June 7, 2024 Planning Board meeting, the Planning Board expressed
67 concerns with respect to parking in this overlay district, and recommended approval of the
68 Ordinance with the additional condition that any proposed mixed use projects in this overlay
69 district would not be eligible for parking credits; and

70
71 **WHEREAS**, the City Council adopts the findings of the Planning Board, also sitting
72 as the City’s Local Planning Agency, and finds that the adoption of this Ordinance is in the best
73 interest of the health, safety, and welfare of the residents and businesses of Marco Island.

74
75 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARCO**
76 **ISLAND, FLORIDA:**

77
78 **SECTION 1. Recitals.** Each and all the foregoing recitals be and the same are hereby
79 incorporated into this Ordinance as if specifically set forth herein.

80
81 **SECTION 2. Amendment and Adoption.** That Chapter 30, “Land Development Code,”
82 Article II, “Zoning,” Division 9, “Commercial Intermediate (C-3) District,” Section 30-224,
83 “Conditional Uses,” Sub-Section (14), “Mixed Residential and Commercial Uses Only Within the
84 Following Architectural Overlay Districts, and Subject to the Following Criteria,” of the City of Marco
85 Island Code of Ordinances, be, and the same is hereby amended to read as follows:

86
87 **DIVISION 9. - COMMERCIAL INTERMEDIATE (C-3) DISTRICT**

88
89 **Sec. 30-224. Conditional uses.**

The following uses are permissible as conditional uses in the commercial intermediate district (C-3), subject to the standards and procedures established in the Land Development Code; uses permissible as conditional uses in the C-1 or C-2 commercial zoning districts shall also be permissible as conditional uses hereunder, unless listed as a permitted use in the C-3 district:

* * *

(14) Mixed residential and commercial uses only within the following architectural overlay districts and subject to the following criteria:

I. Architectural overlay district two—b. (Collier Boulevard pedestrian tourist subdistrict (south section)) described and illustrated in section 30-628:

- a. Based upon surrounding land uses, location, and compatibility, the commercial uses in the development, hours of operation, dumpster locations, size of delivery trucks, and type of equipment may be limited;
- b. Residential and commercial uses may occupy the same floor of a building, provided the commercial uses are consistent with the C-1 and C-1/T zoning districts and residential uses are prohibited on the first habitable floor;
- c. The number of residential dwelling units shall be controlled by the dimensional standards of the C-3 district, together with the specific requirement that in no instance shall the residential uses exceed 50 percent of the gross floor area of the building or the density permitted under the growth management plan;
- d. Each residential dwelling unit shall contain the following minimum floor areas: efficiency and one-bedroom, 450 square feet; two-bedroom, 650 square feet; three-bedroom, 900 square feet;
- e. A minimum of 24 percent of the mixed-use development shall be maintained as open space. The following may be used to satisfy the open space requirements: areas used to satisfy water management requirements; landscaped areas; recreation areas; or setback areas not covered with impervious surface or used for parking (parking lot islands may not be used unless existing native vegetation is maintained);
- f. The mixed commercial/residential structure shall be designed to enhance compatibility of the commercial and residential uses through such measures as, but not limited to, minimizing noise associated with commercial uses; directing commercial lighting away from residential units; and separating pedestrian and vehicular access ways and parking areas from residential units, to the greatest extent possible;
- g. Maximum building height: Four stories, not to exceed 50 feet;
- h. The maximum height of a mixed use structure shall be measured from the base flood elevation to the mid-point of the roof;
- i. The location of proposed uses within the site and the degree of compatibility of such uses with each other and surrounding property;

- 132 j. The existing residential density and intensity of commercial use of
133 surrounding property;
- 134 k. The availability and location of utilities, services, and public facilities;
135 and
- 136 l. The access to and suitability of transportation systems and routes.
- 137 II. Architectural overlay district two—c. (Barfield subdistrict) described and
138 illustrated in section 30-628:
- 139 a. Based upon surrounding land uses, location, and compatibility, the
140 commercial uses in the development, hours of operation, dumpster
141 locations, size of delivery trucks, and type of equipment may be limited;
- 142 b. Residential and commercial uses may occupy the same floor of a
143 building, provided the commercial uses are consistent with the C-1 and
144 C-1/T zoning districts and residential uses are prohibited on the first
145 habitable floor;
- 146 c. The number of residential dwelling units shall be controlled by the
147 dimensional standards of the C-3 district, together with the specific
148 requirement that in no instance shall the residential uses exceed 50
149 percent of the gross floor area of the building or the density permitted
150 under the growth management plan;
- 151 d. Each residential dwelling unit shall contain the following minimum floor
152 areas: efficiency and one-bedroom, 450 square feet; two-bedroom, 650
153 square feet; three-bedroom, 900 square feet;
- 154 e. A minimum of 24 percent of the mixed use development shall be
155 maintained as open space. The following may be used to satisfy the
156 open space requirements: Areas used to satisfy water management
157 requirements, landscaped areas, recreation areas, or setback areas not
158 covered with impervious surface or used for parking (parking lot island
159 may not be used unless existing native vegetation is maintained);
- 160 f. The mixed commercial/residential structure shall be designed to
161 enhance compatibility of the commercial and residential uses through
162 such measures as, but not limited to, minimizing noise associated with
163 commercial uses; directing commercial lighting away from residential
164 units; and separating pedestrian and vehicular access ways and parking
165 areas from residential units, to the greatest extent possible;
- 166 g. Maximum building height: Two stories, not to exceed 35 feet;
- 167 h. The maximum height of a mixed use structure shall be measured from
168 the base flood elevation to the mid-point of the roof;
- 169 i. The location of proposed uses within the site and the degree of
170 compatibility of such uses with each other and surrounding property;
- 171 j. The existing residential density and intensity of commercial use of
172 surrounding property;
- 173 k. The availability and location of utilities, services, and public facilities;
174 and
- 175 l. The access to and suitability of transportation systems and routes.

176 III. Architectural overlay district two—a. (Collier Blvd Pedestrian Tourist
177 Subdistrict (North Section)) described and illustrated in section 30-628:

- 178 a. Based upon surrounding land uses, location, and compatibility, the
179 commercial uses in the development, hours of operation, dumpster
180 locations, size of delivery trucks, and type of equipment may be limited;
181 b. Residential and commercial uses may occupy the same floor of a
182 building, provided the commercial uses are consistent with the C-1 and
183 C-1/T zoning districts and residential uses are prohibited on the first
184 habitable floor;
185 c. The number of residential dwelling units shall be controlled by the
186 dimensional standards of the C-3 district, together with the specific
187 requirement that in no instance shall the residential uses exceed 50
188 percent of the gross floor area of the building or the density permitted
189 under the growth management plan;
190 d. Each residential dwelling unit shall contain the following minimum floor
191 areas: efficiency and one-bedroom, 450 square feet; two-bedroom, 650
192 square feet; three-bedroom, 900 square feet;
193 e. A minimum of 24 percent of the mixed use development shall be
194 maintained as open space. The following may be used to satisfy the
195 open space requirements: Areas used to satisfy water management
196 requirements, landscaped areas, recreation areas, or setback areas not
197 covered with impervious surface or used for parking (parking lot island
198 may not be used unless existing native vegetation is maintained);
199 f. The mixed commercial/residential structure shall be designed to
200 enhance compatibility of the commercial and residential uses through
201 such measures as, but not limited to, minimizing noise associated with
202 commercial uses; directing commercial lighting away from residential
203 units; and separating pedestrian and vehicular access ways and parking
204 areas from residential units, to the greatest extent possible;
205 g. The location of proposed uses within the site and the degree of
206 compatibility of such uses with each other and surrounding property;
207 h. The existing residential density and intensity of commercial use of
208 surrounding property;
209 i. The availability and location of utilities, services, and public facilities; and
210 j. The access to and suitability of transportation systems and routes.
211 ~~k. Proposed projects in this overlay district are not eligible for parking~~
212 ~~credits.~~
213

214 **SECTION 4. Severability/Interpretation.**
215

- 216 (a) If any term, section, clause, sentence or phrase of this Ordinance is for any reason
217 held to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, the holding shall
218 not affect the validity of the other or remaining terms, sections, clauses, sentences, or phrases

219 portions of this Ordinance, and this Ordinance shall be read and/or applied as if the invalid,
220 illegal, or unenforceable term, provision, clause, sentence, or section did not exist.

221
222 (b) In interpreting this Ordinance, underlined words indicate additions to existing text,
223 and ~~stricken through~~ words include deletions from existing text. Asterisks (* * * *) indicate a
224 deletion from the Ordinance of text, which continues to exist in the Code of Ordinances. It is
225 intended that the text in the Code of Ordinances denoted by the asterisks and not set forth in
226 this Ordinance shall remain unchanged from the language existing prior to adoption of this
227 Ordinance.

228
229 **SECTION 5. Effective Date.** This Ordinance shall be effective immediately upon
230 adoption by the City Council on second reading.

231
232 ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND this ____ day
233 of _____, 2024.

234
235 **ATTEST:** **CITY OF MARCO ISLAND, FLORIDA**
236
237 _____ By: _____
238 Joan Taylor, City Clerk Jared Grifoni, Chair

239
240 Approved as to form and legal sufficiency:
241
242
243
244 _____
245 Alan L. Gabriel, City Attorney