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**CITY OF MARCO ISLAND**

**ORDINANCE 24-14**

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

**WHEREAS**, pursuant to Section 38-40(1), 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 proposals consistent with the City Comprehensive Plan; and

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

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

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

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

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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.

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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:

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242  
243  
244 \_\_\_\_\_  
245 Alan L. Gabriel, City Attorney