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ORDINANCE 26-03

AN ORDINANCE OF THE CITY OF MARCO ISLAND AMENDING CHAPTER 54, "WATERWAYS AND BEACHES," ARTICLE II, "BEACH MANAGEMENT AND VESSEL CONTROL," OF THE CITY OF MARCO ISLAND CODE OF ORDINANCES, BY AMENDING SECTION 54-32, "DEFINITIONS" TO ADD A NEW DEFINITION FOR THE TERM "BEACH KIOSK"; ENACTING A NEW SECTION 54-40, ENTITLED "BEACH KIOSKS" TO PROVIDE FOR THE REGULATION OF BEACH KIOSKS WITHIN THE CITY OF MARCO ISLAND"; ENACTING A NEW SECTION 54-41, ENTITLED "BEACH FURNITURE AND VENDOR EQUIPEMNT," TO PROVIDE FOR THE REGULATION OF THE PLACEMENT OF VENDOR BEACH FURNITURE AND EQUIPMENT WITHIN THE CITY OF MARCO ISLAND; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Marco Island ("City") finds that there is a need to regulate the placement and operation of businesses and associated facilities and equipment placed on beach within the City; and

WHEREAS, City residents and visitors are entitled to enjoy the beaches within the City without having their access to the beach and gulf waters impeded by the businesses that operate on the City's beaches; and

WHEREAS, in order to insure that all vendors that operate on the beach are treated equally, and that the public is allowed proper access to the beach, the City Council finds that there is a need and justification for this Ordinance, so as to regulate the placement of Beach Kiosks, vendor beach furniture, and equipment on the beaches located within the City of Marco Island; and

WHEREAS, the regulation of the placement of Beach Kiosks, beach vendor beach furniture, and equipment on the beaches in the City of Marco Island is in the best interest of the health, safety, and welfare of the residents, visitors, and businesses located in the City of Marco Island.

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

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

81 (c) Required property approvals. No Beach kiosk may be installed,
82 maintained, or operated on the beach unless:

83 1. The parcel on which the Beach kiosk is located holds all
84 current City of Marco Island beachfront vendor approvals or
85 exemptions; and

86 2. The property holds all required State of Florida approvals or
87 exemptions, including any approvals or exemptions for structures
88 seaward of the Coastal Construction Control Line.

89 (d) Permit required.

90 1. No kiosk vendor structure shall be placed, expanded,
91 reconstructed, or operated on the beach without a Beach Kiosk
92 Permit issued by the City.

93 2. Existing Beach Kiosks must obtain a Beach Kiosk Permit
94 within 180 days of the effective date of this ordinance.

95 3. Failure to obtain a permit shall constitute a violation and may
96 result in removal of the structure.

97 (e) Design and aesthetic standards.

98 1. Color and Materials. Beach kiosks must use colors limited to
99 white, tan, or gray, and must be constructed of materials resistant to
100 salt, wind, and moisture deterioration.

101 2. Vendor identification or Logos. Vendor identification or logos
102 may appear only on approved signage, consistent with the signage
103 standards of this section. Logo colors are not required to comply with
104 the coastal color palette, provided that such logos are limited to
105 identification purposes.

106 3. Size Limits. Maximum footprint of the Beach kiosk cannot
107 exceed 64 square feet The height of the Beach Kiosk may not
108 exceed twelve feet (12') in height, including wheels.

109 4. Appearance. The Beach kiosk must be kept in good repair,
110 free of rust, peeling paint, mold, stains, broken components, or
111 visible deterioration.

112 5. Signage. One (1) identification sign is permitted per Beach
113 kiosk, not exceeding fifteen (15) square feet in area. Such sign shall
114 not be illuminated and shall be physically and securely attached to
115 the kiosk. Except as expressly modified herein, all other applicable
116 provisions of the City's sign regulations are incorporated by
117 reference and shall apply.

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(f) Location and placement.

1. Beach kiosks must be located entirely within the area authorized by the City's approved Site Plan for the vendor's operation, within the parcel boundary of the host property, and shall not be placed within dune areas, dune vegetation, or any area designated for dune protection, or seaward of the mean high-water line.
2. The placement restrictions of the Beach kiosk must be consistent with Sec. 41 (d) 1-4 and 6.

(g) Utilities and hazardous materials.

1. Beach kiosks shall not be connected to, or draw from, any public utilities, including but not limited to electric power, potable water, sanitary sewer, natural gas, or communications infrastructure.
2. The storage of gasoline, propane, lighter fluid, or other flammable or combustible liquids or gases within kiosks, under structures, or on the immediately adjacent beach area is prohibited, except for small quantities of standard consumer products such as sunscreen or insect repellent in their original containers.

(h) Exterior storage. Loose equipment, materials, tools, supplies, or personal property shall not be stored outside a kiosk or vendor structure, except as expressly authorized under an active beach vendor approval or exemption.

(i) Storm removal requirement. For the protection of life and property, all vendor beach kiosks must be fully removed from the beach when:

1. A tropical storm, or hurricane, is forecast by the National Weather Service, National Hurricane Center, or any authorized state agency that includes the City of Marco Island; or
2. Removal is required by a City-issued emergency order or by the terms of an applicable vendor permit.

For purposes of this subsection, storm removal means complete physical removal of the structure from the beach and beach-access areas, not merely securing or anchoring in place. Such removal shall occur within the time period specified in the applicable vendor permit or City-issued emergency order, or, if no time period is specified, within twenty-four (24) hours of the issuance of the weather forecast announcement or emergency order.

(j) Enforcement and penalties. Failure to comply with any provision of this section shall constitute a violation enforceable in accordance with the City's code enforcement and penalty provisions, including

157 but not limited to the issuance of notices of violation, assessment of
158 civil penalties, permit suspension or revocation where authorized,
159 and removal of unauthorized structures at the owner's expense, as
160 provided elsewhere in the City Code, including provisions governing
161 continuing violations.

162
163 **SECTION 4.** That Chapter 54, "Waterways and Beaches," Article II, "Beach
164 Management and Vessel Control," be, and the same is hereby amended by
165 enacting a new Section 54-41, "Beach Furniture and Vendor Equipment," to read
166 as follows:

167
168 **SEC. 41 BEACH FURNITURE AND VENDOR EQUIPMENT**

169 (a) Purpose. To regulate the amount, density, footprint, placement,
170 staging, and storage of vendor beach furniture to preserve public
171 access, maintain views, protect resources, and ensure emergency
172 access.

173 (b) Applicability. Applies to all chairs, loungers, umbrellas, cabanas,
174 tables, staging areas, and similar items used in commercial beach
175 operations.

176 (c) Limits on amount and placement of furniture. Beach furniture shall
177 be placed only within the vendor's approved furniture placement area
178 and in accordance with an approved Site Plan required by sub-
179 section (h) as provided in this Section. The maximum number of
180 chairs, loungers, umbrellas, and similar furniture permitted shall be
181 limited to the quantities approved as part of the Site Plan, or
182 exemptions. Placement or use of furniture in excess of the approved
183 quantities or outside the approved placement area shall constitute a
184 violation of this section.

185 (d) Placement restrictions. Furniture must not:

- 186 1. Obstruct public access,
- 187 2. Must maintain 12-foot corridor at each public access,
- 188 3. Must remain 15 feet from dune vegetation,
- 189 4. Must remain 20 feet from high-tide waterline,
- 190 5. Must remain 15 feet from upland property line,
- 191 6. Must remain within approved operational area, and
- 192 7. Must remain 15 feet from any beach kiosk.

193 (e) Prohibited storage. No storage outside approved staging area. No
194 overnight storage unless authorized in the Site Plan.

195 (f) Emergency, storm, and high-wind removal. All beach furniture must
196 be removed during storm forecasts, high winds, or upon City order.

197 (g) Aesthetic and condition standards. Furniture must use uniform
198 coastal colors and be maintained free of damage, rust, and
199 deterioration.

200 (h) Beach Furniture Placement Site Plan. A Vendor shall include in the
201 Site Plan, a plan showing:

- 202 1. Max furniture count,
- 203 2. Placement areas,
- 204 3. Access corridors,
- 205 4. Staging footprint,
- 206 5. Emergency removal procedures.

207 (i) Nonconforming operations. Vendors must comply within 90 days of
208 the effective date of this ordinance.

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210 **SECTION 5. Severability/Interpretation.**

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

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

225

226 **SECTION 6. Effective Date.** This Ordinance shall be effective immediately upon
227 adoption by the City Council on second reading.

228

229 ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND this 4th
230 day of May, 2026.

231

ATTEST:

CITY OF MARCO ISLAND, FLORIDA

232 _____
233 Joan Taylor, City Clerk

By: _____
Darrin Palumbo, Chairman

234 Approved as to form and legal sufficiency:

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236 _____
237 Alan L. Gabriel, City Attorney