

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

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

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

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

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

63 (2) *Courtesy mailed notices.*

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

the notice. The failure of a property owner to receive a courtesy notice shall not be deemed as a failure to receive legally required written notice pursuant to this LDC subsection. The mailed notice shall be sent by first class certified mail, ~~return receipt requested, postage prepaid,~~ by the applicant. Notice need not be given to the trustees of the internal improvement fund as the owners of submerged bottoms of real property. When mailing receipts ~~or returned certified mail receipt cards are received,~~ they shall be promptly filed with the city.

- d. If any part of the "common elements", as defined in F.S. § 718.103, of a condominium or any part of the "common areas," as defined in F.S. § 719.103, of a cooperative building, is within the required notice limits, notice shall be sent to the condominium or cooperative association as well as each unit owner in the subject building. If real property within an adjacent governmental jurisdiction is within the notice limits, notice shall be required to be given to each owner of a parcel of land within the adjacent jurisdiction.
- e. The courtesy notice shall be deposited in and postmarked by the U.S. mail at least 15 days prior to the scheduled public hearing or neighborhood information meeting, being noticed. The courtesy notice shall be mailed ~~postage prepaid, first class, certified U.S. mail, return receipt requested, by the applicant.~~ Copies of all mailing receipts shall be promptly filed with the city clerk. ~~Return receipt cards shall be addressed to the city clerk at city hall.~~

SECTION 4. Severability/Interpretation.

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

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

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

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND this ____
day of _____, 2025.

ATTEST:

CITY OF MARCO ISLAND, FLORIDA

Joan Taylor, City Clerk

By: _____
Eric Brechnitz, Chair

Approved as to form and legal sufficiency:

Alan L. Gabriel, City Attorney