

ORDINANCE 24-03

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA, ESTABLISHING THE CITY OF MARCO ISLAND HEALTH FREEDOM BILL OF RIGHTS; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, numerous City residents have expressed their concerns to the City Council (“Council”) over the federal government’s and the World Health Organization’s attempts to impose public health mandates and limit an individual’s healthcare freedoms and rights; and

WHEREAS, the State of Florida has recognized these concerns and in November of 2021, Governor DeSantis signed into law Senate Bill (SB) 2-B and its companion House Bill (HB) 1-B,1 as well as HB 3-B/SB 4-B, 2, now codified in Chapter 381, Florida Statutes, in large part prohibiting the ability of private employers to impose a COVID-19 vaccination mandate amongst other protections; and

WHEREAS, the State of Florida further protects its residents’ health related rights and freedoms through Section 381.026, Florida Statutes, the Florida Patient’s Bill of Rights and Responsibilities, which promotes the interests and wellbeing of patients of healthcare providers and healthcare facilities; and

WHEREAS, Council wishes to address the concerns of City of Marco Island, Florida, residents and adopt the foregoing State Statutes into local law.

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

SECTION 1. Recitals. The foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true, correct, and reflective of the legislative intent of this Ordinance.

SECTION 2. Title. This Ordinance shall be known and cited as “The City of Marco Island Health Freedom Bill of Rights” Ordinance.

SECTION 3. Purpose and Intent. The purpose of this Ordinance is to safeguard the healthcare rights and freedoms of the City of Marco Island residents.

SECTION 4. Definitions. The terms used in this Ordinance shall be defined as outlined in Chapter 381, Florida Statutes, as may be amended from time to time.

SECTION 5. Applicability. This Ordinance is applicable and limited to the City of Marco Island, Florida.

SECTION 6. COVID-19 vaccine documentation prohibited.

- (A) A business entity with the City of Marco Island, as defined in Florida Statutes Sec. 768.38, may not require patrons or customers to provide any documentation certifying COVID-19 vaccination or post-infection recovery to gain access to, entry upon, or service from the business operations in the City of Marco Island, Florida. This subsection does not otherwise restrict businesses from instituting screening protocols consistent with authoritative or controlling government-issued guidance to protect public health.
- (B) The City of Marco Island, Florida, will not require anyone to provide any documentation certifying COVID-19 vaccination or post-infection recovery to gain access to, entry upon, or service from the City of Marco Island's operations.
- (C) Florida Statutes Sec. 381.00316 is incorporated herein by reference, as it pertains to exemptions for health care providers.

SECTION 7. Private employer COVID-19 vaccination mandates prohibited.

- (A) A private employer within the City of Marco Island, Florida, may not impose a COVID-19 vaccination mandate for any full-time, part-time, or contract employee without providing individual exemptions that allow an employee to opt out of such requirement on the basis of medical reasons, including, but not limited to, pregnancy or anticipated pregnancy; religious reasons; COVID-19 immunity; periodic testing; and the use of employer-provided personal protective equipment. For purposes of this section, the term "COVID-19" means the novel coronavirus identified as SARS-CoV-2; any disease caused by SARS-CoV-2, its viral fragments, or a virus mutating therefrom; and all conditions associated with the disease which are caused by SARS-CoV-2, its viral fragments, or a virus mutating therefrom. Employers shall use forms adopted by the Department of Health, or substantially similar forms, for employees to submit exemption statements.
- (B) If an employer fails to comply with subsection (A) and terminates an employee based on the employee's noncompliance with a COVID-19 vaccination mandate, the terminated employee may be eligible for reemployment in addition to any other remedy available to the employee.
- (C) An employer may not impose a policy that prohibits an employee from choosing to receive a COVID-19 vaccination.

SECTION 8. Vaccination mandates for the City of Marco Island employees. Unless required by law, the City of Marco Island, Florida, shall not impose any vaccination mandate for any of the City of Marco Island employee's except by supermajority vote by the Council.

SECTION 9. Mask Mandates and Quarantine. Unless required by law, the City of Marco Island shall not impose a mask mandate, or issue a quarantine order, except by supermajority vote by the Council.

SECTION 10. Vaccine Passports. Unless required by law, the City of Marco Island shall not require a Vaccine Passport as a condition of entry except by supermajority vote by the Council.

SECTION 11. Directives from the World Health Organization and Other International Bodies. Unless compelled by Federal and State law, the City of Marco Island does not recognize any authority by the World Health Organization or any other international body to impose any health mandates or directives within the City of Marco Island.

SECTION 12. Florida Patient's Bill of Rights and Responsibilities. The City of Marco Island hereby adopts in its entirety the Florida's Patient's Bill of Rights and Responsibilities, as codified in Florida Stat. Sec. 381.026, as may be amended from time to time.

SECTION 13. Penalties. To the extent not inconsistent with Florida law, violations of this Ordinance shall be punishable as provided by law for the violation of City ordinances.

SECTION 14. Conflict and Severability. In the event this Ordinance conflicts with any other ordinance of the City or other applicable law, the more restrictive shall apply. If any phrase or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion.

SECTION 15. Inclusion in the City's Code of Ordinances. The provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Marco Island, Florida. The sections of the Ordinance may be renumbered or relettered to accomplish such, and the word "ordinance" may be changed to "section" or "article" or any other appropriate word.

SECTION 16. Effective Date. Amendment Or Repeal. This Ordinance shall be effective immediately upon adoption by the City Council on second reading. This Ordinance may be amended or repealed only through the adoption of an Ordinance approved by the City Council by a supermajority vote at both first and second readings.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND this 8th day of January 2024.

ATTEST:

CITY OF MARCO ISLAND, FLORIDA

Joan Taylor, City Clerk

By: _____
Jared Grifoni, Chairman

Approved as to form and legal sufficiency:

Alan L. Gabriel, City Attorney