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ORDINANCE 19-XX

AN ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA, RELATING TO LAND DEVELOPMENT; MAKING FINDINGS; REVISING SECTION 30-1002 DELETING STANDARDS FOR UNLISTED ACCESSORY STRUCTURES; REVISING STANDARDS WITH REGARD TO THE SIZE OF ACCESSORY STRUCTURES AND BUILDINGS; PROVIDING FOR SEVERABILITY / INTERPRETATION; AND PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, Section 163.3174(4)(c), Florida Statutes, provides:

(4) The local planning agency shall have the general responsibility for the conduct of the comprehensive planning program. Specifically, the local planning agency shall:

(c) Review proposed land development regulations, land development codes, or amendments thereto, and make recommendations to the governing body as to the consistency of the proposal with the adopted comprehensive plan, or element or portion thereof, when the local planning agency is serving as the land development regulation commission or the local government requires review by both the local planning agency and the land development regulation commission.

(emphasis added); and

WHEREAS, Section 163.3194(2) and (3)(a), Florida Statutes, provides:

(2) After a comprehensive plan for the area, or element or portion thereof, is adopted by the governing body, no land development regulation, land development code, or amendment thereto shall be adopted by the governing body until such regulation, code, or amendment has been referred either to the local planning agency or to a separate land development regulation commission created pursuant to

43 local ordinance, or to both, for review and recommendation
44 as to the relationship of such proposal to the adopted
45 comprehensive plan, or element or portion thereof. Said
46 recommendation shall be made within a reasonable time, but
47 no later than within 2 months after the time of reference. If a
48 recommendation is not made within the time provided, then
49 the governing body may act on the adoption.

50 (3)(a) A development order or land development
51 regulation shall be consistent with the comprehensive plan if
52 the land uses, densities or intensities, and other aspects of
53 development permitted by such order or regulation are
54 compatible with and further the objectives, policies, land
55 uses, and densities or intensities in the comprehensive plan
56 and if it meets all other criteria enumerated by the local
57 government.

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59 (emphasis added); and

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61 **WHEREAS**, Section 30-62(8)b., Code of Ordinances of the City of Marco Island,
62 Florida, provides:

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64 8) *Other proposed amendments.* When pertaining to
65 other proposed amendments of these zoning regulations,
66 the planning board shall consider and study:

67 * * *

68 b. The relationship of the proposed
69 amendment to the purposes and objectives of the city's
70 comprehensive, with appropriate consideration as to
71 whether the proposed change will further the purposes of
72 these zoning regulations and other city codes, regulations,
73 and actions designed to implement the growth management
74 plan.

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76 (emphasis added); and

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78 **WHEREAS**, Policy 1.7.2 of the Future Land Use Element of the
79 City's Comprehensive Plan provides:

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81 The City will continue to thoroughly and thoughtfully review
82 and revise, as necessary, the list of permitted uses within
83 zoning districts contained in the adopted Land Development
84 Code; and

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WHEREAS, upon consideration of testimony by the City’s growth management staff and consideration of this Ordinance, the Planning Board finds that this Ordinance is consistent with the City’s Comprehensive Plan and in particular Policy 1.7.2 of the Comprehensive Plan’s Future Land Use Element; and

WHEREAS, Section 30-62(8)a., Code of Ordinances of the City of Marco Island, Florida, requires that the Planning Board determine the need and justification for a Land Development Code (“LDC”) amendment; and

WHEREAS, the justification for this Ordinance is to provide a clearer methods for providing relief from standards relating to the size of accessory structures while maintaining lot yard setbacks; 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

WHEREAS, the City Council adopts the findings of the Planning Board, also sitting as the City’s Local Planning Agency.

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

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

SECTION 2. Amendment and Adoption. That section 30-1002 of the Code of Ordinances, City of Marco Island, Florida, is hereby amended to read as follows:

Sec. 30-1002. - Accessory buildings and structures.

(a) Accessory buildings and structures must be constructed simultaneously with or following the construction of the principal structure and shall conform to the following setbacks and building separations. In those cases where the coastal construction control line is involved, the coastal construction control line will apply.

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Accessory Structure Setbacks
(non-waterfront lots and non-golf course lots)

	Accessory Structure	Front	Rear	Side	Structure to Structure (if detached)
1.	Parking garage or carport (single-family)	SPS	10 feet	SPS	10 feet
2.	One-story parking structures and/or carports (multifamily and commercial)	SPS	35 feet	SPS	10 feet
3.	Multistory parking structures (multifamily and commercial)	SPS	35 feet	SPS	1/1 ¹
4.	Swimming pool and/or screen enclosure (one-and two-family)	SPS	10 feet	SPS	N
5.	Swimming pool (multifamily and commercial)	SPS	20 feet	15 Feet	N
6.	Tennis courts, private (one-and two-family)	SPS	15 feet	SPS ₃	10 feet
7.	Tennis courts (multifamily and commercial)	SPS	20 feet	15 feet	20 feet
8.	Utility buildings	SPS	10 feet	SPS	10 feet
9.	Chickee, barbeque areas	SPS	10 feet	SPS	10 feet
10.	Attached screen porch	SPS	SPS	SPS	N/A

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44.	Unlisted accessory	SPS	SPS	SPS	10 feet
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Accessory Structure Setbacks
(Waterfront lots and golf course lots)

	Accessory Structure	Front	Rear	Side	Structure to Structure (if detached)
1.	Parking garage or carport (single-family)	SPS	SPS	SPS	10 feet
2.	One-story parking structures and/or carports (multifamily and commercial)	SPS	SPS	SPS	10 feet
3.	Multistory parking structures (multifamily and commercial)	SPS	SPS	SPS	1/1*
4.	Swimming pool and/or screen enclosure (one-and two-family)	SPS	10 feet ²	SPS	N
5.	Swimming pool (multifamily and commercial)	SPS	20 feet	15 Feet	N
6.	Tennis courts, private (one-and two-family)	SPS	15 feet	SPS ³	10 feet
7.	Tennis courts (multifamily and commercial)	SPS	35 feet	15 feet	20 feet
8.	Utility buildings	SPS	SPS	SPS	10 feet
9.	Chickee, barbeque areas	SPS	10 feet	SPS	N
10.	Attached screen porch	SPS	SPS	SPS	N/A

44.	Unlisted accessory	SPS	SPS	SPS	40 feet
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N = None, N/A = Not applicable, NP = Structure allowed in rear yard only. May be located on pad at ground level, but not mounted on roof, SPS = Calculated same as principal structure.

- 1 1/foot of accessory height = 1/foot of building separation.
- 2 Swimming pool decks with an AE flood zone may be constructed to a maximum height not to exceed either the adopted or recommended (best available data) finished floor elevation for the property, with a maximum of four feet of stem wall exposure, with the rear setback of ten feet. Swimming pool decks within a VE flood zone may be constructed to a maximum of seven feet above the seawall with a maximum of four feet of stem wall exposure, with the rear setback of ten feet. Swimming pool decks in either an AE or VE flood zone which exceed the maximum heights permitted herein shall conform to a rear setback of 25 feet.
- 3 Lighting is prohibited at all tennis court facilities located within single-family residential zoning districts. An opaque landscape hedge shall be planted between a tennis court facility and a side or rear yard property line of different ownership. The landscaping shall be maintained at a minimum of four feet in height and a maximum of six feet in height and shall be provided along the entire length of the tennis court facility.

(b) ~~Limitations as to size of accessory buildings and structures. Accessory buildings shall not occupy an area greater than five percent of the total lot area in all residential zoning districts, or occupy an area greater than 40 percent of any building envelope (i.e., area of lot remaining for building purposes after accounting for required setbacks), whichever is the lesser, provided the total maximum coverage provision of this article for all principal and accessory buildings is not exceeded. Nothing herein contained shall serve to prevent the construction of an accessory building containing an area of less than 500 square feet provided all yard and building spacing requirements can be met. Accessory buildings and structures footprint area shall not exceed 100 percent of the principle structure area and must be within the required setbacks. Docks are not included in this calculation.~~

SECTION 3. 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

171 shall be read and/or applied as if the invalid, illegal, or unenforceable term, provision,
172 clause, sentence, or section did not exist.

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

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180 **SECTION 4. Effective Date.** This Ordinance shall be effective immediately upon
181 adoption by the City Council on second reading.

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183 ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND this ____
184 day of _____, 2019.

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187 **ATTEST:**

CITY OF MARCO ISLAND, FLORIDA

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189 _____
190 Laura M. Litzan, City Clerk

By: _____
Erik Brechnitz, Chairman

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193 Approved as to form and legal sufficiency:

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195 _____
196 Alan L. Gabriel, City Attorney

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