

**ORDINANCE 19-08**

**AN ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA, RELATING TO LAND DEVELOPMENT; MAKING FINDINGS; AMENDING SECTION 30-10 OF THE LAND DEVELOPMENT CODE TO ADD A DEFINITION FOR “SHOULDER LOT”; AMENDING SECTION 30-85 RELATING TO DIMENSIONAL STANDARDS TO REFERENCE “SHOULDER LOTS” IN PLACE OF “IRREGULAR SHAPED” LOTS”; 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 local ordinance, or to both, for review and recommendation as to the relationship of such proposal to the adopted comprehensive plan, or element or portion thereof. Said

recommendation shall be made within a reasonable time, but no later than within 2 months after the time of reference. If a recommendation is not made within the time provided, then the governing body may act on the adoption.

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

(emphasis added); and

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

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

\* \* \*

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

(emphasis added); and

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

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

**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 and graphic definition of and application of the term “shoulder lot”, while eliminating use of terms such as “waterfront lot” and “irregularly shaped lot”; 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 30-10 of the Code of Ordinances, City of Marco Island, Florida, is hereby amended to read as follows:

**Sec. 30-10. - Definitions.**

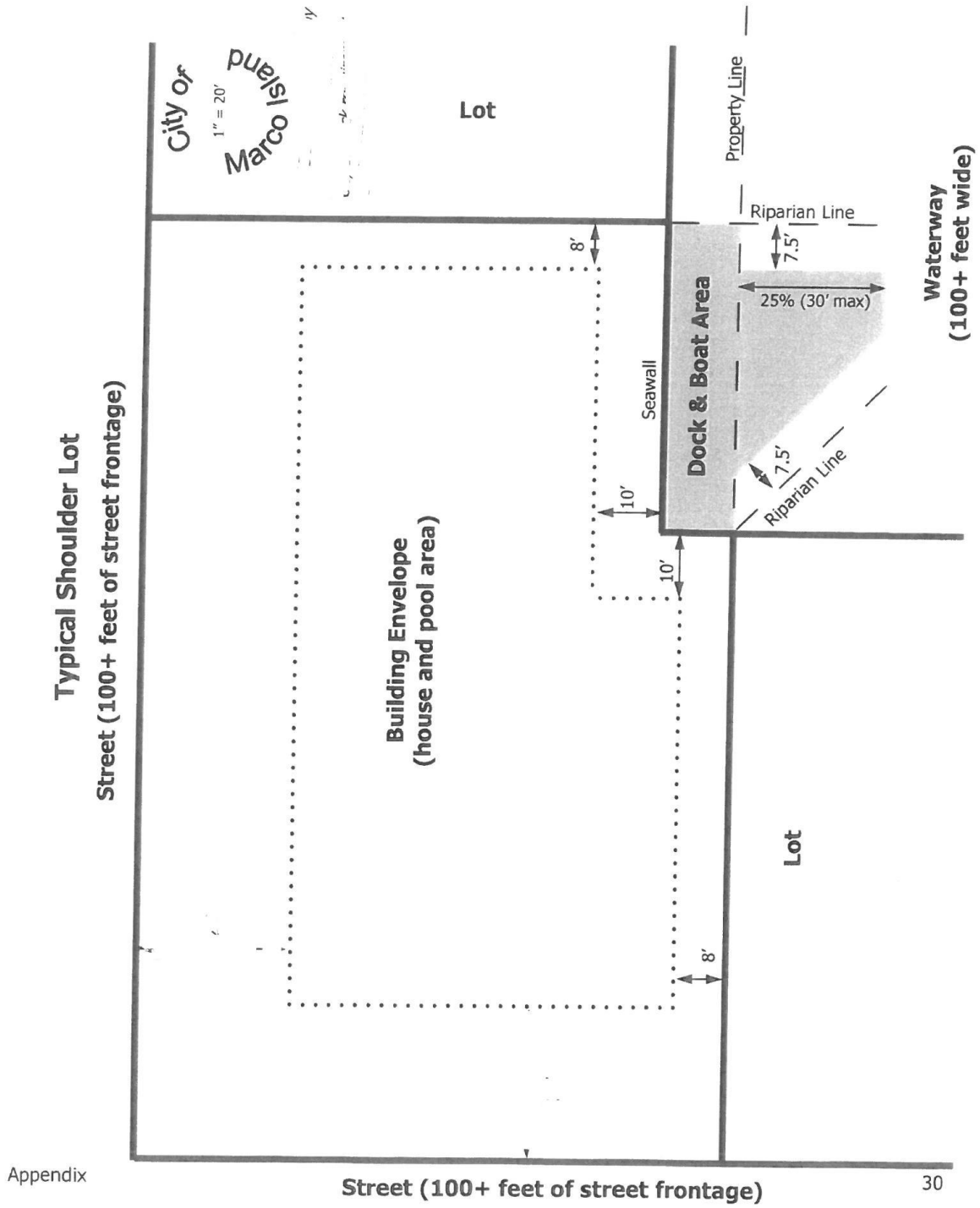
\*    \*    \*

(c) *Definitions enumerated.* The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

\*    \*    \*

*Lot, shoulder* means a waterfront corner lot which straddles the waterway, has a property line which extends into the water and contains a seawall or bulkhead or shoreline which is indented from the property line thus creating a strip of land which is under water and is usually used for the docking of a boat.

**[LEGISLATIVE INTENT: DIAGRAM IS NEW AND SHALL BE INSERTED IN LAND DEVELOPMENT CODE]**



Appendix

Street (100+ feet of street frontage)

30

\* \* \*

**SECTION 3. Amendment and Adoption.** That section 30-85 of the Code of Ordinances, City of Marco Island, Florida, is hereby amended to read as follows:

**Sec. 30-85. - Dimensional standards and regulations.**

(a) *Generally.* The following dimensional standards and regulations shall apply as presented to all permitted uses within the various residential single-family (RSF) districts.

	RSF 2	RSF 3	RSF 4
Maximum density (units per gross ac)	2	3	4
Minimum lot area	20,000 s.f.	10,000 s.f.	7,500 s.f.
Minimum lot width	120 ft.	95 ft. (corner) 80 ft. (interior)	75 ft. (corner) 70 ft. (interior)
Minimum depth of: 1. Front yard 2. Rear yard 3. Side yard	25 ft. 25 ft. Lots with <100 ft.— 7½ ft.* Lots with >100 ft.— 8 ft.* <del>Waterfront lots*</del> 40 ft.	25 ft. 25 ft. Lots with <100 ft.— 7½ ft.* Lots with >100 ft.— 8 ft.* <del>Waterfront lots*</del> 40 ft.	25 ft. 25 ft. Lots with <100 ft.— 7½ ft.* Lots with >100 ft.— 8 ft.* <del>Waterfront lots*</del> 40 ft.
Minimum floor area (living area)	1,500 s.f.	1,500 s.f.	1,500 s.f.

\* ~~See See definitions for irregular shaped lots and waterfront lots.~~ \* 10ft. minimum setback from seawall.

(b) *Accessory structure setbacks.* Pursuant to the land development code, accessory structures must be constructed simultaneously with or following the construction of the principal structure.

(c) *Maximum height.*

(1) Principal structures: Thirty-five feet as measured from required base flood elevation, or applicable measurement point, to the mean height level between eaves and ridge of a gable, hip or gambrel roof.

(2) Accessory structures: Twenty feet as measured from existing ground elevation on average of the subject parcel except for attached screen enclosures which may equal the maximum height permitted for the principal structure.

(3) The height limitations do not apply to spires, belfries, cupolas, approved communications towers, water tanks, fire towers when operated by a branch of government, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level. Human occupancy, even casual use, is prohibited except for routine maintenance.

**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.

(c) The diagram set forth in Section 2. of this Ordinance shall be added to Section 30-10. The legislative intent language included in Section 2. of this Ordinance shall not be added to Section 30-10 of the Land Development Code.

**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 18<sup>th</sup> day of March, 2019.

**ATTEST:**

**CITY OF MARCO ISLAND, FLORIDA**

\_\_\_\_\_  
Laura M. Litzan, City Clerk

By: \_\_\_\_\_  
Erik Brechnitz, Chairman

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Alan L. Gabriel, City Attorney