

ORDINANCE NO. 01-07-06

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS, SECTION 9.5-4, "DEFINITIONS"; SECTIONS 9.5-232 THROUGH 9.5-239, "URBAN COMMERCIAL DISTRICT, URBAN RESIDENTIAL DISTRICT, URBAN RESIDENTIAL-MOBILE HOME DISTRICT, SUB URBAN COMMERCIAL DISTRICT, URBAN RESIDENTIAL MOBILE HOME-LIMITED ("URM-L") DISTRICT, SUB URBAN RESIDENTIAL DISTRICT, SUB URBAN RESIDENTIAL DISTRICT (LIMITED), SPARSELY SETTLED RESIDENTIAL DISTRICT, NATIVE AREA DISTRICT; SECTIONS 9.5-242 THROUGH 9.5-254, "IMPROVED SUBDIVISION DISTRICT. IMPROVED SUBDIVISION DISTRICT, DESTINATION RESORT DISTRICT, RECREATIONAL VEHICLE DISTRICT, COMMERCIAL FISHING AREA DISTRICT (CFA), COMMERCIAL FISHING VILLAGE DISTRICT, COMMERCIAL FISHING SPECIAL DISTRICTS, MIXED USE DISTRICT, INDUSTRIAL DISTRICT, MARITIME INDUSTRIES DISTRICT, MILITARY FACILITIES DISTRICT, AIRPORT DISTRICTS, PARK AND REFUGE DISTRICT, CONSERVATION DISTRICT"; AUTHORIZING WASTEWATER TREATMENT FACILITIES AND WASTEWATER TREATMENT COLLECTION SYSTEMS IN SPECIFIED LAND USE DISTRICTS; PROVIDING FOR THE REPEAL OF PORTIONS OF SECTIONS 9.5-247 "COMMERCIAL FISHING SPECIAL DISTRICTS" AND 9.5-252 "AIRPORT DISTRICTS;" PROVIDING FOR THE REPEAL OF ALL ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF COMMUNITY AFFAIRS ("DEPARTMENT"); AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE DEPARTMENT IN ACCORDANCE WITH STATE LAW.

WHEREAS, the City of Marathon wishes to facilitate the creation of a central sanitary sewer system and the Little Venice Pilot Wastewater Plant for the collection, transmission, and treatment of domestic wastewater;

WHEREAS, a significant percentage of the existing structures within the City are in non-compliance with applicable standards concerning wastewater management; and

WHEREAS, the lack of proper wastewater management within the City has resulted in near shore water quality degradation; and

WHEREAS, the quality of City’s near shore waters is critical to the City’s economic well being as a result of the significant role they have on the area’s tourism; and

WHEREAS, pursuant to Section 163.3174, Florida Statutes, and Section 9.5-22 of the City's Land Development Regulations (the "LDRs"), the City’s Planning Commission sitting as the Local Planning Agency has publicly considered the amendments to the LDRs set forth in this Ordinance (the “Amendments”) at a properly noticed public hearing and recommended to the City Council the adoption of the Amendments; and

WHEREAS, in accordance with Section 166.041, Florida Statutes, public notice has been given of the public hearings for the proposed adoption of this Ordinance amending the LDRs; and

WHEREAS, the City Council finds the adoption of the Amendments is in the best interest of the City and complies with applicable State laws and rules.

WHEREAS, the City Council finds that enactment of this Ordinance furthers the objectives, goals, and policies of the City’s Comprehensive Plan and the Principles for Guiding development of the Florida Keys Area of Critical State Concern (FKACSC).

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AS FOLLOWS:^{1/}

Section 1. **Recitals.** The above recitals are true, correct, and incorporated herein by this reference.

Section 2. **Definitions.** Section 9.5-4 of the City Code is hereby amended to read as follows:

Sec. 9.5-4. Definitions

* * *

^{1/} Additional to existing text are shown by underline, deletions are shown as ~~strikethrough~~.

(W-1) Wastewater treatment facility means the use of land and its appurtenances for the treatment, stabilizing, or holding of wastewater collected predominately from other lots or parcels. The wastewater treatment facility includes the collection and transmission system, the wastewater treatment works, the reuse or disposal system, and the residuals management facility.

(W-2) Wastewater treatment collection system means the use of land and its above and below ground installed appurtenances for the collection, transmission, and reuse of wastewater to a treatment facility located on another lot or parcel. The wastewater treatment collection system includes, but is not limited to, pipelines or conduits, pumping stations, vacuum stations, force mains and all other structures, devices, appurtenances, and facilities used for collecting or conducting wastes to an ultimate point for treatment, reuse or disposal.

* * *

Section 3. Urban Commercial District. Section 9.5-232 of the City Code is hereby amended to read as follows:

Sec. 9.5-232. Urban Commercial District.

(a) The following uses are permitted as of right in the Urban Commercial District:

* * *

(10) Wastewater treatment facilities and wastewater treatment collection system(s) serving (a) use(s) located in any land use district provided that:

a. The wastewater treatment facility and wastewater treatment collection system(s) is (are) in compliance with all federal, state, and local requirements; and

- b. The wastewater treatment facility, wastewater treatment collection system(s), and accessory uses shall be screened and buffered as follows:
- (i) Any structure over 8 feet in height must have a wall or fence, as provided in Section 9.5-309 of the City Code, and landscaping buffers as provided in Article VII, Division 10 of this Chapter; or
 - (ii) If the structure is 8 feet or less in height, the City Manager or his designee may authorize less screening and landscape buffering on a case-by-case basis as is consistent with the character of the surrounding area in order to minimize the impact of the wastewater treatment facility or wastewater collection system.
- c. The owner of the wastewater treatment facility or wastewater treatment collection system shall maintain or replace all required landscaping, as necessary and in perpetuity. If the owner of the wastewater treatment facility or wastewater treatment collection system, fails to maintain the required landscaping, the City Manager or his designee may order all repairs in order to bring the landscaping into compliance. The City may assess the owner with the cost of the repairs. A certified copy of a notice of assessment of cost of repairs may be recorded in the public records and thereafter constitute a lien on the property on which the repairs were performed. Upon petition to the Circuit Court, such notice of assessment may be enforced in the same manner as a court judgment by the Sheriffs of the this State, including levy against the personal property of the owner, but such order shall not be deemed to be a court judgment except for

enforcement purposes. After three months from the date of filing any such notice of assessment, which remains unpaid, the City may foreclose or otherwise execute on the lien. Alternatively, the City may sue to recover a money judgment for the amount of the lien plus accrued interest. Such liens shall be superior and paramount to the interest in such parcel or property of any owner, lessee, tenant, mortgagee or other person except the lien of state, county and City taxes and shall be on parity with the lien of such, state, county and City taxes. Upon payment of the notice of assessment by the owner, the City Clerk is authorized to execute and record in the public records of Monroe County the appropriate Release of Lien document.

* * *

Section 4. Urban Residential District. Section 9.5-233 of the City Code is hereby amended to read as follows:

Sec. 9.5-233. Urban Residential District.

(a) The following uses are permitted as of right in the Urban Residential District:

* * *

(6) Wastewater treatment facilities and wastewater treatment collection system(s) serving (a) use(s) located in any land use district provided that:

a. The wastewater treatment facility and wastewater treatment collection system(s) is (are) in compliance with all federal, state, and local requirements; and

- b. The wastewater treatment facility, wastewater treatment collection system(s), and accessory uses shall be screened and buffered as follows:
- (i) Any structure over 8 feet in height must have a wall or fence, as provided in Section 9.5-309 of the City Code, and landscaping buffers as provided in Article VII, Division 10 of this Chapter; or
 - (ii) If the structure is 8 feet or less in height, the City Manager or his designee may authorize less screening and landscape buffering on a case-by-case basis as is consistent with the character of the surrounding area in order to minimize the impact of the wastewater treatment facility or wastewater collection system.
- c. The owner of the wastewater treatment facility or wastewater treatment collection system shall maintain or replace all required landscaping, as necessary and in perpetuity. If the owner of the wastewater treatment facility or wastewater treatment collection system, fails to maintain the required landscaping, the City Manager or his designee may order all repairs in order to bring the landscaping into compliance. The City may assess the owner with the cost of the repairs. A certified copy of a notice of assessment of cost of repairs may be recorded in the public records and thereafter constitute a lien on the property on which the repairs were performed. Upon petition to the Circuit Court, such notice of assessment may be enforced in the same manner as a court judgment by the Sheriffs of the this State, including levy against the personal property of the owner, but such order shall not be deemed to be a court judgment except for

enforcement purposes. After three months from the date of filing any such notice of assessment, which remains unpaid, the City may foreclose or otherwise execute on the lien. Alternatively, the City may sue to recover a money judgment for the amount of the lien plus accrued interest. Such liens shall be superior and paramount to the interest in such parcel or property of any owner, lessee, tenant, mortgagee or other person except the lien of state, county and City taxes and shall be on parity with the lien of such, state, county and City taxes. Upon payment of the notice of assessment by the owner, the City Clerk is authorized to execute and record in the public records of Monroe County the appropriate Release of Lien document.

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Section 5. Urban Residential-Mobile Home District. Section 9.5-234 of the City Code is hereby amended to read as follows:

Sec. 9.5-234. Urban Residential-Mobile Home District.

(a) The following uses are permitted as of right in the Urban Residential-Mobile Home District:

* * *

(6) Wastewater treatment facilities and wastewater treatment collection system(s) serving (a) use(s) located in any land use district provided that:

a. The wastewater treatment facility and wastewater treatment collection system(s) is (are) in compliance with all federal, state, and local requirements; and

- b. The wastewater treatment facility, wastewater treatment collection system(s), and accessory uses shall be screened and buffered as follows:
- (i) Any structure over 8 feet in height must have a wall or fence, as provided in Section 9.5-309 of the City Code, and landscaping buffers as provided in Article VII, Division 10 of this Chapter; or
 - (ii) If the structure is 8 feet or less in height, the City Manager or his designee may authorize less screening and landscape buffering on a case-by-case basis as is consistent with the character of the surrounding area in order to minimize the impact of the wastewater treatment facility or wastewater collection system.
- c. The owner of the wastewater treatment facility or wastewater treatment collection system shall maintain or replace all required landscaping, as necessary and in perpetuity. If the owner of the wastewater treatment facility or wastewater treatment collection system, fails to maintain the required landscaping, the City Manager or his designee may order all repairs in order to bring the landscaping into compliance. The City may assess the owner with the cost of the repairs. A certified copy of a notice of assessment of cost of repairs may be recorded in the public records and thereafter constitute a lien on the property on which the repairs were performed. Upon petition to the Circuit Court, such notice of assessment may be enforced in the same manner as a court judgment by the Sheriffs of the this State, including levy against the personal property of the owner, but such order shall not be deemed to be a court judgment except for

enforcement purposes. After three months from the date of filing any such notice of assessment, which remains unpaid, the City may foreclose or otherwise execute on the lien. Alternatively, the City may sue to recover a money judgment for the amount of the lien plus accrued interest. Such liens shall be superior and paramount to the interest in such parcel or property of any owner, lessee, tenant, mortgagee or other person except the lien of state, county and City taxes and shall be on parity with the lien of such, state, county and City taxes. Upon payment of the notice of assessment by the owner, the City Clerk is authorized to execute and record in the public records of Monroe County the appropriate Release of Lien document.

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Section 6. Sub Urban Commercial District. Section 9.5-235 of the City Code is hereby amended to read as follows:

Sec. 9.5-235. Sub Urban Commercial District.

(a) The following uses are permitted as of right in the SubUrban Commercial District:

* * *

(10) Wastewater treatment facilities and wastewater treatment collection system(s) serving (a) use(s) located in any land use district provided that:

a. The wastewater treatment facility and wastewater treatment collection system(s) is (are) in compliance with all federal, state, and local requirements; and

- b. The wastewater treatment facility, wastewater treatment collection system(s), and accessory uses shall be screened and buffered as follows:
- (i) Any structure over 8 feet in height must have a wall or fence, as provided in Section 9.5-309 of the City Code, and landscaping buffers as provided in Article VII, Division 10 of this Chapter; or
 - (ii) If the structure is 8 feet or less in height, the City Manager or his designee may authorize less screening and landscape buffering on a case-by-case basis as is consistent with the character of the surrounding area in order to minimize the impact of the wastewater treatment facility or wastewater collection system.
- c. The owner of the wastewater treatment facility or wastewater treatment collection system shall maintain or replace all required landscaping, as necessary and in perpetuity. If the owner of the wastewater treatment facility or wastewater treatment collection system, fails to maintain the required landscaping, the City Manager or his designee may order all repairs in order to bring the landscaping into compliance. The City may assess the owner with the cost of the repairs. A certified copy of a notice of assessment of cost of repairs may be recorded in the public records and thereafter constitute a lien on the property on which the repairs were performed. Upon petition to the Circuit Court, such notice of assessment may be enforced in the same manner as a court judgment by the Sheriffs of the this State, including levy against the personal property of the owner, but such order shall not be deemed to be a court judgment except for

enforcement purposes. After three months from the date of filing any such notice of assessment, which remains unpaid, the City may foreclose or otherwise execute on the lien. Alternatively, the City may sue to recover a money judgment for the amount of the lien plus accrued interest. Such liens shall be superior and paramount to the interest in such parcel or property of any owner, lessee, tenant, mortgagee or other person except the lien of state, county and City taxes and shall be on parity with the lien of such, state, county and City taxes. Upon payment of the notice of assessment by the owner, the City Clerk is authorized to execute and record in the public records of Monroe County the appropriate Release of Lien document.

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Section 7. Urban Residential Mobile Home-Limited. Section 9.5-235.1 of the City

Code is hereby amended to read as follows:

Sec. 9.5-235.1. Urban Residential Mobile Home-Limited (URM-L) District.

(a) The following uses are permitted as of right in the Urban Residential Mobile Home-Limited (URM-L) District:

* * *

(5) Wastewater treatment facilities and wastewater treatment collection system(s) serving (a) use(s) located in any land use district provided that:

a. The wastewater treatment facility and wastewater treatment collection system(s) is (are) in compliance with all federal, state, and local requirements; and

- b. The wastewater treatment facility, wastewater treatment collection system(s), and accessory uses shall be screened and buffered as follows:
- (i) Any structure over 8 feet in height must have a wall or fence, as provided in Section 9.5-309 of the City Code, and landscaping buffers as provided in Article VII, Division 10 of this Chapter; or
 - (ii) If the structure is 8 feet or less in height, the City Manager or his designee may authorize less screening and landscape buffering on a case-by-case basis as is consistent with the character of the surrounding area in order to minimize the impact of the wastewater treatment facility or wastewater collection system.
- c. The owner of the wastewater treatment facility or wastewater treatment collection system shall maintain or replace all required landscaping, as necessary and in perpetuity. If the owner of the wastewater treatment facility or wastewater treatment collection system, fails to maintain the required landscaping, the City Manager or his designee may order all repairs in order to bring the landscaping into compliance. The City may assess the owner with the cost of the repairs. A certified copy of a notice of assessment of cost of repairs may be recorded in the public records and thereafter constitute a lien on the property on which the repairs were performed. Upon petition to the Circuit Court, such notice of assessment may be enforced in the same manner as a court judgment by the Sheriffs of the this State, including levy against the personal property of the owner, but such order shall not be deemed to be a court judgment except for

enforcement purposes. After three months from the date of filing any such notice of assessment, which remains unpaid, the City may foreclose or otherwise execute on the lien. Alternatively, the City may sue to recover a money judgment for the amount of the lien plus accrued interest. Such liens shall be superior and paramount to the interest in such parcel or property of any owner, lessee, tenant, mortgagee or other person except the lien of state, county and City taxes and shall be on parity with the lien of such, state, county and City taxes. Upon payment of the notice of assessment by the owner, the City Clerk is authorized to execute and record in the public records of Monroe County the appropriate Release of Lien document.

* * *

Section 8. Sub Urban Residential District. Section 9.5-236 of the City Code is hereby amended to read as follows:

Sec. 9.5-236. Sub Urban Residential District.

(a) The following uses are permitted as of right in the Sub Urban Residential District:

* * *

(7) Wastewater treatment facilities and wastewater treatment collection system(s) serving (a) use(s) located in any land use district provided that:

a. The wastewater treatment facility and wastewater treatment collection system(s) is (are) in compliance with all federal, state, and local requirements; and

- b. The wastewater treatment facility, wastewater treatment collection system(s), and accessory uses shall be screened and buffered as follows:
- (i) Any structure over 8 feet in height must have a wall or fence, as provided in Section 9.5-309 of the City Code, and landscaping buffers as provided in Article VII, Division 10 of this Chapter; or
 - (ii) If the structure is 8 feet or less in height, the City Manager or his designee may authorize less screening and landscape buffering on a case-by-case basis as is consistent with the character of the surrounding area in order to minimize the impact of the wastewater treatment facility or wastewater collection system.
- c. The owner of the wastewater treatment facility or wastewater treatment collection system shall maintain or replace all required landscaping, as necessary and in perpetuity. If the owner of the wastewater treatment facility or wastewater treatment collection system, fails to maintain the required landscaping, the City Manager or his designee may order all repairs in order to bring the landscaping into compliance. The City may assess the owner with the cost of the repairs. A certified copy of a notice of assessment of cost of repairs may be recorded in the public records and thereafter constitute a lien on the property on which the repairs were performed. Upon petition to the Circuit Court, such notice of assessment may be enforced in the same manner as a court judgment by the Sheriffs of the this State, including levy against the personal property of the owner, but such order shall not be deemed to be a court judgment except for

enforcement purposes. After three months from the date of filing any such notice of assessment, which remains unpaid, the City may foreclose or otherwise execute on the lien. Alternatively, the City may sue to recover a money judgment for the amount of the lien plus accrued interest. Such liens shall be superior and paramount to the interest in such parcel or property of any owner, lessee, tenant, mortgagee or other person except the lien of state, county and City taxes and shall be on parity with the lien of such, state, county and City taxes. Upon payment of the notice of assessment by the owner, the City Clerk is authorized to execute and record in the public records of Monroe County the appropriate Release of Lien document.

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Section 9. Sub Urban Residential District (Limited). Section 9.5-237 of the City Code is hereby amended to read as follows:

Sec. 9.5-237. Sub Urban Residential District (Limited).

- (a) The following uses are permitted as of right in the Sub Urban Residential District (Limited):

* * *

(7) Wastewater treatment facilities and wastewater treatment collection system(s) serving (a) use(s) located in any land use district provided that:

- a. The wastewater treatment facility and wastewater treatment collection system(s) is (are) in compliance with all federal, state, and local requirements; and

- b. The wastewater treatment facility, wastewater treatment collection system(s), and accessory uses shall be screened and buffered as follows:
- (i) Any structure over 8 feet in height must have a wall or fence, as provided in Section 9.5-309 of the City Code, and landscaping buffers as provided in Article VII, Division 10 of this Chapter; or
 - (ii) If the structure is 8 feet or less in height, the City Manager or his designee may authorize less screening and landscape buffering on a case-by-case basis as is consistent with the character of the surrounding area in order to minimize the impact of the wastewater treatment facility or wastewater collection system.
- c. The owner of the wastewater treatment facility or wastewater treatment collection system shall maintain or replace all required landscaping, as necessary and in perpetuity. If the owner of the wastewater treatment facility or wastewater treatment collection system, fails to maintain the required landscaping, the City Manager or his designee may order all repairs in order to bring the landscaping into compliance. The City may assess the owner with the cost of the repairs. A certified copy of a notice of assessment of cost of repairs may be recorded in the public records and thereafter constitute a lien on the property on which the repairs were performed. Upon petition to the Circuit Court, such notice of assessment may be enforced in the same manner as a court judgment by the Sheriffs of the this State, including levy against the personal property of the owner, but such order shall not be deemed to be a court judgment except for

enforcement purposes. After three months from the date of filing any such notice of assessment, which remains unpaid, the City may foreclose or otherwise execute on the lien. Alternatively, the City may sue to recover a money judgment for the amount of the lien plus accrued interest. Such liens shall be superior and paramount to the interest in such parcel or property of any owner, lessee, tenant, mortgagee or other person except the lien of state, county and City taxes and shall be on parity with the lien of such, state, county and City taxes. Upon payment of the notice of assessment by the owner, the City Clerk is authorized to execute and record in the public records of Monroe County the appropriate Release of Lien document.

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Section 10. Sparsely Settled Residential District. Section 9.5-238 of the City Code is hereby amended to read as follows:

Sec. 9.5-238. Sparsely Settled Residential District.

(a) The following uses are permitted as of right in the Sparsely Settled Residential District:

* * *

(6) Wastewater treatment facilities and wastewater treatment collection system(s) serving (a) use(s) located in any land use district provided that:

a. The wastewater treatment facility and wastewater treatment collection system(s) is (are) in compliance with all federal, state, and local requirements; and

- b. The wastewater treatment facility, wastewater treatment collection system(s), and accessory uses shall be screened and buffered as follows:
- (i) Any structure over 8 feet in height must have a wall or fence, as provided in Section 9.5-309 of the City Code, and landscaping buffers as provided in Article VII, Division 10 of this Chapter; or
 - (ii) If the structure is 8 feet or less in height, the City Manager or his designee may authorize less screening and landscape buffering on a case-by-case basis as is consistent with the character of the surrounding area in order to minimize the impact of the wastewater treatment facility or wastewater collection system.
- c. The owner of the wastewater treatment facility or wastewater treatment collection system shall maintain or replace all required landscaping, as necessary and in perpetuity. If the owner of the wastewater treatment facility or wastewater treatment collection system, fails to maintain the required landscaping, the City Manager or his designee may order all repairs in order to bring the landscaping into compliance. The City may assess the owner with the cost of the repairs. A certified copy of a notice of assessment of cost of repairs may be recorded in the public records and thereafter constitute a lien on the property on which the repairs were performed. Upon petition to the Circuit Court, such notice of assessment may be enforced in the same manner as a court judgment by the Sheriffs of the this State, including levy against the personal property of the owner, but such order shall not be deemed to be a court judgment except for

enforcement purposes. After three months from the date of filing any such notice of assessment, which remains unpaid, the City may foreclose or otherwise execute on the lien. Alternatively, the City may sue to recover a money judgment for the amount of the lien plus accrued interest. Such liens shall be superior and paramount to the interest in such parcel or property of any owner, lessee, tenant, mortgagee or other person except the lien of state, county and City taxes and shall be on parity with the lien of such, state, county and City taxes. Upon payment of the notice of assessment by the owner, the City Clerk is authorized to execute and record in the public records of Monroe County the appropriate Release of Lien document.

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Section 11. Native Area District. Section 9.5-239 of the City Code is hereby amended to read as follows:

Sec. 9.5-239. Native Area District.

- (a) The following uses are permitted as of right in the Native Area District:

* * *

(6) Wastewater treatment facilities and wastewater treatment collection system(s) serving (a) use(s) located in any land use district provided that:

- a. The wastewater treatment facility and wastewater treatment collection system(s) is (are) in compliance with all federal, state, and local requirements; and

- b. The wastewater treatment facility, wastewater treatment collection system(s), and accessory uses shall be screened and buffered as follows:
- (i) Any structure over 8 feet in height must have a wall or fence, as provided in Section 9.5-309 of the City Code, and landscaping buffers as provided in Article VII, Division 10 of this Chapter; or
 - (ii) If the structure is 8 feet or less in height, the City Manager or his designee may authorize less screening and landscape buffering on a case-by-case basis as is consistent with the character of the surrounding area in order to minimize the impact of the wastewater treatment facility or wastewater collection system.
- c. The owner of the wastewater treatment facility or wastewater treatment collection system shall maintain or replace all required landscaping, as necessary and in perpetuity. If the owner of the wastewater treatment facility or wastewater treatment collection system, fails to maintain the required landscaping, the City Manager or his designee may order all repairs in order to bring the landscaping into compliance. The City may assess the owner with the cost of the repairs. A certified copy of a notice of assessment of cost of repairs may be recorded in the public records and thereafter constitute a lien on the property on which the repairs were performed. Upon petition to the Circuit Court, such notice of assessment may be enforced in the same manner as a court judgment by the Sheriffs of the this State, including levy against the personal property of the owner, but such order shall not be deemed to be a court judgment except for

enforcement purposes. After three months from the date of filing any such notice of assessment, which remains unpaid, the City may foreclose or otherwise execute on the lien. Alternatively, the City may sue to recover a money judgment for the amount of the lien plus accrued interest. Such liens shall be superior and paramount to the interest in such parcel or property of any owner, lessee, tenant, mortgagee or other person except the lien of state, county and City taxes and shall be on parity with the lien of such, state, county and City taxes. Upon payment of the notice of assessment by the owner, the City Clerk is authorized to execute and record in the public records of Monroe County the appropriate Release of Lien document.

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Section 12. Improved Subdivision District. Section 9.5-242 of the City Code is hereby amended to read as follows:

Sec. 9.5-242. Improved Subdivision District.

(a) The following uses are permitted as of right in the Improved Subdivision District:

* * *

(7) Wastewater treatment facilities and wastewater treatment collection system(s) serving (a) use(s) located in any land use district provided that:

a. The wastewater treatment facility and wastewater treatment collection system(s) is (are) in compliance with all federal, state, and local requirements; and

- b. The wastewater treatment facility, wastewater treatment collection system(s), and accessory uses shall be screened and buffered as follows:
- (i) Any structure over 8 feet in height must have a wall or fence, as provided in Section 9.5-309 of the City Code, and landscaping buffers as provided in Article VII, Division 10 of this Chapter; or
 - (ii) If the structure is 8 feet or less in height, the City Manager or his designee may authorize less screening and landscape buffering on a case-by-case basis as is consistent with the character of the surrounding area in order to minimize the impact of the wastewater treatment facility or wastewater collection system.
- c. The owner of the wastewater treatment facility or wastewater treatment collection system shall maintain or replace all required landscaping, as necessary and in perpetuity. If the owner of the wastewater treatment facility or wastewater treatment collection system, fails to maintain the required landscaping, the City Manager or his designee may order all repairs in order to bring the landscaping into compliance. The City may assess the owner with the cost of the repairs. A certified copy of a notice of assessment of cost of repairs may be recorded in the public records and thereafter constitute a lien on the property on which the repairs were performed, Upon petition to the Circuit Court, such notice of assessment may be enforced in the same manner as a court judgment by the Sheriffs of the this State, including levy against the personal property of the owner, but such order shall not be deemed to be a court judgment except for

enforcement purposes. After three months from the date of filing any such notice of assessment, which remains unpaid, the City may foreclose or otherwise execute on the lien. Alternatively, the City may sue to recover a money judgment for the amount of the lien plus accrued interest. Such liens shall be superior and paramount to the interest in such parcel or property of any owner, lessee, tenant, mortgagee or other person except the lien of state, county and City taxes and shall be on parity with the lien of such, state, county and City taxes. Upon payment of the notice of assessment by the owner, the City Clerk is authorized to execute and record in the public records of Monroe County the appropriate Release of Lien document.

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Section 13. Destination Resort District. Section 9.5-243 of the Land Development Regulations shall read as follows:

Sec. 9.5-243. Destination Resort District.

(a) The following uses are permitted as of right in the Destination Resort District:

* * *

(6) Wastewater treatment facilities and wastewater treatment collection system(s) serving (a) use(s) located in any land use district provided that:

a. The wastewater treatment facility and wastewater treatment collection system(s) is (are) in compliance with all federal, state, and local requirements; and

- b. The wastewater treatment facility, wastewater treatment collection system(s), and accessory uses shall be screened and buffered as follows:
- (i) Any structure over 8 feet in height must have a wall or fence, as provided in Section 9.5-309 of the City Code, and landscaping buffers as provided in Article VII, Division 10 of this Chapter; or
 - (ii) If the structure is 8 feet or less in height, the City Manager or his designee may authorize less screening and landscape buffering on a case-by-case basis as is consistent with the character of the surrounding area in order to minimize the impact of the wastewater treatment facility or wastewater collection system.
- c. The owner of the wastewater treatment facility or wastewater treatment collection system shall maintain or replace all required landscaping, as necessary and in perpetuity. If the owner of the wastewater treatment facility or wastewater treatment collection system, fails to maintain the required landscaping, the City Manager or his designee may order all repairs in order to bring the landscaping into compliance. The City may assess the owner with the cost of the repairs. A certified copy of a notice of assessment of cost of repairs may be recorded in the public records and thereafter constitute a lien on the property on which the repairs were performed. Upon petition to the Circuit Court, such notice of assessment may be enforced in the same manner as a court judgment by the Sheriffs of the this State, including levy against the personal property of the owner, but such order shall not be deemed to be a court judgment except for

enforcement purposes. After three months from the date of filing any such notice of assessment, which remains unpaid, the City may foreclose or otherwise execute on the lien. Alternatively, the City may sue to recover a money judgment for the amount of the lien plus accrued interest. Such liens shall be superior and paramount to the interest in such parcel or property of any owner, lessee, tenant, mortgagee or other person except the lien of state, county and City taxes and shall be on parity with the lien of such, state, county and City taxes. Upon payment of the notice of assessment by the owner, the City Clerk is authorized to execute and record in the public records of Monroe County the appropriate Release of Lien document.

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Section 14. Recreational Vehicle District. Section 9.5-244 of the Land Development Regulations shall read as follows:

Sec. 9.5-244. Recreational Vehicle District.

(a) The following uses are permitted as of right in the Recreational Vehicle District:

* * *

(4) Wastewater treatment facilities and wastewater treatment collection system(s) serving (a) use(s) located in any land use district provided that:

a. The wastewater treatment facility and wastewater treatment collection system(s) is (are) in compliance with all federal, state, and local requirements; and

- b. The wastewater treatment facility, wastewater treatment collection system(s), and accessory uses shall be screened and buffered as follows:
- (i) Any structure over 8 feet in height must have a wall or fence, as provided in Section 9.5-309 of the City Code, and landscaping buffers as provided in Article VII, Division 10 of this Chapter; or
 - (ii) If the structure is 8 feet or less in height, the City Manager or his designee may authorize less screening and landscape buffering on a case-by-case basis as is consistent with the character of the surrounding area in order to minimize the impact of the wastewater treatment facility or wastewater collection system.
- c. The owner of the wastewater treatment facility or wastewater treatment collection system shall maintain or replace all required landscaping, as necessary and in perpetuity. If the owner of the wastewater treatment facility or wastewater treatment collection system, fails to maintain the required landscaping, the City Manager or his designee may order all repairs in order to bring the landscaping into compliance. The City may assess the owner with the cost of the repairs. A certified copy of a notice of assessment of cost of repairs may be recorded in the public records and thereafter constitute a lien on the property on which the repairs were performed, Upon petition to the Circuit Court, such notice of assessment may be enforced in the same manner as a court judgment by the Sheriffs of the this State, including levy against the personal property of the owner, but such order shall not be deemed to be a court judgment except for

enforcement purposes. After three months from the date of filing any such notice of assessment, which remains unpaid, the City may foreclose or otherwise execute on the lien. Alternatively, the City may sue to recover a money judgment for the amount of the lien plus accrued interest. Such liens shall be superior and paramount to the interest in such parcel or property of any owner, lessee, tenant, mortgagee or other person except the lien of state, county and City taxes and shall be on parity with the lien of such, state, county and City taxes. Upon payment of the notice of assessment by the owner, the City Clerk is authorized to execute and record in the public records of Monroe County the appropriate Release of Lien document.

* * *

Section 15. Commercial Fishing Area District (CFA). Section 9.5-245 of the City Code is hereby amended to read as follows:

Sec. 9.5-245. Commercial Fishing Area District (CFA).

* * *

(d) The following uses are permitted as of right uses in the Commercial Fishing Area District (CFA), ~~subject to the standards and procedures set forth in article III, division 3:~~

* * *

(3) Wastewater treatment facilities and wastewater treatment collection system(s) serving (a) use(s) located in any land use district provided that:

- a. The wastewater treatment facility and wastewater treatment collection system(s) is (are) in compliance with all federal, state, and local requirements; and
- b. The wastewater treatment facility, wastewater treatment collection system(s), and accessory uses shall be screened and buffered as follows:
 - (i) Any structure over 8 feet in height must have a wall or fence, as provided in Section 9.5-309 of the City Code, and landscaping buffers as provided in Article VII, Division 10 of this Chapter; or
 - (ii) If the structure is 8 feet or less in height, the City Manager or his designee may authorize less screening and landscape buffering on a case-by-case basis as is consistent with the character of the surrounding area in order to minimize the impact of the wastewater treatment facility or wastewater collection system.
- c. The owner of the wastewater treatment facility or wastewater treatment collection system shall maintain or replace all required landscaping, as necessary and in perpetuity. If the owner of the wastewater treatment facility or wastewater treatment collection system, fails to maintain the required landscaping, the City Manager or his designee may order all repairs in order to bring the landscaping into compliance. The City may assess the owner with the cost of the repairs. A certified copy of a notice of assessment of cost of repairs may be recorded in the public records and thereafter constitute a lien on the property on which the repairs were performed, Upon petition to the Circuit Court, such notice of assessment

may be enforced in the same manner as a court judgment by the Sheriffs of the this State, including levy against the personal property of the owner, but such order shall not be deemed to be a court judgment except for enforcement purposes. After three months from the date of filing any such notice of assessment, which remains unpaid, the City may foreclose or otherwise execute on the lien. Alternatively, the City may sue to recover a money judgment for the amount of the lien plus accrued interest. Such liens shall be superior and paramount to the interest in such parcel or property of any owner, lessee, tenant, mortgagee or other person except the lien of state, county and City taxes and shall be on parity with the lien of such, state, county and City taxes. Upon payment of the notice of assessment by the owner, the City Clerk is authorized to execute and record in the public records of Monroe County the appropriate Release of Lien document.

* * *

Section 16. Commercial Fishing Village District. Section 9.5-246 of the City Code is hereby amended to read as follows:

Sec. 9.5-246. Commercial Fishing Village District.

(a) The following uses are permitted as of right in the Commercial Fishing Village District:

* * *

(4) Wastewater treatment facilities and wastewater treatment collection system(s) serving (a) use(s) located in any land use district provided that:

- a. The wastewater treatment facility and wastewater treatment collection system(s) is (are) in compliance with all federal, state, and local requirements; and
- b. The wastewater treatment facility, wastewater treatment collection system(s), and accessory uses shall be screened and buffered as follows:
 - (i) Any structure over 8 feet in height must have a wall or fence, as provided in Section 9.5-309 of the City Code, and landscaping buffers as provided in Article VII, Division 10 of this Chapter; or
 - (ii) If the structure is 8 feet or less in height, the City Manager or his designee may authorize less screening and landscape buffering on a case-by-case basis as is consistent with the character of the surrounding area in order to minimize the impact of the wastewater treatment facility or wastewater collection system.
- c. The owner of the wastewater treatment facility or wastewater treatment collection system shall maintain or replace all required landscaping, as necessary and in perpetuity. If the owner of the wastewater treatment facility or wastewater treatment collection system, fails to maintain the required landscaping, the City Manager or his designee may order all repairs in order to bring the landscaping into compliance. The City may assess the owner with the cost of the repairs. A certified copy of a notice of assessment of cost of repairs may be recorded in the public records and thereafter constitute a lien on the property on which the repairs were performed. Upon petition to the Circuit Court, such notice of assessment

may be enforced in the same manner as a court judgment by the Sheriffs of the this State, including levy against the personal property of the owner, but such order shall not be deemed to be a court judgment except for enforcement purposes. After three months from the date of filing any such notice of assessment, which remains unpaid, the City may foreclose or otherwise execute on the lien. Alternatively, the City may sue to recover a money judgment for the amount of the lien plus accrued interest. Such liens shall be superior and paramount to the interest in such parcel or property of any owner, lessee, tenant, mortgagee or other person except the lien of state, county and City taxes and shall be on parity with the lien of such, state, county and City taxes. Upon payment of the notice of assessment by the owner, the City Clerk is authorized to execute and record in the public records of Monroe County the appropriate Release of Lien document.

* * *

Section 17. Commercial Fishing Special District. Section 9.5-247 of the City Code is hereby amended to read as follows:

Sec. 9.5-247. Commercial Fishing Special District.

The following uses are permitted in all Commercial Fishing Special Districts:

~~(a)~~(e) CFSD 3 (located on Coco Plum):

* * *

~~(b)~~(n) CFSD 14 (located on Marathon):

* * *

~~(c)(e)~~ CFSD 15 (located on Marathon):

* * *

~~(d)(f)~~ ~~CFSD 18 (Located on Lower Matecumbe Key)~~ and CSFD 19 (Located on Hog Key):

* * *

(2) The following uses are permitted as minor conditional uses in the ~~following~~ Commercial Fishing Special Districts ~~18 and 19~~, subject to the standards and procedures set forth in article III, division 3, section 9.5-61 et seq.:

* * *

(3) The following uses are permitted as major conditional uses in the ~~following~~ Commercial Fishing Special Districts ~~18 and 19~~, subject to the standards and procedures set forth in article III, division 3, section 9.5-61 et seq.:

* * *

(e) The following uses are permitted as of right in all Commercial Fishing Special Districts:

(1) Wastewater treatment facilities and wastewater treatment collection system(s) serving (a) use(s) located in any land use district provided that:

a. The wastewater treatment facility and wastewater treatment collection system(s) is (are) in compliance with all federal, state, and local requirements; and

b. The wastewater treatment facility, wastewater treatment collection system(s), and accessory uses shall be screened and buffered as follows:

- (i) Any structure over 8 feet in height must have a wall or fence, as provided in Section 9.5-309 of the City Code, and landscaping buffers as provided in Article VII, Division 10 of this Chapter; or
 - (ii) If the structure is 8 feet or less in height, the City Manager or his designee may authorize less screening and landscape buffering on a case-by-case basis as is consistent with the character of the surrounding area in order to minimize the impact of the wastewater treatment facility or wastewater collection system.
- c. The owner of the wastewater treatment facility or wastewater treatment collection system shall maintain or replace all required landscaping, as necessary and in perpetuity. If the owner of the wastewater treatment facility or wastewater treatment collection system, fails to maintain the required landscaping, the City Manager or his designee may order all repairs in order to bring the landscaping into compliance. The City may assess the owner with the cost of the repairs. A certified copy of a notice of assessment of cost of repairs may be recorded in the public records and thereafter constitute a lien on the property on which the repairs were performed. Upon petition to the Circuit Court, such notice of assessment may be enforced in the same manner as a court judgment by the Sheriffs of the this State, including levy against the personal property of the owner, but such order shall not be deemed to be a court judgment except for enforcement purposes. After three months from the date of filing any such notice of assessment, which remains unpaid, the City may foreclose or

otherwise execute on the lien. Alternatively, the City may sue to recover a money judgment for the amount of the lien plus accrued interest. Such liens shall be superior and paramount to the interest in such parcel or property of any owner, lessee, tenant, mortgagee or other person except the lien of state, county and City taxes and shall be on parity with the lien of such, state, county and City taxes. Upon payment of the notice of assessment by the owner, the City Clerk is authorized to execute and record in the public records of Monroe County the appropriate Release of Lien document.

* * *

Section 18. Mixed Use District. Section 9.5-248 of the City Code is hereby amended to read as follows:

Sec. 9.5-248. Mixed Use District.

- (a) The following uses are permitted as of right in the Mixed Use District:

* * *

(14) Wastewater treatment facilities and wastewater treatment collection system(s) serving (a) use(s) located in any land use district provided that:

a. The wastewater treatment facility and wastewater treatment collection system(s) is (are) in compliance with all federal, state, and local requirements; and

b. The wastewater treatment facility, wastewater treatment collection system(s), and accessory uses shall be screened and buffered as follows:

- (i) Any structure over 8 feet in height must have a wall or fence, as provided in Section 9.5-309 of the City Code, and landscaping buffers as provided in Article VII, Division 10 of this Chapter; or
 - (ii) If the structure is 8 feet or less in height, the City Manager or his designee may authorize less screening and landscape buffering on a case-by-case basis as is consistent with the character of the surrounding area in order to minimize the impact of the wastewater treatment facility or wastewater collection system.
- c. The owner of the wastewater treatment facility or wastewater treatment collection system shall maintain or replace all required landscaping, as necessary and in perpetuity. If the owner of the wastewater treatment facility or wastewater treatment collection system, fails to maintain the required landscaping, the City Manager or his designee may order all repairs in order to bring the landscaping into compliance. The City may assess the owner with the cost of the repairs. A certified copy of a notice of assessment of cost of repairs may be recorded in the public records and thereafter constitute a lien on the property on which the repairs were performed. Upon petition to the Circuit Court, such notice of assessment may be enforced in the same manner as a court judgment by the Sheriffs of the this State, including levy against the personal property of the owner, but such order shall not be deemed to be a court judgment except for enforcement purposes. After three months from the date of filing any such notice of assessment, which remains unpaid, the City may foreclose or

otherwise execute on the lien. Alternatively, the City may sue to recover a money judgment for the amount of the lien plus accrued interest. Such liens shall be superior and paramount to the interest in such parcel or property of any owner, lessee, tenant, mortgagee or other person except the lien of state, county and City taxes and shall be on parity with the lien of such, state, county and City taxes. Upon payment of the notice of assessment by the owner, the City Clerk is authorized to execute and record in the public records of Monroe County the appropriate Release of Lien document.

* * *

Section 19. Industrial District. Section 9.5-249 of the City Code is hereby amended to read as follows:

Sec. 9.5-249. Industrial District.

- (a) The following uses are permitted as of right in the Industrial District:

* * *

(10) Wastewater treatment facilities and wastewater treatment collection system(s) serving (a) use(s) located in any land use district provided that:

- a. The wastewater treatment facility and wastewater treatment collection system(s) is (are) in compliance with all federal, state, and local requirements; and
- b. The wastewater treatment facility, wastewater treatment collection system(s), and accessory uses shall be screened and buffered as follows:

- (i) Any structure over 8 feet in height must have a wall or fence, as provided in Section 9.5-309 of the City Code, and landscaping buffers as provided in Article VII, Division 10 of this Chapter; or
 - (ii) If the structure is 8 feet or less in height, the City Manager or his designee may authorize less screening and landscape buffering on a case-by-case basis as is consistent with the character of the surrounding area in order to minimize the impact of the wastewater treatment facility or wastewater collection system.
- c. The owner of the wastewater treatment facility or wastewater treatment collection system shall maintain or replace all required landscaping, as necessary and in perpetuity. If the owner of the wastewater treatment facility or wastewater treatment collection system, fails to maintain the required landscaping, the City Manager or his designee may order all repairs in order to bring the landscaping into compliance. The City may assess the owner with the cost of the repairs. A certified copy of a notice of assessment of cost of repairs may be recorded in the public records and thereafter constitute a lien on the property on which the repairs were performed. Upon petition to the Circuit Court, such notice of assessment may be enforced in the same manner as a court judgment by the Sheriffs of the this State, including levy against the personal property of the owner, but such order shall not be deemed to be a court judgment except for enforcement purposes. After three months from the date of filing any such notice of assessment, which remains unpaid, the City may foreclose or

otherwise execute on the lien. Alternatively, the City may sue to recover a money judgment for the amount of the lien plus accrued interest. Such liens shall be superior and paramount to the interest in such parcel or property of any owner, lessee, tenant, mortgagee or other person except the lien of state, county and City taxes and shall be on parity with the lien of such, state, county and City taxes. Upon payment of the notice of assessment by the owner, the City Clerk is authorized to execute and record in the public records of Monroe County the appropriate Release of Lien document.

* * *

Section 20. Maritime Industries District. Section 9.5-250 of the City Code is hereby amended to read as follows:

Sec. 9.5-250. Maritime Industries District.

(a) The following uses are permitted as of right in the Maritime Industries District:

* * *

(12) Wastewater treatment facilities and wastewater treatment collection system(s) serving (a) use(s) located in any land use district provided that:

a. The wastewater treatment facility and wastewater treatment collection system(s) is (are) in compliance with all federal, state, and local requirements; and

b. The wastewater treatment facility, wastewater treatment collection system(s), and accessory uses shall be screened and buffered as follows:

- (i) Any structure over 8 feet in height must have a wall or fence, as provided in Section 9.5-309 of the City Code, and landscaping buffers as provided in Article VII, Division 10 of this Chapter; or
 - (ii) If the structure is 8 feet or less in height, the City Manager or his designee may authorize less screening and landscape buffering on a case-by-case basis as is consistent with the character of the surrounding area in order to minimize the impact of the wastewater treatment facility or wastewater collection system.
- c. The owner of the wastewater treatment facility or wastewater treatment collection system shall maintain or replace all required landscaping, as necessary and in perpetuity. If the owner of the wastewater treatment facility or wastewater treatment collection system, fails to maintain the required landscaping, the City Manager or his designee may order all repairs in order to bring the landscaping into compliance. The City may assess the owner with the cost of the repairs. A certified copy of a notice of assessment of cost of repairs may be recorded in the public records and thereafter constitute a lien on the property on which the repairs were performed, Upon petition to the Circuit Court, such notice of assessment may be enforced in the same manner as a court judgment by the Sheriffs of the this State, including levy against the personal property of the owner, but such order shall not be deemed to be a court judgment except for enforcement purposes. After three months from the date of filing any such notice of assessment, which remains unpaid, the City may foreclose or

otherwise execute on the lien. Alternatively, the City may sue to recover a money judgment for the amount of the lien plus accrued interest. Such liens shall be superior and paramount to the interest in such parcel or property of any owner, lessee, tenant, mortgagee or other person except the lien of state, county and City taxes and shall be on parity with the lien of such, state, county and City taxes. Upon payment of the notice of assessment by the owner, the City Clerk is authorized to execute and record in the public records of Monroe County the appropriate Release of Lien document.

* * *

Section 21. Military Facilities District. Section 9.5-251 of the City Code is hereby amended to read as follows:

Sec. 9.5-245. Military Facilities District.

- (a) The following uses are permitted as of right in the Military Facilities District:

* * *

(10) Wastewater treatment facilities and wastewater treatment collection system(s) serving (a) use(s) located in any land use district provided that:

a. The wastewater treatment facility and wastewater treatment collection system(s) is (are) in compliance with all federal, state, and local requirements; and

b. The wastewater treatment facility, wastewater treatment collection system(s), and accessory uses shall be screened and buffered as follows:

- (i) Any structure over 8 feet in height must have a wall or fence, as provided in Section 9.5-309 of the City Code, and landscaping buffers as provided in Article VII, Division 10 of this Chapter; or
 - (ii) If the structure is 8 feet or less in height, the City Manager or his designee may authorize less screening and landscape buffering on a case-by-case basis as is consistent with the character of the surrounding area in order to minimize the impact of the wastewater treatment facility or wastewater collection system.
- c. The owner of the wastewater treatment facility or wastewater treatment collection system shall maintain or replace all required landscaping, as necessary and in perpetuity. If the owner of the wastewater treatment facility or wastewater treatment collection system, fails to maintain the required landscaping, the City Manager or his designee may order all repairs in order to bring the landscaping into compliance. The City may assess the owner with the cost of the repairs. A certified copy of a notice of assessment of cost of repairs may be recorded in the public records and thereafter constitute a lien on the property on which the repairs were performed. Upon petition to the Circuit Court, such notice of assessment may be enforced in the same manner as a court judgment by the Sheriffs of the this State, including levy against the personal property of the owner, but such order shall not be deemed to be a court judgment except for enforcement purposes. After three months from the date of filing any such notice of assessment, which remains unpaid, the City may foreclose or

otherwise execute on the lien. Alternatively, the City may sue to recover a money judgment for the amount of the lien plus accrued interest. Such liens shall be superior and paramount to the interest in such parcel or property of any owner, lessee, tenant, mortgagee or other person except the lien of state, county and City taxes and shall be on parity with the lien of such, state, county and City taxes. Upon payment of the notice of assessment by the owner, the City Clerk is authorized to execute and record in the public records of Monroe County the appropriate Release of Lien document.

* * *

Section 22. Airport Districts. Section 9.5-252 of the City Code is hereby amended to read as follows:

Sec. 9.5-252. Airport Districts.

(a) These districts provide classifications of property for existing or future airports and regulate uses within the boundaries of public and private airports, and uses around, adjacent, and in the approach zones of public, and private, ~~and military~~ airports in order to:

* * *

(b) In order to carry out the provisions of this section, there are hereby created and established a zone known as Airport District (AD) for public ~~and military~~ airports, and a zone known as Private Airport District (PAD) for private airports. There are hereby created and established overlay zones around and adjacent to public, and private ~~and military~~ airports in ~~Monroe County~~ the City of Marathon. Within the AD, PAD and

overlay zones, certain height limitations are specified to prevent airspace obstruction, and the use limitations apply. An area located in more than one (1) zone described herein is considered to be only in the zone with the more restrictive limitations.

(c) The following uses are permitted as of right in the Airport Districts and in the Private Airport Districts:

(1) Wastewater treatment facilities and wastewater treatment collection system(s) serving (a) use(s) located in any land use district provided that:

a. The wastewater treatment facility and wastewater treatment collection system(s) is (are) in compliance with all federal, state, and local requirements; and

b. The wastewater treatment facility, wastewater treatment collection system(s), and accessory uses shall be screened and buffered as follows:

(i) Any structure over 8 feet in height must have a wall or fence, as provided in Section 9.5-309 of the City Code, and landscaping buffers as provided in Article VII, Division 10 of this Chapter; or

(ii) If the structure is 8 feet or less in height, the City Manager or his designee may authorize less screening and landscape buffering on a case-by-case basis as is consistent with the character of the surrounding area in order to minimize the impact of the wastewater treatment facility or wastewater collection system.

c. The owner of the wastewater treatment facility or wastewater treatment collection system shall maintain or replace all required landscaping, as necessary and in perpetuity. If the owner of the wastewater treatment

facility or wastewater treatment collection system, fails to maintain the required landscaping, the City Manager or his designee may order all repairs in order to bring the landscaping into compliance. The City may assess the owner with the cost of the repairs. A certified copy of a notice of assessment of cost of repairs may be recorded in the public records and thereafter constitute a lien on the property on which the repairs were performed. Upon petition to the Circuit Court, such notice of assessment may be enforced in the same manner as a court judgment by the Sheriffs of the this State, including levy against the personal property of the owner, but such order shall not be deemed to be a court judgment except for enforcement purposes. After three months from the date of filing any such notice of assessment, which remains unpaid, the City may foreclose or otherwise execute on the lien. Alternatively, the City may sue to recover a money judgment for the amount of the lien plus accrued interest. Such liens shall be superior and paramount to the interest in such parcel or property of any owner, lessee, tenant, mortgagee or other person except the lien of state, county and City taxes and shall be on parity with the lien of such, state, county and City taxes. Upon payment of the notice of assessment by the owner, the City Clerk is authorized to execute and record in the public records of Monroe County the appropriate Release of Lien document.

(d)(e) Airport District (AD); and Public ~~and Military~~ Airports:

- (1) Within the property boundaries of public airports, airport uses of less than five thousand (5,000) square feet of enclosed area shall require a minor conditional review. Airport uses of five thousand (5,000) square feet or more of enclosed space shall require a major conditional review. Within the overlay zones of public ~~and military~~ airports, those uses permitted shall comply with the height standards and the limitations set forth in the horizontal, conical approach, and transitional zones described in subsection (3) following.
- (2) *Public airport height zones and limitations for the airport district and overlays:*
 - a. *Primary zone:* The area longitudinally centered on a runway, extending two hundred (200) feet beyond each end of that runway with the width so specified for each runway for the most precise approach existing or planned for either end of the runway. No structure will be permitted within the primary zone nor part of the landing and takeoff area, that is a greater height than the nearest point on the runway center line. The width of the primary zone for each runway is as follows:
 - (i) ~~Key West International, runways 09/27, five hundred (500 feet;~~
 - (i) Marathon Airport, runways 07/25 or future runway designation; five hundred (500) feet;

b. *Horizontal zone:* The area encompassing the runways, primary zone, approach zones and transitional zone of each airport with the boundary formed by swinging arcs of specified radii from the center of each end of the primary zone of each runway and connecting adjacent arcs by lines tangent to those arcs. The radius specified for each airport is as follows:

(i) ~~Key West International, ten thousand (10,000) feet radius;~~

~~(ii)~~(i) Marathon Airport, ten thousand (10,000) feet radius.

* * *

d. *Approach zone:* The area longitudinally centered on the extended runway center line and proceeding outward from each end of the primary surface for a specified distance as follows:

(i) ~~Key West International, runway 9, ten thousand (10,000) feet, and runway 27, ten thousand (10,000) feet;~~

~~(ii)~~(i) Marathon Airport, runway 07, ten thousand (10,000) feet, and runway 25, five thousand (5,000) feet.

* * *

(iii) ~~Key West International, runway 9, thirty five hundred (3,500), and runway 27, thirty five hundred (3,500) feet;~~

~~(iv)~~(ii) Marathon Airport runway 7, thirty-five hundred (3,500) feet, and runway 35, fifteen hundred (1,500) feet.

Permitted height limitations within the approach zones for runways ~~9/27 at Key West International and runways 7/25~~

at Marathon Airport are the same as the height of the runway end at the inner boundary and increase at the rate of one (1) foot vertically for every thirty-four (34) feet horizontal distance.

* * *

g. *Other zones:* In addition to the height limitations imposed in subparagraphs a through e of this subsection, no structure will be permitted that exceeds five hundred (500) feet above airport elevation within:

~~(i)~~ Ten (10) nautical miles of Key West International Airport;

~~(ii)~~(i) Ten (10) nautical miles of Marathon Airport;

and no structure will be permitted within ~~Monroe County~~the City of Marathon that would cause a minimum obstruction clearance altitude, a minimum descent altitude, or a decision height to be raised.

~~(e)~~(d) *Private Airport Districts ("PAD"), Private Airports:*

* * *

Section 23. Park and Refuge District. Section 9.5-253 of the City Code is hereby amended to read as follows:

Sec. 9.5-253. Park and Refuge District.

(a) The following uses are permitted as of right in the Park and Refuge District:

* * *

- (4) Wastewater treatment facilities and wastewater treatment collection system(s) serving (a) use(s) located in any land use district provided that:
- a. The wastewater treatment facility and wastewater treatment collection system(s) is (are) in compliance with all federal, state, and local requirements; and
 - b. The wastewater treatment facility, wastewater treatment collection system(s), and accessory uses shall be screened and buffered as follows:
 - (i) Any structure over 8 feet in height must have a wall or fence, as provided in Section 9.5-309 of the City Code, and landscaping buffers as provided in Article VII, Division 10 of this Chapter; or
 - (ii) If the structure is 8 feet or less in height, the City Manager or his designee may authorize less screening and landscape buffering on a case-by-case basis as is consistent with the character of the surrounding area in order to minimize the impact of the wastewater treatment facility or wastewater collection system.
 - c. The owner of the wastewater treatment facility or wastewater treatment collection system shall maintain or replace all required landscaping, as necessary and in perpetuity. If the owner of the wastewater treatment facility or wastewater treatment collection system, fails to maintain the required landscaping, the City Manager or his designee may order all repairs in order to bring the landscaping into compliance. The City may assess the owner with the cost of the repairs. A certified copy of a notice of assessment of cost of repairs may be recorded in the public records and

thereafter constitute a lien on the property on which the repairs were performed, Upon petition to the Circuit Court, such notice of assessment may be enforced in the same manner as a court judgment by the Sheriffs of the this State, including levy against the personal property of the owner, but such order shall not be deemed to be a court judgment except for enforcement purposes. After three months from the date of filing any such notice of assessment, which remains unpaid, the City may foreclose or otherwise execute on the lien. Alternatively, the City may sue to recover a money judgment for the amount of the lien plus accrued interest. Such liens shall be superior and paramount to the interest in such parcel or property of any owner, lessee, tenant, mortgagee or other person except the lien of state, county and City taxes and shall be on parity with the lien of such, state, county and City taxes. Upon payment of the notice of assessment by the owner, the City Clerk is authorized to execute and record in the public records of Monroe County the appropriate Release of Lien document.

* * *

Section 24. Conservation District. Section 9.5-254 of the City Code is hereby amended to read as follows:

Sec. 9.5-254. Conservation District.

(a) The following uses ~~is~~ are permitted as of right in the Conservation District:

~~(a)(1)~~ Passive recreational use.

(2) Wastewater treatment facilities and wastewater treatment collection system(s) serving (a) use(s) located in any land use district provided that:

a. The wastewater treatment facility and wastewater treatment collection system(s) is (are) in compliance with all federal, state, and local requirements; and

b. The wastewater treatment facility, wastewater treatment collection system(s), and accessory uses shall be screened and buffered as follows:

(i) Any structure over 8 feet in height must have a wall or fence, as provided in Section 9.5-309 of the City Code, and landscaping buffers as provided in Article VII, Division 10 of this Chapter; or

(ii) If the structure is 8 feet or less in height, the City Manager or his designee may authorize less screening and landscape buffering on a case-by-case basis as is consistent with the character of the surrounding area in order to minimize the impact of the wastewater treatment facility or wastewater collection system.

c. The owner of the wastewater treatment facility or wastewater treatment collection system shall maintain or replace all required landscaping, as necessary and in perpetuity. If the owner of the wastewater treatment facility or wastewater treatment collection system, fails to maintain the required landscaping, the City Manager or his designee may order all repairs in order to bring the landscaping into compliance. The City may assess the owner with the cost of the repairs. A certified copy of a notice of assessment of cost of repairs may be recorded in the public records and

thereafter constitute a lien on the property on which the repairs were performed, Upon petition to the Circuit Court, such notice of assessment may be enforced in the same manner as a court judgment by the Sheriffs of the this State, including levy against the personal property of the owner, but such order shall not be deemed to be a court judgment except for enforcement purposes. After three months from the date of filing any such notice of assessment, which remains unpaid, the City may foreclose or otherwise execute on the lien. Alternatively, the City may sue to recover a money judgment for the amount of the lien plus accrued interest. Such liens shall be superior and paramount to the interest in such parcel or property of any owner, lessee, tenant, mortgagee or other person except the lien of state, county and City taxes and shall be on parity with the lien of such, state, county and City taxes. Upon payment of the notice of assessment by the owner, the City Clerk is authorized to execute and record in the public records of Monroe County the appropriate Release of Lien document.

* * *

Section 25. Repeal of Conflicting Provisions. The portions of the Code of the City of Marathon, Florida, concerning Commercial Fishing Districts as existing immediately prior to the adoption of this Ordinance as set forth on Exhibit “A,” which are incorporated herein are hereby repealed. The portions of the Code of the City of Marathon, Florida, concerning airport districts as existing immediately prior to the adoption of this Ordinance as set forth on Exhibit “B,” which are

incorporated herein are hereby repealed. Any other provision of the City Code that conflicts with this Ordinance is hereby repealed.

Section 26. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 27. Inclusion in the Code. It is the intention of the City Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of Marathon, Florida; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 28. Approval by the State Department of Community Affairs. The provisions of this Ordinance constitute a "land development regulation" as State law defines that term. Accordingly, the City Manager is authorized to forward a copy of this Ordinance to the Department of Community Affairs for approval pursuant to Sections 380.05(6) and (11), Florida Statutes.

Section 29. Effective Date. This Ordinance shall be effective immediately upon approval by the State Department of Community Affairs pursuant to Chapter 380, Florida Statutes.

The foregoing Ordinance as offered by Vice Mayor Bartus who moved for its adoption. This motion was seconded by Councilman Johnson, and upon being put to a vote, the vote was as follows:

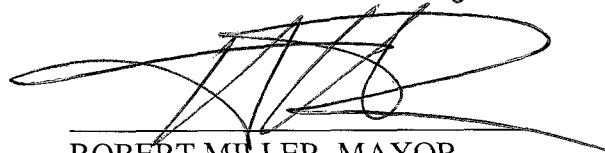
Councilman Frank Greenman	<u>Yes</u>
Councilman Jon Johnson	<u>Yes</u>
Councilman Randy Mearns	<u>Yes</u>
Vice Mayor John Bartus	<u>Yes</u>
Mayor Robert Miller	<u>Yes</u>

PASSED on first reading this 22nd day of May, 2001.

The foregoing Ordinance as offered by Councilman Bartus, who moved for its adoption. This motion was seconded by Councilman Johnson, and upon being put to a vote, the vote was as follows:

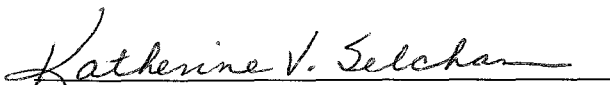
Councilman Frank Greenman	<u>Absent</u>
Councilman Jon Johnson	<u>yes</u>
Councilman Randy Mearns	<u>yes</u>
Vice Mayor John Bartus	<u>yes</u>
Mayor Robert Miller	<u>yes</u>

PASSED AND ADOPTED on second reading this 10th day of July, 2001.



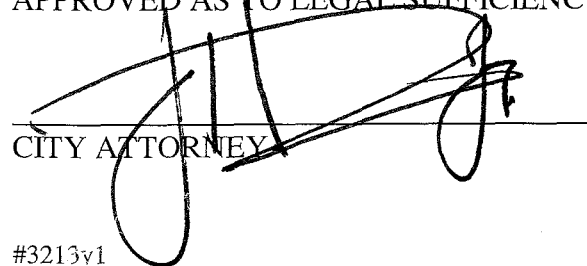
ROBERT MILLER, MAYOR

ATTEST:



CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY:



CITY ATTORNEY

#3213v1

EXHIBIT A

Sec. 9.5-247. Commercial Fishing Special Districts.

The following uses are permitted in the Commercial Fishing Special Districts:

(a) *CFSD 1 (Located on Big Pine):*

- (1) Subject to a limitation on traffic access so as not to interfere with U.S. 1 at the bridge ramp, as of right:
 - a. Commercial fishing;
 - b. Detached dwellings;
 - c. Accessory uses;
- (2) Subject to a limitation on traffic access so as not to interfere with U.S. 1 at the bridge ramp, as a minor conditional use:
 - a. Attached dwellings, provided that the total floor area of residential uses in a commercial fishing area district does not exceed twenty-five (25) percent of the land area in the commercial fishing area district;
 - b. Commercial retail, low- and medium-intensity uses, provided that the goods and services are related to or supportive of the commercial fishing industry;

- c. Light industrial uses, including marine repair services, provided that such uses are intended to serve the needs of the commercial fishing industry.

(b) *CFSD 2 (Located on No Name Key):*

(1) As of right:

- a. Commercial fishing, excluding processing and packaging as well as trap storage and construction by persons other than residents of the district;
- b. Detached dwellings;
- c. Accessory uses;

(2) As a minor conditional use:

- a. Attached dwellings, provided that the structures are separated from existing detached dwellings by one hundred (100) feet or a class D bufferyard.

(d) *CFSD 4 (Located on Long Key):*

(1) As of right:

- a. Repair, maintenance and storage of traps.

(e) *CFSD 5 (Located on Key Largo):*

(1) Subject to the bufferyard requirements of division 11 of this article, section 9.5-375 through section 9.5-381, for any nonresidential uses within the CFSD-5 district, the following uses are permitted as of right:

- a. Uses permitted as of right in the Sub Urban Commercial District (section 9.5-235(a)), subject to the density, intensity, open space, and bulk regulation requirements applicable to those uses in the Sub Urban Commercial District, except for commercial recreational uses (section 9.5-235(a)(4));
- b. Commercial fishing;
- c. Fish houses (defined as commercial establishments that buy and sell, at wholesale and/or retail, seafood products, bait, ice, fuel, and other products and services required by the commercial fishing industry);
- d. Detached dwellings;
- e. Restaurants under twenty-five hundred (2,500) square feet, subject to the intensity, open space, and bulk regulation requirements applicable to such use in the Sub Urban Commercial District;
- f. Accessory uses;
- g. Attached dwellings of less than six (6) units subject to the density, open space, and bulk regulation requirements applicable to such use in the Sub Urban Commercial District; and
- h. Marine repair services, including engine and fishing gear repair, provided that such uses are intended to serve the needs of the commercial fishing industry.

- (2) The following uses are permitted as minor conditional uses in Commercial Fishing Special District 5, subject to the standards and procedures set forth in article III, division 3, section 9.5-61 et seq.:
 - a. Uses permitted in Sub Urban Commercial Districts as minor conditional uses (section 9.5-235(b), subject to the density, intensity, open space, and bulk regulation requirements applicable to such uses in the Sub Urban Commercial District; except for commercial uses of high intensity of less than twenty-five hundred (2,500) feet in floor area (section 9.5-235(b)(2)), hotels of fewer than twenty-five (25) rooms (section 9.5-35(b)(5)), campgrounds (section 9.5-235(b)(6)), and light industrial uses (section 9.5-235(b)(7)).
 - b. Restaurants greater than twenty-five hundred (2,500) square feet in floor area, subject to the intensity, open space, and bulk regulations requirements applicable to such use in the Sub Urban Commercial District.
- (3) Marinas and boat chartering, charter boat fishing, and dock leasing are permitted as major conditional uses in Commercial Fishing Special District 5.
 - a. The parcel proposed for development has access to water at least four (4) feet below mean sea level at mean low tide.
 - b. The sale of goods and services is limited to fuel food, boating, diving and sport fishing products.
 - c. Vessels docked or stored shall not be used for live-aboard purposes, except when a permitted sewage pump-out facility is available on-site, and where the waste is treated in a permitted sewage treatment facility.
 - d. All outside storage areas are screened from adjacent residential uses by a solid fence, wall or hedge at least six (6) feet in height.
 - e. The parcel proposed for development is separated from any established residential use by a class D buffer-yard.
 - f. If marina slips are leased on any basis longer than month-to-month, marinas in Commercial Fishing Spe-

- cial District 5 shall lease at least twenty (20) percent of their docking slips on a month-to-month basis, and commercial fishing boats shall be given priority for those slips.
- g. Each marina owner or operator, for marinas in Commercial Fishing Special District 5, shall maintain a waiting list for commercial fishing boats and give them first priority at the end of each one-month leasing period.
 - h. The following message shall be posted on one (1) 2-foot by 4-foot sign, on the seaward end of the most visible pier or mooring, and on the landward end of each pier, at each marina in Commercial Fishing Special District 5:

FISHING BOATS

If you have problems finding dockage or if you have questions, contact:

Name _____ Phone No. _____

(f) *CFSD 6 (Located on Boca Chica):*

- (1) Subject to the navigational marking of channels, as of right:
 - a. Commercial fishing;
 - b. Accessory equipment;
- (2) Subject to navigational marking of channels, as a minor conditional use:
 - a. Commercial retail, low- and medium-intensity uses, provided that the goods and services are related to or supportive of the commercial fishing industry;
 - b. Light industrial uses, including marine repair services, provided that such uses are intended to serve the needs of the commercial fishing industry.

(g) *CFSD 7 (Located on Boca Chica):*

- (1) As of right:
 - a. Boat building, repair and storage;

- b. Maritime oriented commercial retail uses of less than five thousand (5,000) square feet of floor area;
 - c. Maritime oriented office uses of less than five thousand (5,000) square feet of floor area;
 - d. Light and heavy marine-oriented industrial uses;
 - e. Commercial fishing;
 - f. Manufacture, assembly, repair, maintenance, and storage of traps, nets and other fishing equipment;
 - g. Institutional uses;
 - h. Public buildings and uses;
 - i. Accessory uses;
- (2) As a minor conditional use:
- a. Marinas, provided that there are no live-aboards;
 - b. Maritime-oriented commercial retail and office uses or any combination thereof of greater than five thousand (5,000) but less than twenty thousand (20,000) square feet of floor area;
- (3) As a major conditional use:
- a. Heliports, provided that:
 - (i) The landing and departure approaches do not pass over established residential uses or known bird rookeries; and
 - (ii) The use is fenced or otherwise secured from entry by unauthorized persons.
- (h) *CFSD 8 (Located on Big Pine):*
- (1) Subject to the provision of a class C bufferyard along the boundary of the district with a residential district, as of right:
- a. Commercial fishing;
 - b. Detached dwellings;
 - c. Accessory uses;
- (2) Subject to the provision of a class C bufferyard along the boundary of the district with a residential district, as a minor conditional use:
- a. Attached dwellings, provided that the total floor area of residential uses in a commercial fishing area dis-

tract does not exceed twenty-five (25) percent of the land area in the commercial fishing area district:

- b. Commercial retail, low- and medium-intensity uses, provided that the goods and services are related to or supportive of the commercial fishing industry;
- c. Light industrial uses, including marine repair services, provided that such uses are intended to serve the needs of the commercial fishing industry.

(i) *CFSD 9 (Located near Lower Matecumbe):*

(1) As of right:

- a. Repair, maintenance and storage of traps.

(j) *CFSD 10 (Located on Lower Matecumbe):*

(1) As of right:

- a. Manufacture, assembly, repair, maintenance and storage of traps;
- b. Single-family detached dwellings.

(k) *CFSD 11 (Located on Upper Matecumbe):*

(1) As of right:

- a. Commercial vessel docking;
- b. Manufacture, assembly, repair, maintenance and storage of traps and other fishing equipment.

(l) *CFSD 12 (Located on Big Pine):*

(1) Subject to the limitation that no use shall involve a vessel that draws more than six (6) feet, as of right:

- a. Commercial fishing, excluding processing and packaging as well as trap storage and construction by persons other than residents of the district;
- b. Detached dwellings;
- c. Accessory uses;

(2) Subject to the limitation that no use shall involve a vessel that draws more than six (6) feet, as a minor conditional use:

- a. Attached dwellings, provided that the structures are separated from existing detached dwellings by one hundred (100) feet or a class D bufferyard.

(m) *CFSD 13 (Located on Summerland Key):*

- (1) Subject to the limitation that no use shall involve a vessel that draws more than six (6) feet, as of right:
 - a. Commercial fishing;
 - b. Detached dwellings;
 - c. Accessory uses;

- (2) Subject to the limitation that no use shall involve a vessel that draws more than six (6) feet, as a minor conditional use:
 - a. Attached dwellings, provided that the total floor area of residential uses in a commercial fishing area district does not exceed twenty-five (25) percent of the land area in the commercial fishing area district;
 - b. Commercial retail, low- and medium-intensity uses, provided that the goods and services are related to or supportive of the commercial fishing industry;
 - c. Light industrial uses, including marine repair services, provided that such uses are intended to serve the needs of the commercial fishing industry;
 - d. Mobile homes.

(p) *CFSD 16 (Located at Conch Key):*

- (1) CFA regulations apply per section 9.5-245;
- (2) Mobile homes permitted in addition to detached dwellings as a matter of right.

(q) *CFSD 17 (Located on Old Boca Chica Road):*

- (1) Subject to the limitation that no use shall involve a vessel that draws more than two (2) feet, as of right:
 - a. Commercial fishing;
 - b. Manufacture, assembly, repair, maintenance and storage of traps and nets; and
 - c. Vessels are restricted to outboard engines only;

- (2) Subject to the limitation that no use shall involve a vessel that draws more than two (2) feet, as a minor conditional use:
 - a. Detached residential dwellings provided that the total floor area does not exceed twenty-five (25) percent of the land area in the Commercial Fishing Special District.
-

(s) *CFSD 20 (Located on Little Torch Key);*

(1) The following uses are permitted as of right:

- a. Commercial fishing;
- b. Wholesale sales of catch;
- c. Manufacture, assembly, repair, maintenance and storage of traps for use by the property owners, residents, and their respective immediate families only;
- d. Fuel storage tanks of five hundred (500) gallons or less in size, installed consistent with fire marshal standards and other applicable safety regulations;
- e. Detached dwellings;
- f. Replacement of mobile homes existing as of the date of this section;
- g. Accessory uses;
- h. Replacement of docks in existence as of the date of this section, regardless of the percentage of replacement necessary;
- i. Home occupations;
- j. New docks with a terminal platform of two hundred (200) square feet or less, if in compliance with county and state regulations.

These as of right uses, a—h listed above, are subject to the following limitations:

- a. Commercial fishing uses shall be limited to the property owners, residents, and their respective immediate families;
- b. No use shall involve a vessel that draws more than three (3) feet of water;
- c. Wholesale sales shall be limited to the catch off-loaded from vessels operated by the property owners, occupants, and their respective immediate families.

(2) No minor or major conditional uses shall be permitted.

- (3) The allocated residential density and the maximum net residential density for this district shall be one (1) single family dwelling unit per acre, OR one (1) single family dwelling unit per parcel for those parcels existing as of the date of this section, whichever is less. In spite of Land Use Intensity section 9.5-261, this residential density shall be allowed in addition to the nonresidential uses permitted above, with the floor area and open space ratios to be determined pursuant to section 95.269.

EXHIBIT B

(3) *NAS Key West height zones and limitations:*

- a. *Primary zone:* The area longitudinally centered on each runway with the same length as the runway and is two thousand (2,000) feet wide. No structure that is not a part of the landing and takeoff area is permitted in the primary zone that is of greater height than the nearest point on to the runway.
- b. *Clear zone:* The area extending one thousand (1,000) feet off each end of a primary surface and is the same width as the primary surface. No structure not a part of the landing and takeoff area is permitted that is a greater height than the end of the runway.
- c. *Inner horizontal zone:* The area extending outward from the periphery of the primary zone with an outer perimeter formed by swinging arcs of seventy-five hundred (7,500) feet radius about the center line at the end of each primary zone and connecting adjacent arcs by lines tangent to these arcs. No structure will be permitted in the inner horizontal zone of greater height than one hundred fifty-six (156) feet MSL.
- d. *Conical zone:* The area extending outward from the periphery of the inner horizontal zone for a distance of seven thousand (7,000) feet. Height limits in the conical zone commence at one hundred fifty-six (156) feet MSL at the inner boundary where it adjoins the inner horizontal zone and increases in permitted height at a rate of one (1) foot vertically for every twenty (20) feet of horizontal distance measured outward from the inner boundary to a height of five hundred six (506) feet MSL at the outer boundary.
- e. *Outer horizontal zone:* The area extending outward from the outer periphery of the conical zone for a distance of thirty thousand (30,000) feet. The height limit within the outer horizontal zone is five hundred six (506) feet MSL.

- f. *Approach zone:* The area longitudinally centered on each runway extended center line, with an inner boundary two hundred (200) feet out from the end of the runway and the same width as the primary zone, then extending outward for a distance of fifty thousand (50,000) feet, expanding uniformly in width to sixteen thousand (16,000) at the outer boundary. Height limits within the approach zones commence at the height of the runway end and increase at the rate of one (1) foot vertically for every fifty (50) feet horizontally for a distance of twenty-five thousand (25,000) feet, at which point it remains level at five hundred six (506) feet MSL to the outer boundary.
- g. *Transitional zone:* The area within an inner boundary formed by the side of the primary zones, the first two hundred (200) feet of the clear zones and the approach zones, then extending outward at right angles to the runway center line and extended center line until the height matches the adjoining inner horizontal zone, conical zone, and outer horizontal zone height limit. The height limit at the inner boundary is the same as the height of the adjoining zone and increases at the rate of one (1) foot vertically for every seven (7) feet horizontally to the outer boundary of the transitional zone, where it again matches the height of the adjoining zone.
- h. *Restrictions for military airports:* Privately owned property adjacent to the Naval Air Station, Boca Chica, also known as NAS Key West, shall be developed in accordance with the map prepared by the U.S. Navy known as figure A or as updated by the U.S. Navy. This map was prepared in conjunction with the United States Navy's Air Installation Compatible Use Zone Study (AICUZ). A true copy of figure A is attached hereto and made a part of this subsection.
- (i) The land use objectives set forth in figure A and the accompanying land use objectives matrix set forth in figure B were determined by evaluating the airport operations at NAS Key West, in terms of composite noise rating (CNR) zones and acci-

dent potential zones (APZ). A copy of figure B is attached hereto and made a part of this subsection.

- ii) The land use objective shown in figure A and figure B shall be used in determining the allowable land uses for the various AICUZ. Each land use category was evaluated in terms of compatibility for each land use in terms of density of population, density of structures, explosion hazards, air pollution height obstructions, accident potential zones, and composite noise rating zones. The evaluation resulted in ratings of:
 1. No new development;
 2. Restricted new development; and
 3. No restrictions.
- iii) Land use categories were rated as "restricted new development" if any activity or activities within the category were classified as incompatible. The various AICUZ are coded as follows:
 1. Accident potential zone A (APZ-A), the most critical accident potential zone;
 2. B3: Accident potential zone B (APZ-B), the area which has an identifiable accident potential but less than APZ-A;
 3. B2: Accident potential zone C (APZ-C), the area which is less critical than APZ-C but still may possess potential for accidents; high noise impact, CNR zone 3;
 4. C2: Accident potential zone C, moderate noise impact, CNR zone 2;
 5. C1: Accident potential zone C, low noise impact, CNR zone 1;
 6. 3: High noise impact, CNR zone 3;
 7. 2: No accident potential zone, moderate noise impact, CNR zone 2.

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

In re: CITY OF MARATHON LAND DEVELOPMENT
REGULATIONS ADOPTED BY
CITY OF MARATHON ORDINANCE NO. 01-07-06



FINAL ORDER

The Department of Community Affairs (the "Department") hereby issues its Final Order, pursuant to §§ 380.05(6) and (11), *Fla. Stat.*, and § 380.0552(9), *Fla. Stat.* (2000), approving City of Marathon Ordinance No. 01-07-06 as set forth below.

FINDINGS OF FACT

1. The Florida Keys Area is a statutorily designated area of critical state concern, and the City of Marathon is a local government within the Florida Keys Area.
2. On September 13, 2001, the Department received for review City of Marathon Ordinance No. 01-07-06 which was adopted by the City of Marathon City Council on July 10th, 2001 ("Ord. 01-07-06").
3. Ord. 01-07-06 amends the City's Land Development Regulations to allow wastewater treatment facilities and wastewater treatment collection systems meeting certain conditions to be constructed in zoning districts as of right where they have not previously been allowed.

DCA Final Order No. DCA01-OR-153

Ordinance 01-07-06 adds definitions for the terms “wastewater treatment facility” and “wastewater treatment collection system” and would allow the construction of said facilities and systems in all zoning districts except Offshore Islands and Mainland Native.

4. Ord. 01-07-06 is consistent with the City’s 2010 Comprehensive Plan.

CONCLUSIONS OF LAW

5. The Department is required to approve or reject land development regulations that are enacted, amended or rescinded by any local government in the Florida Keys Area of Critical State Concern. §§ 380.05(6) and (11), *Fla. Stat.*, and § 380.0552(9), *Fla. Stat.* (2000).

6. The City of Marathon is a local government within the Florida Keys Area of Critical State Concern. § 380.0552, *Fla. Stat.* (2000) and Rule 28-29.002 (superseding Chapter 27F-8), *Fla. Admin. Code*.

7. “Land development regulations” include local zoning, subdivision, building and other regulations controlling the development of land. § 380.031(8), *Fla. Stat.* (2000). The regulations adopted by Ord. 01-07-06 are land development regulations.

8. All land development regulations enacted, amended or rescinded within an area of critical state concern must be consistent with the Principles for Guiding Development (the “Principles”). § 380.0552(7), *Fla. Stat.*; see *Rathkamp v. Department of Community Affairs*, 21 F.A.L.R. 1902 (Dec. 4, 1998), *aff’d*, 740 So. 2d 1209 (Fla. 3d DCA 1999). The Principles are construed as a whole and no specific provision is construed or applied in isolation from the other

provisions. § 380.0552(7), *Fla. Stat.* (2000).

9. Ord. 01-07-06 promotes and furthers the following Principles, §380.0552(7), *Fla. Stat.* (2000):

(a) To strengthen local government capabilities for managing land use and development so that local government is able to achieve these objectives without the continuation of the area of critical state concern designation.

(e) To limit the adverse impacts of development on the quality of water throughout the Florida Keys.

Ord. 01-07-06 is not inconsistent with the remaining Principles. Ord. 01-07-06 is consistent with the Principles for Guiding Development as a whole.

WHEREFORE, IT IS ORDERED that Ord. 01-07-06 is found to be consistent with the Principles for Guiding Development of the Florida Keys Area of Critical State Concern, and is hereby APPROVED.

This Order becomes effective 21 days after publication in the Florida Administrative Weekly unless a petition is filed as described below.

DONE AND ORDERED in Tallahassee, Florida.



CARI ROTH, ACTING DIRECTOR
Division of Community Planning
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

NOTICE OF ADMINISTRATIVE RIGHTS

ANY PERSON WHOSE SUBSTANTIAL INTERESTS ARE AFFECTED BY THIS ORDER HAS THE OPPORTUNITY FOR AN ADMINISTRATIVE PROCEEDING PURSUANT TO SECTION 120.569, FLORIDA STATUTES, REGARDING THE AGENCY'S ACTION. DEPENDING UPON WHETHER YOU ALLEGE ANY DISPUTED ISSUE OF MATERIAL FACT IN YOUR PETITION REQUESTING AN ADMINISTRATIVE PROCEEDING, YOU ARE ENTITLED TO EITHER AN INFORMAL PROCEEDING OR A FORMAL HEARING.

IF YOUR PETITION FOR HEARING DOES NOT ALLEGE ANY DISPUTED ISSUE OF MATERIAL FACT CONTAINED IN THE DEPARTMENT'S ACTION, THEN THE ADMINISTRATIVE PROCEEDING WILL BE AN INFORMAL ONE, CONDUCTED PURSUANT TO SECTIONS 120.569 AND 120.57(2) FLORIDA STATUTES, AND CHAPTER 28-106, PARTS I AND III, FLORIDA ADMINISTRATIVE CODE. IN AN INFORMAL ADMINISTRATIVE PROCEEDING, YOU MAY BE REPRESENTED BY COUNSEL OR BY A QUALIFIED REPRESENTATIVE, AND YOU MAY PRESENT WRITTEN OR ORAL EVIDENCE IN OPPOSITION TO THE DEPARTMENT'S ACTION OR REFUSAL TO ACT; OR YOU MAY EXERCISE THE OPTION TO PRESENT A WRITTEN STATEMENT CHALLENGING THE GROUNDS UPON WHICH THE DEPARTMENT HAS CHOSEN TO JUSTIFY ITS ACTION OR INACTION.

IF YOU DISPUTE ANY ISSUE OF MATERIAL FACT STATED IN THE AGENCY ACTION, THEN YOU MAY FILE A PETITION REQUESTING A FORMAL ADMINISTRATIVE HEARING BEFORE AN ADMINISTRATIVE LAW JUDGE OF THE DIVISION OF ADMINISTRATIVE HEARINGS, PURSUANT TO SECTIONS 120.569 AND 120.57(1), FLORIDA STATUTES, AND CHAPTER 28-106, PARTS I AND II, FLORIDA ADMINISTRATIVE CODE. AT A FORMAL ADMINISTRATIVE HEARING, YOU MAY BE REPRESENTED BY COUNSEL OR OTHER QUALIFIED REPRESENTATIVE, AND YOU WILL HAVE THE OPPORTUNITY TO PRESENT EVIDENCE AND ARGUMENT ON ALL THE ISSUES INVOLVED, TO CONDUCT CROSS-EXAMINATION AND SUBMIT REBUTTAL EVIDENCE, TO SUBMIT PROPOSED FINDINGS OF FACT AND ORDERS, AND TO FILE EXCEPTIONS TO ANY RECOMMENDED ORDER.

IF YOU DESIRE EITHER AN INFORMAL PROCEEDING OR A FORMAL HEARING, YOU MUST FILE WITH THE AGENCY CLERK OF THE DEPARTMENT OF COMMUNITY AFFAIRS A WRITTEN PLEADING ENTITLED, "PETITION FOR ADMINISTRATIVE PROCEEDINGS" WITHIN 21 CALENDAR DAYS OF PUBLICATION

DCA Final Order No. DCA01-OR-153

OF THIS NOTICE. A PETITION IS FILED WHEN IT IS RECEIVED BY THE AGENCY CLERK, IN THE DEPARTMENT'S OFFICE OF GENERAL COUNSEL, 2555 SHUMARD OAK BOULEVARD, TALLAHASSEE, FLORIDA 32399-2100.

THE PETITION MUST MEET THE FILING REQUIREMENTS IN RULE 28-106.104(2), FLORIDA ADMINISTRATIVE CODE. IF AN INFORMAL PROCEEDING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH RULE 28-106.301, FLORIDA ADMINISTRATIVE CODE. IF A FORMAL HEARING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH RULE 28-106.201(2), FLORIDA ADMINISTRATIVE CODE.

A PERSON WHO HAS FILED A PETITION MAY REQUEST MEDIATION. A REQUEST FOR MEDIATION MUST INCLUDE THE INFORMATION REQUIRED BY RULE 28-106.402, FLORIDA ADMINISTRATIVE CODE. CHOOSING MEDIATION DOES NOT AFFECT THE RIGHT TO AN ADMINISTRATIVE HEARING.

YOU WAIVE THE RIGHT TO AN INFORMAL ADMINISTRATIVE PROCEEDING OR A FORMAL HEARING IF YOU DO NOT FILE A PETITION WITH THE AGENCY CLERK WITHIN 21 DAYS OF PUBLICATION OF THIS FINAL ORDER.

CERTIFICATE OF FILING AND SERVICE

I HEREBY CERTIFY that the original of the foregoing Final Order has been filed with the undersigned designated Agency Clerk, and that true and correct copies have been furnished to the persons listed below by the method indicated this 17th day of October, 2001.

for Miriam Snipes
Paula Ford, Agency Clerk

FILING AND ACKNOWLEDGEMENT
FILED, on this date, with the designated
Agency Clerk, receipt of which is hereby
acknowledged.

Miriam Snipes 10/17/01
Miriam Snipes Date
Deputy Agency Clerk

DCA Final Order No. DCA01-OR-153

By U.S. Mail:

Honorable Robert K. Miller
Mayor
City of Marathon
10054-55 Overseas Highway
Marathon, Florida 33050

Katherine V. Selchan
City Clerk
City of Marathon
210 University Drive
Coral Springs, Florida 33071

Craig Wrathell
City Manager
City of Marathon
10054-55 Overseas Highway
Marathon, Florida 33050

John R. Herin, Jr.
Weiss, Serota, Helfman, Pastoriza and Guedes, P.A.
City Attorneys
City of Marathon
2665 South Bayshore Drive, Suite 420
Miami, Florida 33133

By Hand Delivery or Interagency Mail:

Michael McDaniel, Growth Management Administrator, DCA Tallahassee
Rebecca Jetton, DCA Florida Keys Field Office
Richard A. Lotspeich, Assistant General Counsel, DCA Tallahassee