

Sponsored by: Code Compliance Board  
Public Hearing Date: May 11, 2004  
October 26, 2004  
April 12, 2005  
Enactment Date: April 12, 2005

**CITY OF MARATHON  
ORDINANCE 2004-09**

**AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA,  
AMENDING SECTION 6.3-6 OF THE CITY CODE ENTITLED "FINES  
AND RELATED TERMS"; PROVIDING FOR PROCEDURES FOR  
REQUEST FOR A REDUCTION OF FINES BEFORE THE CODE  
COMPLIANCE BOARD**

**WHEREAS**, the City Council has received requests for the reduction of code compliance fines; and

**WHEREAS**, the City Council finds that such requests should be heard by the Code Compliance Board that originally imposed the fine and is familiar with the code compliance case and issues to be considered; and

**WHEREAS**, the City Council wishes to provide that any reduction of code compliance fines is granted according to established guidelines that ensure that the Code Compliance fines continue to serve as an incentive to compliance with the City Code and as a deterrent to future or repeat violations.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF  
MARATHON, FLORIDA, AS FOLLOWS:<sup>1</sup>**

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

**Section 2.** Section 6.3-6 of the City Code is amended to read as follows:

\* \* \*

(15) Reduction of Fines.

(a) The Code Compliance Board shall have the power to order the reduction of fines as provided herein.

(b) A lien arising from a fine or notice of assessment runs in favor of the City. Upon payment in full of all outstanding fines and administrative fees, the City Manager, or designee, may record a satisfaction of lien. The City shall charge the Violator, or other party requesting a satisfaction of the lien, for all costs incurred in recording the satisfaction.

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<sup>1</sup>/ Additions to existing text are shown by underline, deletions are shown as ~~strikethrough~~.

(c) The Violator, or the Violator's successors or assigns, may file a request for a reduction of the fine before the Code Compliance Board only after a compliance inspection is completed during which a Code Compliance Officer finds that all Violations were corrected. Upon receipt of a written request for reduction of fine, and the filing of an affidavit of partial compliance by the Code Compliance Officer which sets forth that all outstanding Violations of the Order of the Code Compliance Hearing Officer have been corrected, except for payment of any outstanding fines, the Manager or designee, shall set the matter for hearing as provided for in Section 162.07, Florida Statutes. If the City has initiated further enforcement action to obtain compliance with the Order of the Code Compliance Board, including but not limited to an action for injunctive relief, foreclosure, or money judgment, the Violator may not file a request for reduction of fine and no hearing shall be set. If the Violator has already filed a request for reduction of fine, and a hearing has already been set, the hearing will not take place.

(d) At the hearing, the fact-finding determination of the Code Compliance Board shall be limited to evidence establishing:

- 1) good cause for a reduction of fine,
- 2) the amount of the reduction, and
- 3) any equitable considerations raised by the Violator or relating to good cause or the amount of the reduction.

Said hearing shall not be an opportunity to appeal any finding of fact or conclusions of law set forth in any prior order of the Code Compliance Board or any administrative determination of the City.

(e) The Code Compliance Board may reduce a fine once a violator has otherwise complied with an Order of the Code Compliance Board based on a showing of good cause, but in no event shall the fine be reduced below the costs incurred by the City in its prosecution of Violations, including but not limited to, any attorney's fees and staff time. In no event shall any administrative fees previously ordered by the Code Compliance Board be waived or reduced.

(f) In determining good cause, and the amount of the reduction, if any, the Code Compliance Board shall consider:

- (1) The gravity of the Violation.
- (2) Any actions taken by the Violator to correct the Violation.
- (3) Any previous, or other outstanding Violations committed by the Violator, or pertaining to the property to which the lien attaches, unless an order finding a Violation is under appeal at the time of the determination.
- (4) Whether the Violation is irreparable or irreversible in nature.
- (5) Whether the Violator's failure to timely comply with an Order of the Code Compliance Officer or the Code Compliance Board is due to an inability to comply based on factors beyond the control of the Violator.

(g) Upon a finding of good cause, the Code Compliance Board has the sole discretion to grant or deny the request for a reduction of fine according to the following guidelines, provided the reduction is not less than the costs incurred by the City:

- (1) If compliance occurs within three months of the date for compliance set forth in the Order of the Code Compliance Board; a maximum reduction of 95 percent of the total fine (the original fine plus the continuing fine amounts);
- (2) If compliance occurs more than three months but less than 18 months from the compliance date, a maximum reduction of 75 percent of the total fine amount;
- (3) If compliance occurs from 18 months to 36 months of the compliance date; a maximum reduction of 50 percent of the total fine amount; and
- (4) If compliance occurs 36 months or more after the compliance date, a maximum reduction of 25 percent of the total fine amount.

(h) The Code Compliance Board has the authority where there is a demonstrated showing of financial hardship, or other good cause, to reduce fines below the fine reduction guidelines. A Violator alleging financial hardship or other good cause, has the burden of presenting evidence of inability to pay the fines or that good cause exists.

(i) If a fine is reduced, the order of the Code Compliance Board shall provide that, if the Violator fails to pay the reduced fine by the date ordered by the Code Compliance Board, then the original amount of the fine shall be automatically reinstated.

(j) A certified copy of the order reducing the fine shall not be recorded in the public records and the order shall so provide.

(k) Upon receipt of timely payment in full of the amount of the reduced fine, and the recording costs, the City Manager, or designee, shall record a copy of the order reducing the fine and a satisfaction of lien.

(l) A reduction of fine may only be granted once as to any Violation of an Order of the Code Compliance Board.

(m) An order on a request for reduction of fine shall be considered a recommendation to the City Council. The Violator, or successors or assigns, may file a written request for reconsideration by the City Council with the City Manager within 30 days of the date the order of the Code Compliance Board is entered. If such a request is timely filed the City Manager shall place the order on the agenda for the next available council meeting. If no such request is timely filed, the order shall become final. Any deadline in the order of the Code Compliance Board for payment of the reduced fine shall not be tolled by the filing of a request for reconsideration, however the City Council may extend the deadline. Any order of the City Council on a request for reconsideration may be governed by the provisions of this Section relating to reductions of fines. The City Council may, for good cause shown, reduce the fine below the fine reduction guidelines. The City Manager, or designee, shall remand the matter to the Code Compliance Board for entry of an order consistent with the determination of the City

Council and providing a deadline for payment of the reduced fine. A hearing shall not be required to issue such order.

(n) Upon written request of a Violator, the Board may, for good cause shown, including but not limited to good faith efforts by the Violator to bring the violation into compliance, suspend the accrual of additional fines subsequent to the entry of an order of violation or order imposing fine.

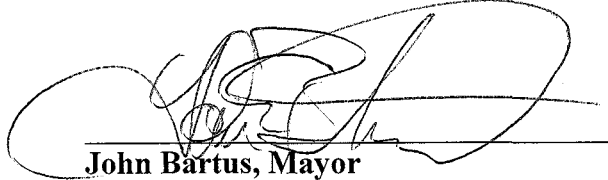
**Section 3.** Any provision of the Code that conflicts with this Ordinance is hereby repealed.

**Section 4.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance is 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 5.** This Ordinance shall take effect immediately upon its adoption.

**ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA,** this 12th day of April, 2005.

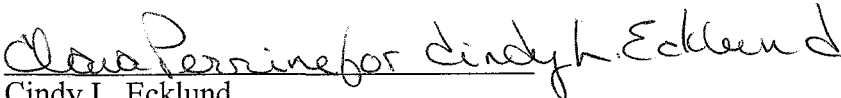
**THE CITY OF MARATHON, FLORIDA**



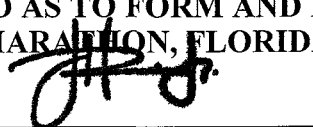
John Bartus, Mayor

AYES: Miller, Bull, Pinkus, Mearns, Bartus  
NOES: None  
ABSENT: None  
ABSTAIN: None

**ATTEST:**

  
Cindy L. Ecklund  
City Clerk

**APPROVED AS TO FORM AND LEGALITY FOR THE USE AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:**

  
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City Attorney