

Sponsored By: Puto
Planning Commission Public Hearing Date: June 19, 2006
City Council Public Hearing Date: July 11, 2006
February 15, 2007
Enactment Date: February 15, 2007

CITY OF MARATHON, FLORIDA
ORDINANCE 2006-16

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING THE CITY'S COMPREHENSIVE PLAN POLICY 4-1.4.9 "PRINCIPAL STRUCTURE SHORELINE SETBACKS"; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF COMMUNITY AFFAIRS; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF COMMUNITY AFFAIRS.

WHEREAS, the City of Marathon (the "City") has adopted a Comprehensive Plan which has been found to be in compliance by the State Department of Community Affairs ("DCA"), pursuant to Chapter 163, Florida Statutes; and

WHEREAS, the City is located within the Florida Keys Area of Critical State Concern (the "FKACSC"), as established pursuant to Chapter 380, Florida Statutes; and

WHEREAS, Section 380.552, Florida Statutes, establishes Principles for Guiding Development in the FKACSC; and

WHEREAS, the City finds it appropriate to amend Policy 4-1.4.9 of the Comprehensive Plan in order to further protect the health, safety, and welfare of the City of Marathon; and

WHEREAS, pursuant to Section 163.3174, Florida Statutes, and Section 9.5-22 of the Code, the City's Planning Commission, sitting as the Local Planning Agency, has publicly considered the Comprehensive Plan Amendments at a properly noticed public hearing and recommended to the City Council the adoption of the Comprehensive Plan Amendments; and

WHEREAS, in accordance with Sections 163.3184 and 166.041, Florida Statutes, public notice has been given of the public hearings for the proposed adoption of the Comprehensive Plan Amendments; and

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

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 FKACSC.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA THAT:¹

Section 1. Policy 4-1.4.9 of the Comprehensive Plan of the City of Marathon, Florida is hereby amended to read as follows:

Policy 4-1.4.9 Principal Structure Shoreline Setbacks

The City shall establish that, at a minimum, all principal structures shall be setback from shorelines as follows. For the purposes of this policy cut-in boat slips shall be excluded from the shoreline setback requirements for lots 5,000 square feet or less in area. Such lots must meet all applicable regulations including, but not limited to, ten (10) foot setback from the cut-in boat slip, stormwater management, other required setbacks, and open space ratio.

- a. On parcels greater than or equal to 4,500 square feet, ~~A~~all principal structures shall be setback twenty (20) feet, as measured from mean high water line (“MHWL”) or landward edge of the mangrove fringe, whichever is further landward, for manmade canals, channels, basins and lawfully altered shorelines, except as allowed in (b), below.
- b. On parcels less than 4, 500 square feet on manmade canals, channels, basins and lawfully altered shorelines, the required setback for a principal structure may be reduced to a minimum of ten (10) feet provided that the structure is sited so as to protect community character and minimize environmental impacts by maintaining open space and protecting shoreline vegetation.
- b. c. On open water, all principal structures shall be setback fifty (50) feet, as measured from the MHWL or the landward extent of the mangroves, whichever is further landward, for all unaltered and unlawfully altered shorelines.

¹Additions to existing text are shown by underline; deletions are shown as ~~strikethrough~~

- e. d. On open water, all principal structures shall be setback thirty (30) feet, as measured from the landward extent of the mangroves, where the original slope landward of the water has been significantly altered by filling but a mangrove fringe exists that is contiguous from side lot line to side lot line and is at least ten (10) feet wide at the root zone.
- d. e. On open water where the original slope landward of the water has been significantly altered by filling where no bulkhead, significant armoring or mangrove fringe exists that is contiguous from side lot line to side lot line, all principal structures shall be setback thirty (30) feet, as measured from the MHWL, provided that native vegetation exists or is planted and maintained in at least a ten (10) foot width across the entire shoreline; otherwise the setback shall be fifty (50) feet, as measured from the MHWL.
- e. f. On in-fill lots along open water shorelines which have been altered by the legal placement of fill, have a bulkhead, or significant armoring with no contiguous mangrove fringe and which are surrounded by significant development where principal structures are set back less than fifty (50) feet from the MHWL or the landward extent of the mangroves, the City Manager or designee may evaluate the community character, the presence or absence of environmental features, and the setbacks on adjacent developed properties within two parcels on either side of the proposed development, and may allow principal structures to be setback as far as is practicable or in line with adjacent principal structures. In no event shall the setback be less than twenty (20) feet. On shorelines where the existing pattern of setback is greater than thirty (30) feet, the greater setback shall apply. This setback relaxation shall not be available for recognized Marine Turtle nesting habitats.

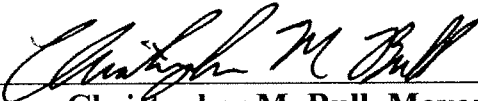
Section 2. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases 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 3. The provisions of this Ordinance constitute a “land development regulation” as defined by State law. Accordingly, the City Clerk is authorized to forward a copy of this Ordinance to the DCA for approval pursuant to Sections 380.05(6) and (11), Florida Statutes.

Section 4. This Ordinance shall be effective immediately upon approval by DCA pursuant to Chapter 380, Florida Statutes.

**ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON,
FLORIDA, this 15th day of February, 2007.**


THE CITY OF MARATHON, FLORIDA



Christopher M. Bull, Mayor


AYES: Tempest, Worthington, Mearns, Pinkus, Bull
NOES: None
ABSENT: None
ABSTAIN: None

ATTEST:



Diane Clavier
City Clerk

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



City Attorney