

Sponsored by: Puto
Introduction Date: May 8, 2007
Public Hearing Dates: May 8 and 22, 2007
Enactment date: May 22, 2007

**CITY OF MARATHON, FLORIDA
ORDINANCE 2007-11**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING ORDINANCE NO. 02-07-09 BY REQUIRING THE AMOUNT OF THE ADMINISTRATION FEE TO BE SET BY RESOLUTION OF THE CITY COUNCIL, BY AUTHORIZING AN ADMINISTRATION FEE FOR HEARINGS ON VIOLATIONS AND HEARINGS ON NON-COMPLIANCE, AND IMPLEMENTING OTHER PROCEDURAL AMENDMENTS; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCORPORATION INTO THE CITY OF MARATHON CODE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of Marathon (the “City”) enacted Ordinance No. 02-07-09 (the “Ordinance”) to set forth the procedures for code compliance before the Code Compliance Board, including the creation of a fixed fee to reimburse the City for various, associated administrative costs (the “Administration Fee”); and

WHEREAS, the City wishes to amend the amount of the Administration Fee and provide for future amendments to the Administration Fee by resolution; and

WHEREAS, the City also wishes to recoup the costs of hearings on non-compliance as well as the costs of hearings on violations; and

WHEREAS, the City desires to amend the Ordinance accordingly and to provide for some other procedural changes;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are hereby confirmed and adopted.

Section 2. Ordinance No. 02-07-09, Section (1) is amended as follows:

- (1) A hearing date shall not be postponed or continued unless a request for continuance, showing good cause for such continuance, is received in writing by the Code Compliance Board at least 6 days prior to the hearing. When considering a request for a continuance, the Code Compliance Board may consider whether the party requesting the continuance is working towards compliance with the Code, the timeliness of the request for continuance, whether the party requesting the continuance acted diligently in doing so, the unavailability of a necessary witness or other evidence without inexcusable neglect on the part of the party wishing to call said witness or present said evidence, and any other exigent circumstances including a medical emergency, an act of God or other unforeseen event. Inexcusable neglect on the part of the party requesting it shall not constitute good cause for a continuance. If a request for continuance is received less than 6 days prior to the hearing, the continuance may only be granted upon a finding of a medical emergency, an act of God or other unforeseen event. If a continuance is granted, the City Manager or designee shall notify the Code Compliance Officer and the violator of the date and time of the rescheduled hearing.

Section 3. Ordinance No. 02-07-09, Section 6.3-6(2) is amended as follows:

If the Violator is found to have violated the Code, the Violator shall be held liable for the reasonable costs of prosecution as set forth by Resolution of the City Council (the "Administration Fee") upon such finding. Should the Violator fail to correct the violation within the time period granted by the Board an additional Administration Fee shall be imposed at the Hearing for Non-Compliance.

Section 4. Ordinance No. 02-07-09, Section 6.3-8(9) is amended as follows:

(9) If the Violator has been previously cited for the same Violation at least two (2) times within a twelve (12) month period, upon the issuance of a third or subsequent citation, the Violator shall not have the option of paying the reduced fine but instead shall appear before the Code Compliance Board or the County Court to answer the charge. The Code Compliance Board or County Court, after a hearing on the citation, shall make a determination whether or not a Violation of the Code has been committed. If a Violation is found to have occurred, the Code Compliance Board or County Court shall enter a final order against the Violator imposing the mandatory fine as set forth by resolution, plus the reasonable costs of prosecution ~~in the amount of \$250,000~~ as set forth by resolution of the City Council. The final order shall also specify that the Violator shall abate or correct the Violation.

Section 5. Ordinance No. 02-07-09, Section 6.3-8(10) is amended as follows:

(10) Should the cited Violator schedule a hearing as provided for herein and thereafter fail to appear at such hearing, the Violator shall be deemed to have waived the right to contest the citation, and the Code Compliance Board or Court shall enter a final order against the Violator imposing an amount up to the maximum fine as set forth in this Chapter plus the reasonable costs of prosecution ~~in the amount of \$250,000~~ as set forth by resolution of the City Council.

Section 6. Ordinance No. 02-07-09, Section 6.3-8(20) is added as follows:

A separate Administrative Fee shall be imposed for each hearing on violation and hearing of non-compliance for which the Violator is found to be in violation or non-compliance, respectively.

Section 7. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 8. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of said conflict.

Section 9. The provisions of this ordinance shall be included and incorporated in the Code of The City of Marathon, Florida, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

Section 10. This Ordinance shall be effective immediately upon enactment.

**ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON,
FLORIDA, this 22nd day of May 2007.**

THE CITY OF MARATHON, FLORIDA



Christopher M. Bull, Mayor


AYES: Vasil, Tempest, Worthington, Cinque, Bull
NOES: None
ABSENT: None
ABSTAIN: None

ATTEST:

Diane Clavier

Diane Clavier
City Clerk

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



City Attorney