

Sponsored by: Puto
Introduction Date: November 19, 2007
Public Hearing Dates: December 11, 2007 January 8, 2008
Enactment date: January 08, 2008

**CITY OF MARATHON, FLORIDA
ORDINANCE 2007-38**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING CHAPTER 107 OF THE LAND DEVELOPMENT REGULATIONS ALLOWING FOR THE DEFERRAL OF ALLOCATIONS; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF COMMUNITY AFFAIRS (the "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 (the "City") enacted the Building Permit Allocation System ("BPAS") limiting the type and number of building permits allocated in the City; and

WHEREAS, an application for a building permit could take up to four (4) years to be approved; and

WHEREAS, the City recognizes that real estate market conditions can fluctuate, thus altering an applicant's need and desire for a building permit; and

WHEREAS, the City Council wishes to allow applicants the flexibility to respond to the changing real estate markets by enabling applicants to defer the award of a building permit allocation under BPAS; and

WHEREAS, the City Council wishes to make this deferral right apply retroactively to the allocation cycle for Year 16, Period 1.

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

~~Strikethrough~~ = deletion **bold underline** = addition

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

Section 2. Section 107.04(C)(1) of the Land Development Regulations is amended to read as follows:

* * *

1. The applicant has applied for an allocation, but has not received an allocation for residential development during four (4) consecutive years in the BPAS, during which the ownership has not changed and the , the application has not been withdrawn, or the applicant has not deferred an allocation of a permit awarded pursuant to Section 107.08.

Section 3. Section 107.08 of the Land Development Regulations is hereby amended to read as follows:

* * *

E. Commencing with the allocation cycle for Year 16, Period 1, in the event that an applicant does not wish to accept an allocation issued for a permit, the applicant may defer acceptance of the allocation until the following allocation period. This right to defer may only be exercised by the applicant for three consecutive allocation periods from the date of the original allocation. After the third deferral, an allocation must be accepted or it shall be deemed returned, abandoned, or otherwise voided. Nothing in this section shall be interpreted as to waive or diminish the numerical limits of allocations allowed under Section 107.02. Furthermore, the deferral of an allocation waives any administrative relief available under Section 107.04.

F. ~~E.~~ An allocation issued for a permit, which is subsequently returned, abandoned, or otherwise voided, may be rolled over into the following year's allocation. Any excess market rate dwelling unit allocations may be rolled over into the next year's allocations provided that at least one-half of the unallocated market rate allocations are rolled over into affordable dwelling unit allocations. If the number of unallocated market rate allocations is odd, the odd numbered allocation shall rollover to an affordable allocation.

Section 4. The Provisions of the City Code and all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 5. The provisions of this Ordinance are declared to be severable, and if any sentence, section, 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 sentences, sections, clauses or phrases of the Ordinance, but they shall remain in effect it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

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

Section 7. This Ordinance shall be effective immediately upon approval by the State Department of Community Affairs pursuant to Chapter 380, Florida Statutes.

ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, this 08th day of January, 2008.

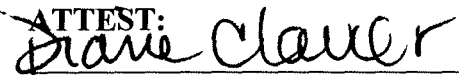
THE CITY OF MARATHON, FLORIDA



Edward P. Worthington, Mayor

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

ATTEST:



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