

Sponsored By: Burnett
Planning Commission Public Hearing Date: February 25, 2008
City Council Public Hearing Date: February 26, 2008
October 14, 2008
Enactment Date: October 14, 2008

**CITY OF MARATHON, FLORIDA
ORDINANCE 2008-09**

**AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA,
AMENDING THE FUTURE LAND USE ELEMENT OF THE
CITY'S COMPREHENSIVE PLAN POLICY 1-3.5.7
"COMMERCIAL BUILDING PERMIT ALLOCATION SYSTEM
(CBPAS)" 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 1-3.5.3 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 Chapter 101, Article 3 of the Code, the City's Planning Commission sitting as the Local Planning Agency met on February 25, 2008, 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, pursuant to the same legislative provision, the City Council considered the recommendation of the Planning Commission, accepted additional public input, and deliberated on the proposed Map amendment on February 26, 2008 at a duly noticed public hearing, and recommended that the amendment be transmitted to the Florida Department of Community Affairs (DCA) for review; and

WHEREAS, after review in accordance with Chapters 163 and 380, Florida Statutes as well as 9J-5, Florida Administrative Code DCA offered no Objections, Recommendations, or Comments concerning the Comprehensive Plan amendment proposed in this ordinance, Ordinance 2008-09; 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:

Section 1. Policy 1-3.5.7 of the Comprehensive Plan of the City of Marathon, Florida is hereby amended to read as follows:

Policy 1-3.5.7 Commercial Building Permit Allocation System (CBPAS)
~~By December 2005~~ **ON JULY 10, 2007** the City shall ~~adopt~~ **ADOPTED ORDINANCE 2007-14 APPROVING** Land Development Regulations that establishes **ESTABLISHED** a CBPAS ~~and TO~~ ensure that all environmental impacts ~~have been~~ **WILL BE** mitigated or an equivalent amount of land acquisition funds donated, and ensure that the proposed development is consistent with all other applicable regulations. Donations in lieu of land dedication shall be based on an average of the appraised value of Conservation (C) land in the City. The weighting categories are hereby established as guidelines for developing the specific point values in Land Development Regulations:

<u>Weight Category</u>	<u>Range of Points</u>
Major	10 - 20
Moderate	5 - 9
Minor	0 - 4

<u>DEVELOPMENT CRITERIA</u>	<u>WEIGHTING CATEGORY</u>
Environmentally Sensitive Areas ²	Minor
Offshore Island, COBRA	Minor
<u>PERSEVERANCE POINTS</u>	<u>MINOR</u>
Velocity Zone	Moderate
Extinguish Development Rights	Moderate
Local Residency	Moderate
Lot Dedication or Cash-in-Lieu of Dedication	Moderate
Provision of Affordable Housing with a Market Rate Development	Moderate
<u>WATER AND ENERGY CONSERVATION</u>	<u>MODERATE</u>

<u>STRUCTURAL INTEGRITY OF CONSTRUCTION</u>	<u>MODERATE</u>
Scarified lot without <u>AN</u> existing paved or unpaved road or utilities	Moderate/Major*
Scarified lot with on an <u>EXISTING PAVED OR</u> unpaved road with existing water or electric service	Moderate/Major*
Infill lot with existing paved roads, water and electric service	Major
Infill lot with existing paved roads, water, electric and central sewer service	Major

*The Land Development Regulations will identify the criteria for both moderate and major points based on the applicant's submittal and whether or not the moderate or major point criteria have been met.

- a. Provide disincentives for development in environmentally sensitive lands;
- b. Provide disincentives for development in offshore islands, COBRA and High Velocity Zones;
- c. Provide incentives for in-fill of developed subdivisions;
- d. Establish programs to extinguish development rights;
- e. Maintain an up-to-date hurricane evacuation plan and meet the required 24 hour hurricane evacuation time or other applicable state standard for hurricane evacuation;
- f. Provide priority/preference to established permanent local residents; and
- g. Provide incentives for mixed-income (affordable and market rate housing within one development) developments.

² As identified on the vegetation and species maps

~~Until such time as the City adopts a Residential Building Permit Allocation System (RBPAS), the City shall continue to use the existing allocation procedures currently in effect in the City, as pursuant to the City Charter, incorporated herein by reference.~~


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 14th day of October, 2008.**

THE CITY OF MARATHON, FLORIDA


Edward P. Worthington, Mayor

AYES: Tempest, Cinque, Vasil, Bull, Worthington
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:**


Jimmy Morales, City Attorney