

Sponsored by: Cinque
Introduction Date: October 20, 2008
Public Hearing Dates: November 10, 2008
Enactment date: November 25, 2008

**CITY OF MARATHON, FLORIDA
ORDINANCE 2008-029**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING SECTIONS 107.05 AND 107.07 OF CHAPTER 16 OF THE CITY CODE ALLOWING FOR THE TRANSFER OF A BPAS ALLOCATION TO ANOTHER PROPERTY OWNED BY THE SAME OWNER; 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; 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”), pursuant to its Land Development Regulations, enacted a Building Permit Allocation System (“BPAS”) limiting the type and number of residential building permits allocated in the City; and

WHEREAS, given the demand for residential building permits in the City, BPAS places applicants for building permits on an allocation waiting list; and

WHEREAS, a property’s place on the allocation waiting list is determined by the score given to the property under the categories established by the Land Development Regulations and also by the date and time of submission of the application; and

WHEREAS, the City wishes to allow a property owner to transfer an awarded allocation to another property on the allocation waiting list owned by the same owner if the properties have identical scores.

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 107.05 of Chapter 16 of the Code of Ordinances, City of Marathon, Florida, is hereby amended to read as follows:

* * *

B. **Except as provided in section 107.07(J)**, Allocations are site specific and may not be transferred from one application to another. Allocations may be transferred with the conveyance of a lot.

Section 3. Section 107.07 of Chapter 16 of the Code of Ordinances, City of Marathon, Florida, is hereby amended to read as follows:

* * *

J. Within ninety (90) days of receipt of notice of the granting of an allocation award, the allocation may be transferred to another property on the allocation waiting list if:

1. **The property from which the allocation is being transferred (the “Donor Property”) is owned by the same person as the property receiving the allocation (the “Recipient Property”).**
2. **The Recipient Property has been scored identically or greater in each category under Section 107.09 of this Chapter except for any applicable “perseverance points.”**
3. **The Donor Property takes the place of the Recipient Property on the allocation waiting list, and is re-scored with the applicable “perseverance points” and date and time of submission of the Recipient Property.**
4. **The property owner executes a Waiver of Administrative Relief Form with respect to the Donor Property.**

J~~K~~. Revisions to Applications:

1. *Prior to Issuance of the Building Permit:*
 - (a) A permit holder of an individually owned single lot may make a one-time substitution of plans prior to the issuance of the building permit.
 - (b) A permit holder of multiple permits for separate lots under the same ownership may make a one-time substitution of one (1) set of plans, prior to the issuance of the building permit for one (1) lot only, regardless of the number of permits held or lots owned.
 - (c) No revisions shall be made to any aspect of the proposed development which formed the basis for the evaluation review, determination of points and allocation rankings, unless such revision would have the effect of either maintaining or increasing the points originally awarded.

2. *After the Issuance of a Certificate of Occupancy or Final Inspection:*

No revision shall be made to any aspect of the completed development which formed the basis for the evaluation, review, determination of points and allocation rankings, unless such revisions are accomplished pursuant to a new building permit and unless such revisions would have the net effect of either maintaining or increasing the points originally awarded.

KL. **Withdrawal of Application:** An applicant may elect to withdraw a BPAS application without prejudice at any time up to the date of evaluation and ranking. Resubmitted applications shall be considered "new" and shall meet all the requirements of this article, including payment of appropriate fees and receipt of a new controlling date.

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
25th day of November, 2008.

THE CITY OF MARATHON, FLORIDA



Mayor Mike Cinque

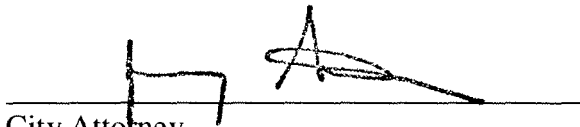
AYES: Ramsay, Worthington, Vasil, Snead, Cinque
NOES: None
ABSENT: None
ABSTAIN: None

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