



COUNCIL AGENDA STATEMENT

Meeting Date: August 12, 2025

To: Honorable Mayor and Council Members

From: Brian Shea, Planning Director & Gerard Roussin, Building Official

Through: George Garrett, City Manager

Agenda Item: **Ordinance 2025-05**, Amending The City's Code Of Ordinances, Chapter 6, "Building And Building Regulations," Article 2, "Building Code," Division 2, "Permits," Section 6-58, "Expiration Of Building Permit"; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; And Providing For An Effective Date.

BACKGROUND:

The addition of this language supports the City's ongoing efforts to streamline the permitting process by providing clarity and legal assurance surrounding the administrative closure of expired permits. This step ensures that the Building Official can perform duties efficiently and without hesitation, which ultimately benefits applicants by reducing delays and administrative burdens. Furthermore, the language aligns with Section 105.5 of the Florida Building Code, which authorizes the closure of expired permits that have had no activity within six months. This language is the same language set forth by Monroe County in their land development code. By formally codifying the City's responsibility to defend and indemnify the Building Official in such cases, this provision reinforces consistent enforcement practices while upholding the City's commitment to regulatory efficiency and staff support. The City's backlog has gone down from 2100 expired/stopped permits to just over 600.

105.5 Additional options for closing a permit.

Pursuant to Section 553.79(15), Florida Statutes, a property owner, regardless of whether the property owner is the one listed on the application for the building permit, may close a building permit by complying with the following requirements:

1. The property owner may retain the original contractor listed on the permit or hire a different contractor appropriately licensed in this state to perform the work necessary to satisfy the conditions of the permit and to obtain any necessary inspection in order to close the permit. If a contractor other than the original contractor listed on the permit is hired by the property owner to close the permit, such contractor is not liable for any defects in the work performed by the original contractor and is only liable for the work that he or she performs.
2. The property owner may assume the role of an ownerbuilder, in accordance with Sections 489.103(7) and 489.503(6), Florida Statutes.
3. If a building permit is expired and its requirements have been substantially completed, as determined by the local enforcement agency, the permit may be closed without having to obtain a new building permit, and the work required to close the permit may be done pursuant to the building code in effect at the time the local enforcement agency received the application for the permit, unless the contractor has sought and received approval from the local enforcement agency for an alternative material, design or method of construction.
4. A local enforcement agency may close a building permit 6 years after the issuance of the permit, even in the absence of a final inspection, if the local enforcement agency determines that no apparent safety hazard exists.

For purposes of this section, the term “close” means that the requirements of the permit have been satisfied.

CONSISTENCY CHECKLIST:

Yes

No

1. Comprehensive Plan
2. Other – Florida Building Code

X
X

FISCAL NOTE:

NA

APPROVED BY FINANCE DIRECTOR:

RECOMMENDATION:

Approval of Ordinance.

Sponsored by: Garrett
Introduction Date: August 12, 2025
Public Hearing Dates: August 12, 2025 and September 9, 2025
Enactment date: September 9, 2025

**CITY OF MARATHON, FLORIDA
ORDINANCE 2025-05**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING THE CITY’S CODE OF ORDINANCES, CHAPTER 6, “BUILDING AND BUILDING REGULATIONS,” ARTICLE 2, “BUILDING CODE,” DIVISION 2, “PERMITS,” SECTION 6-58, “EXPIRATION OF BUILDING PERMIT”; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Marathon (the “City”) continues to pursue efforts to streamline its permitting process and improve efficiency within the Building Department; and

WHEREAS, the City has experienced a significant backlog of expired and inactive building permits, which has been reduced from approximately 2,100 to just over 600 due in part to administrative closures; and

WHEREAS, Section 105.5 of the Florida Building Code and Section 553.79(15), Florida Statutes, authorize local enforcement agencies to administratively close expired building permits under specific circumstances, including where work has been substantially completed or no safety hazard exists; and

WHEREAS, such administrative closures are consistent with state law and allow the Building Official to focus on current and active permit oversight, ultimately benefiting property owners, contractors, and the general public; and

WHEREAS, to further support this efficiency, the City is adopting language identical to that already in effect in the Monroe County Land Development Code, which provides legal protection for the Building Official in cases where the administrative closure of a permit is later challenged; and

WHEREAS, this addition formally codifies the City’s responsibility to defend and indemnify the Building Official in such cases, thereby enabling staff to carry out their duties without fear of personal legal exposure; and

WHEREAS, this amendment promotes consistency with regional permitting practices, aligns with the Florida Building Code, and supports the City’s broader goals of regulatory clarity, accountability, and streamlined operations.

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

Section 1. The above recitals are true, correct, and incorporated herein by this reference.

Section 2. Section 6-58, of the Code of Ordinances, City of Marathon, Florida, is hereby amended as shown in exhibit A.

Section 3. 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 4. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of said conflict.

Section 5. The provisions of this ordinance shall be included and incorporated in the Code of Ordinances, City of Marathon, Florida, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Marathon Code.

Section 6. This Ordinance shall be effective immediately upon enactment.

ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 9th DAY OF SEPTEMBER 2025.

THE CITY OF MARATHON, FLORIDA

Lynn Landry, Mayor

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Diane Clavier, City Clerk

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

Steven Williams, City Attorney

Sec 6-58 Expiration Of Building Permit

- (a) If work has commenced under a building permit and the permit becomes null and void or expires because of lack of progress or abandonment, except as provided in Subsection (b) or (c), the contractor or owner builder who was issued the building permit shall be prohibited from obtaining any additional building permits.
- (b) The prohibitions in this section shall not apply, and the Building Official shall issue a new permit to a contractor, if:
 - (1) The contractor and the property owner are involved in litigation concerning the work authorized by the expired permit; or
 - (2) The contractor has not received payment from the property owner for the work authorized by the expired permit; or
 - (3) The property that is subject to the expired permit is part of a probate proceeding, and the expiration of the subject permit is a result of such proceeding; or
 - (4) The property that is subject to the expired permit is part of a bankruptcy, foreclosure, or receivership proceeding, and the expiration of the subject permit is a result of such proceeding; or
 - (5) The expired permit is the subject of a stop work {order} issued as a result of actions by a party other than the contractor.

If a new building permit is not obtained within 180 days from the date the initial permit became null and void or expires because of lack of progress or abandonment, the Building Official shall require that any work which has been commenced or completed be removed from the building site. If a new permit is issued, the Building Official shall require that the work in place and the work required to complete the structure meets all applicable regulations in effect at the time of the issuance of the new permit.

- (c) If the contractor or the "owner-builder" believes that there are extenuating circumstances that justify the issuance of a permit despite the existence of an expired permit, the contractor or "owner-builder" may appeal the denial of a building permit under this section to the City Council. The City Council shall have the sole discretion whether or not to waive the provisions of this section and authorize the Building Official to issue the building permit.

- (d) Defense of Building Official. The City shall defend the Building Official in any action wherein the Building Official's act of administratively closing an expired permit is

challenged. If said defense is unsuccessful, the city shall be responsible for any damages resulting directly from the action against the Building Official.