

**ORDINANCE NO. 01-07-09**

**AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA AMENDING SECTION 6-40 OF THE CITY CODE EXTENDING THE DURATION OF BUILDING PERMITS; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Section 6-40 of the City of Marathon Code (the “Code”) provides that in order to renew any expired building permit an applicant must comply with ROGO; and

**WHEREAS**, expired allocation awards resulting from expired permits for which construction has started are generally not made available for reallocation until at least a year after their expiration; and

**WHEREAS**, the existing language of Section 6-40 of the Code provides for a very limited opportunity to extend an expired building permit; and

**WHEREAS**, the requirement to repeat the ROGO process creates undue hardship and is often an unnecessary impediment to the completion of the unfinished residential building; and

**WHEREAS**, unfinished residential buildings have a negative impact on the community character; may eventually result in public safety problems; and may become a public nuisance.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AS FOLLOWS:<sup>1</sup>**

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

**Section 2.**     **Amendment to the Code.** Section 6-40(e)(2) of the City Code is hereby amended as follows:

Sec. 6-40.     New application fees for expired building permits.

\* \* \*

(d)     *Permit Paid for and Picked Up but Work Not Started and Has a Valid Allocation Award in Accordance With the Dwelling Unit Allocation Ordinance.*

\* \* \*

(2)     In the event that the work outlined ~~on~~ in the permit has not begun within ~~the sixty-day period~~ one hundred eighty (180) days from the date the permit was issued, the permit shall automatically expire. The ~~new~~ application fee and total permit fee already paid shall not be refunded. Upon expiration, any ~~future~~ further activity shall require a new application along with all appropriate fees, as well as a valid allocation award in accordance with the Dwelling Unit Allocation Ordinance. ~~However, if at any time prior to the expiration of the permit, the permit holder requests, in writing, that the appropriate building department office grant a one-time sixty day extension, such extension shall be granted. Only one (1) sixty day extension is allowed under this subsection (d).~~

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<sup>1</sup> /     Additions to existing text are shown by underline, deletions are shown as ~~strikethrough~~.

(e) *Permit Paid for, Picked Up and Work Started:*

- (1) Any valid permit, for which construction has commenced, must progress in a timely fashion. The only method by which timely valid progress of authorized work may be shown is through the building department's having performed and approved an inspection ~~which is highlighted in red print on the building permit display card~~ within one hundred ~~twenty (120)~~ eighty (180) days measured from either (1) as to the initial inspection, the date work was required to begin, or (2) as to inspections subsequent to the initial inspection, from the date of the last approved inspection ~~which is highlighted in red print on the building permit display card~~. Those inspections ~~which are highlighted in red print on the building permit display card~~, as amended from time to time, may include, but shall not be limited to: any auger/auger cap; piling/piling cap; grade beam/slab; columns/tie beams; slab/wood floor; roof trusses/sheathing; final roofing; A/C ductwork; total rough plumbing; total rough electrical; framing; insulation/drywall; final mechanical; final plumbing; final electrical and final building.
- (2) Any permit whose progress fails to meet the "required inspection within one hundred ~~twenty (120)~~ eighty (180) days" requirement shall automatically expire; and any ~~future~~ further activity shall require a new application, appropriate fees, and a valid allocation award in accordance with the Dwelling Unit Allocation Ordinance. ~~However, at any time prior to the expiration of the one hundred twenty (120) days, measured from either commencement of work or last approved required~~

~~inspection; whichever is later, the permit shall be extended upon the written request of the permit holder without charge, for up to one (1) additional period of sixty (60) days after expiration, for a single, one time only, 120 day period after the payment of \$100.00 renewal fee.~~

~~Exception: Unless specified otherwise by a current, valid development order, u~~Under no circumstances shall an inspection be performed or work progress on a building permit more that is older than five (5) years from the date the permit issued be renewed after it has expired. ~~However, N~~no building permit shall expire after the principal structure for which the building permit was issued has received an approved framing inspection. Building permits for a structure(s) which has received an approved framing inspection shall authorize completion of only that principal structure(s) which has received an approved framing inspection. All other development or structures shall obtain a new permit issued in compliance with the Dwelling Unit Allocation Ordinance. Within two (2) years of the approved framing inspection, or five years form the date of the building permit was issued, whichever is sooner, the work must receive either an approved final exterior inspection\* or a certificate of occupancy; otherwise, the structure shall hereby may be declared a public nuisance, and the growth management director City Manager or his designee shall may direct the building official to institute proceedings as provided by law to require completion, removal

or demolition of the structure in accordance with the Standard Unsafe Building Abatement Code.

*\*Final exterior inspection:* Completion of all work related to the exterior footprint of the structure, including, but not limited to, all exterior finishes, enclosures, porches, patios, screened areas, walkways, driveways, landscaping, or stormwater management.

In order to obtain an approved final exterior inspection, every aspect of permitted exterior work shall be completed and approved in accordance with the permit drawings.

(f) *Variances to Time Limitations:* The ~~board of county commissioners~~ City Council may, ~~upon application and public hearing,~~ grant a variance to the time limitations set forth herein ~~in this section,~~ upon a demonstration and finding that ~~due to one of the following conditions,~~ the ~~literal~~ enforcement of the provisions of this section would constitute a severe and undue hardship upon the permit holder. The applicant has the burden of demonstrating that the enforcement of this section would constitute a severe and undue hardship. Severe and undue hardship may include, but is not limited to, the following:

- (1) ~~D~~death or incapacity of an owner or immediate family member of the owner;
- (2) ~~D~~estruction of the permitted improvements, of no less than fifty (50) percent of the value of the permitted improvements, by act of God or hazard (e.g. fire, windstorm, flood); or
- (3) ~~W~~ork stoppage due to bankruptcy, or bona fide financial hardship as determined

by the City Manager or his designee, of an owner or construction lender or due to an order issued by a government agency, when the order did not result from the owner's or builder's violation of a law, code, regulations, or conditions set forth in a permit or development order.

~~(4) That construction had commenced (as defined under Monroe County Code section 9.5-4(C-10) under a now expired permit issued prior to the effective date of Ordinance No. 016-1992 (the Dwelling Unit Allocation Ordinance) [sections 9.5-120 through 9.5-124]. In addition, the permit holder must have applied on or before August 15, 1994 for a variance to the time limitations set forth in Ordinances 031-1992 [section 6-40], 036-1993 [section 6-40] and 004-1994 [section 6-40]. A permit holder may secure a variance for completion of only one (1) residential unit under this provision. The development authorized by a variance granted under this paragraph shall be counted under the Dwelling Unit Allocation Ordinance and must progress in a timely fashion as provided under subsection (c) above.~~

The relief granted by variance shall be limited to a time extension not to exceed one (1) year and shall be further limited to the minimum extension necessary to obviate the demonstrated hardship.

\* \* \*

**Section 3. Repeal of Conflicting Provisions.** Any provision of the City Code that conflicts with this Ordinance is hereby repealed.

**Section 4. Severability.** 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 5. Inclusion in the Code.** It is the intention of the City Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of Marathon, Florida; that the section of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

**Section 6. Effective Date.** This Ordinance shall be effective immediately upon second reading.

The foregoing Ordinance was offered by Councilman Greenman, who moved for its adoption. This motion was seconded by Councilman Mearns, and upon being put to a vote, the vote was as follows:


Councilmember Frank Greenman	<u>Yes</u>
Councilmember Jon Johnson	<u>Yes</u>
Councilmember Randy Mearns	<u>Yes</u>
Vice Mayor John Bartus	<u>Yes</u>
Mayor Robert Miller	<u>Absent</u>

PASSED on first reading on June 12, 2001.

The foregoing Ordinance was offered by Councilman Johnson, who moved its adoption on second reading. The motion was seconded by Councilman Bartus, and upon being put to a vote, the vote was as follows:

Councilmember Frank Greenman	<u>Absent</u>
Councilmember Jon Johnson	<u>yes</u>
Councilmember Randy Mearns	<u>yes</u>
Vice Mayor John Bartus	<u>yes</u>
Mayor Robert Miller	<u>yes</u>

PASSED AND ADOPTED on second reading on July 10<sup>th</sup>, 2001.

  
ROBERT MILLER, MAYOR

ATTEST:

Katherine V. Selchan  
CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY:

  
CITY ATTORNEY