

Sponsored by: Burnett
Planning Commission Public Hearing Date: May 18, 2009
City Council Public Hearing Dates: June 9, 2009
June 23, 2009
Enactment Date: June 23, 2009

CITY OF MARATHON, FLORIDA
ORDINANCE 2009-17

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING CHAPTER 111, ARTICLE 3 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS BY DELETING THE CURRENT TEXT AND SUBSTITUTING THEREFORE A NEW ARTICLE 3 TO BE ENTITLED “ARTICLE 3, PLANNING APPLICATION AND REVIEW FEES REQUIRED;” 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, Florida (the “City”) adopted Land Development Regulations which became effective on November 7, 2007; and

WHEREAS, the Land Development Regulations contain a chapter entitled, “Fees,” with a sub-section Article entitled, “Cost Recovery Fee;” and

WHEREAS, the Cost Recovery article seeks to exact planning related fees based on staff and consultant time in review; a section established at a time when many City staff were contract employees; and

WHEREAS, the City Council has determined that the Cost Recovery method of exacting fees is inefficient and time consuming at a time when staff are employed directly by the City and paid through ad valorem assessments; and

WHEREAS, the City Council therefore wishes to amend the LDRs to eliminate the cost recovery method and institute a fixed fee structure;

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. Chapter 111, Article 3 of the City’s Land Development Regulations is hereby amended by deleting the existing text in its entirety and substituting the following therefore:

ARTICLE 3. PLANNING APPLICATION AND REVIEW FEES REQUIRED.

Section 111.10 Application for Planning Review.

Any person or entity ("Applicant") may seek administrative review of proposed development, as defined in Chapter 110 and as promulgated for procedure in Chapter 102 of the City of Marathon Land Development Regulations. Applications for Planning Department Review shall include, but not be limited to, alcoholic beverage permits, administrative appeals, beneficial use hearings, vested rights determinations, boundary determinations, comprehensive plan map amendments, development agreements, building permit allocation system approval, preliminary plats, final plats, habitat evaluation, home occupational licenses, land development regulation amendments, conditional use approvals, modifications to a conditional use, concept meetings, sign variances, transfers of development rights, transfers of building rights, vacation rental licenses, variances, stormwater plans, traffic studies, other plans or studies as may occasionally be required, or for other forms of planning department review. Applicants shall make applications through the City of Marathon Planning Department in a form determined and provided by the Department.

Section 111.11 Planning Department Application Fees.

All Applications for Planning Department review shall be submitted with appropriate application review fees. Said fees will be established by Resolution of the Marathon City Council in a “schedule of fees” which is based upon qualified estimates of the cost for administrative review by application type. Said fees may from time to time be amended by further Resolution of the City Council.

Section 111.12 Waiver of Fees.

(a) Except as enumerated below, planning application fees may only be waived by a request to and action of the Marathon City Council. Waiver of fees does not constitute a waiver of the requirement for a planning application

(b) Fee exceptions

(1) The following governmental entities are exempt from City of Marathon planning application fees only if the listed entity does not charge the City a fee (including an impact fee) for development, environmental, or similar permits, or for right-of-way use:

- a. The State of Florida and its agencies;
- b. The United States Government and its agencies;
- c. Florida Keys Electric Co-operative;
- d. Florida Keys Aqueduct Authority;
- e. Marathon City Government and its agencies;
- f. Monroe County Government and its agencies.

(2) The following entities are entitled to apply to the City Council for a waiver of planning application fees:

- a. The City of Marathon Volunteer Fire Department;
- b. Nonprofit organizations applying for construction of affordable or low income housing, as defined by Florida Statutes or the Land Development Regulations of City of Marathon, that hold current 501(c)(3) status from the IRS; and
- c. Any organization, entity or individual applying for construction of affordable or low income housing, as defined by Florida Statutes or the Land Development Regulations of City of Marathon, either (i) on property owned or leased from Monroe County, the City of Marathon or the Middle Keys Community Land Trust, or (ii) which is receiving financial assistance from the State Housing Trust, Monroe County, the City of Marathon or the Middle Keys Community Land Trust.

(3) The following entities are entitled to apply to the City Manager for a waiver of planning application fees:

- a. Nonprofit organizations that hold current 501(c)(3) status from the IRS; provided that such waiver shall not exceed the amount of \$1,000.00 for any one (1) planning application.

Section 3. The Provisions of the City Code and all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

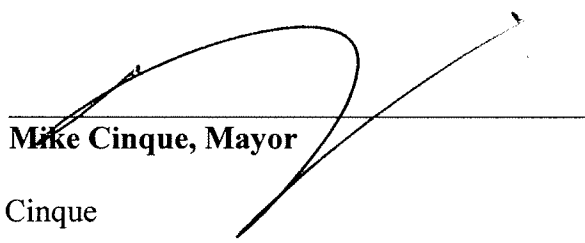
Section 4. The provisions of this Ordinance are declared to be severable, and if any sentence, section, clause or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sentences, sections, clauses or phrases 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 5. 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 6. 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 23rd day of June, 2009.

THE CITY OF MARATHON, FLORIDA



Mike Cinque, Mayor

AYES: Snead, Vasil, Ramsay, Worthington, 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:



Jimmy Morales, City Attorney