

**Sponsored by: Burnett**  
**Planning Commission Public Hearing Date: May 18, 2009**  
**City Council Public Hearing Dates: May 26, 2009**  
**June 9, 2009**  
**Enactment Date: June 9, 2009**

**CITY OF MARATHON, FLORIDA**  
**ORDINANCE 2009-18**

**AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING SECTION 107.04, "ESTABLISHMENT OF ALLOCATION POOLS," TO INCLUDE A NEW AFFORDABLE ALLOCATION POOL CATEGORY TO BE ENTITLED "TBR AFFORDABLE POOL" AND AMENDING SECTION 107.06, "LIMITATIONS," TO INCLUDE CONDITIONS FOR THE PROVISION OF TBR AFFORDABLE ALLOCATIONS; 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 (LDRs) which became effective on November 7, 2007; and

**WHEREAS**, City Ordinance 2006-30 established the Transfer of Building Right (TBR) procedure for the off-site development of existing residential units (as well as transient units and commercial floor area); and

**WHEREAS**, Section 107.04 establishes "Allocation Pools" for residential units and commercial floor area; and

**WHEREAS**, said allocation pools do not include a pool for TBRs under the affordable allocation pool category; and

**WHEREAS**, commensurate with the transfer of a market rate building right, the LDRs requires, as one of three potential options, that an affordable allocation be acquired in order to develop and receive a "certificate of occupancy" for each market rate unit transferred; and

**WHEREAS** it is the desire of the Marathon City Council that those seeking affordable allocations for new construction not be required to compete with those seeking affordable allocations in compensation for the transfer of market rate TBRs,

**WHEREAS**, the City Council has requested that an affordable TBR pool and TBR pool criteria be established under the affordable allocation pool of Sections 107.04 and 107.06 respectively of the LDRs,

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

~~Strikethrough~~ = deletion      **bold underline** = addition

**Section 1.** Amend Section 107.04 2., “Affordable,” to include a new sub-section (c) entitled “TBR Affordable Pool:”

A. *Dwelling Units:*

1. *Market Rate.*

(a) *Owner-occupied Pool:* For each respective allocation period in the market pool, one (1) allocation will be issued to each owner-occupier applicant, in order of their ranking and controlling date and time, if sufficient allocations are available.

(b) *General Market Pool:* For each respective allocation period in the general market pool, allocations will be issued to each applicant, in order of their ranking and controlling date and time, if sufficient allocations are available. One (1) application per allocation period will receive the application score; however, in the case of subsequent applications, filed by the same applicant during the same allocation period, five (5) points shall be deducted from the total application score.

2. *Affordable.*

(a) *General Affordable Pool:* For each respective allocation period in the general affordable pool, allocations will be issued to each applicant, in order of their ranking and controlling date and time, if sufficient allocations are available.

(b) *Community Workforce Pool:* For each respective allocation period in the community workforce pool, allocations will be issued in order of their controlling date and time, if sufficient allocations are available.

(c) *TBR Affordable Pool:* For each respective allocation period in the TBR affordable pool, allocations will be issued in order of their controlling date and time, if sufficient allocations are available.

**Section 2.** Amend Section 107.06, "Limitations," to insert a new subsection E, "TBR Affordable Pool." All subsequent sub-sections shall be renumbered.

E. TBR Affordable Pool:

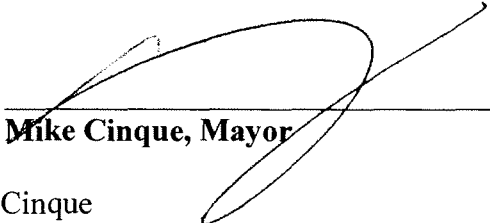
1. Lot size for development of a single-family residence is subject to the zoning district of the subject parcel.
2. Single-family and multi-family dwelling units are limited to a maximum of 1,800 square feet of habitable space.
3. The maximum rental or sales price for the affordable dwelling unit shall meet the requirements as established for affordable housing in Chapter 104 "Specific Use Regulations" and Chapter 110 "Definitions". If the affordable dwelling unit is designated for employee housing, as defined in Chapter 110, the use of the dwelling is restricted to households that derive at least 70 percent of their household income from gainful employment in Monroe County. Eligibility of a potential renter of the employee housing shall be determined by the Department at the time the potential renter applies to occupy the dwelling unit.
4. The Department shall review the lease agreement, annual verification from business, letter of employment or occupational license of an occupant for the dwelling unit on an annual basis to ensure that, rent for the unit does not exceed the affordable rent standard established for affordable housing in Chapter 110 "Definitions"; the occupant is gainfully employed in Monroe County; and the employee housing is occupied by employees meeting the income limitations as established for "Affordable Housing" in Chapter 104 and as defined in Article 110 "Definitions". Annual income qualification, lease or employment verification, as applicable, by the City, or its designee, shall be limited to rental and employee housing dwelling units. Income verification for owner occupied dwellings shall be performed and approved by the City or its designee prior to the sales closing and occupancy of the dwelling unit.
5. Prior to the issuance of the building permit for any dwelling unit developed under this provision, the applicant shall, on a form supplied by the City, record in the official records of Monroe County, a deed restriction running with the land which limits the occupancy of the affordable dwelling unit to households meeting the income and occupancy restrictions established for "Affordable Housing" in Chapter 104, and as defined in Chapter 110 "Definitions".

**Section 3.** 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. *(This section is only needed if the ordinance is an amendment to Chapter 9.5 (LDR's) of the Marathon City Code.)*

**Section 4.** This Ordinance shall be effective immediately upon approval by the State Department of Community Affairs pursuant to Chapter 380, Florida Statutes. *(If not an amendment to the LDR's this section would read "This Ordinance shall be effective immediately upon enactment")*

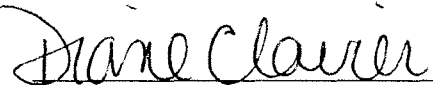
**ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, this 9th day of June, 2009.**

**THE CITY OF MARATHON, FLORIDA**

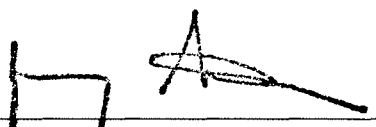
  
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**Mike Cinque, Mayor**

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

**ATTEST:**

  
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Diane Clavier  
City Clerk

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

  
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City Attorney