

Sponsored by: Cinque
Introduction Date: September 22, 2009
Public Hearing Dates: October 13 and 27, 2009
Enactment date: October 27, 2009

**CITY OF MARATHON, FLORIDA
ORDINANCE 2009-24**

**AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA,
AMENDING CHAPTER 34 OF THE CODE OF ORDINANCES,
MARATHON, FLORIDA, BY ADDING NEW DEFINITIONS
THERERTO; BY CREATING A MECHANISM FOR THE PRIVATE
TRANSFER OF EDUS; PROVIDING FOR THE REPEAL OF ALL CODE
PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS
ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR
INCLUSION IN THE CODE OF ORDINANCES, CITY OF MARATHON,
FLORIDA; AND PROVIDING AN EFFECTIVE DATE**

WHEREAS, the City of Marathon (the “City”) enacted Ordinance 2008-10 setting forth the Rules and Regulations for the City’s Wastewater Utility (the “Rules and Regulations”); and

WHEREAS, pursuant to the Rules and Regulations, the City has assessed individual properties across the City to cover the system development charges for the wastewater collection and treatment system; and

WHEREAS, the assessments are based on the current potable water usage of each property; and

WHEREAS, the City Council acknowledges that the use of a property can change in the future so as to permanently reduce the potable water usage on such property, thereby resulting in excess capacity in the system; and

WHEREAS, the City Council would like to create a mechanism to allow such property owners to transfer their excess capacity to other customers of the wastewater utility; and

WHEREAS, the City Council desires to amend the Rules and Regulations to establish such a mechanism;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AS FOLLOWS:¹

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

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

Section 2. Section 34-9 of the Code of Ordinances, City of Marathon, Florida, is hereby amended to read as follows:

"Dwelling Unit" means a building, or a portion thereof, available to be used for residential purposes, consisting of one or more rooms arranged, designed, used, or intended to be used as living quarters for one family only.

"EDU" means "equivalent dwelling unit," the standard unit to be used in calculating the Assessments for the Wastewater Facilities, as determined in accordance with Section 3.02 of the Wastewater Collection and Treatment Facilities Initial Assessment Resolution adopted on June 24, 2008. One EDU is equal to the expected wastewater generation per single family Dwelling Unit based upon a potable water usage of 167 gallons per day.

Section 3. Section 34-___ of the Code of Ordinances, City of Marathon, Florida, is hereby created to read as follows:

Section ____ Transfer of EDUs

- (a) If a Customer has been assessed a System Development Charge based on a certain number of EDUs, and, subsequent to such assessment, the Customer changes the use of the property so as to permanently reduce the potable water usage, the Customer may apply to the City for a formal recognition of the number of excess EDUs resulting from this change and approval of the transfer of those EDUs to another specific property located in the City. The Utility Director shall establish the form of application, the applicable criteria and any fees or cost recovery associated therewith.
- (b) EDUs can only be transferred to a property located in a service area in the City if that service area has sufficient capacity to handle the wastewater flow that corresponds to the EDUs, as determined in writing by the Utility Director in his sole discretion.
- (c) If EDUs are transferred off a property to another specific property in the City and the Customer transferring the property had not prepaid the assessment amount in full, the City will recalculate the annual assessment payments for both the transferring property and the recipient property. Such recalculated amounts will be reflected in the assessment resolution for the following fiscal year. If the owner of the recipient property wishes to prepay the outstanding principal amount of the assessment in full, said owner may do so at the then prevailing prepayment rate as determined by the City.
- (d) If EDUs are transferred off a property to another specific property in the City and the Customer transferring the property had prepaid the

assessment amount in full, there will be no recalculation of the annual assessment payments and there will be no refunds from the City.

- (e) If EDUs are transferred off a property, any subsequent change in the use of said property that will permanently increase its potable water usage must be approved by the City and will result in a recalculation of the assessment payments for the property.
- (f) The transfer of the EDUs must be reflected in a document to be recorded in the chain of title of both the transferring property and the recipient property.
- (g) Nothing in this section creates any obligation of the City to buy or otherwise acquire EDUs from any property, or otherwise assume the obligation to pay assessments on behalf of any property.

Section 4. The Provisions of the Marathon 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 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 7. This Ordinance shall become effective immediately upon enactment.

ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON,
FLORIDA, this 27th day of October 2009.

THE CITY OF MARATHON, FLORIDA



Mike Cinque, Mayor

AYES: Snead, Ramsay, Vasil, 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:



City Attorney