

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

**CITY OF MARATHON, FLORIDA
ORDINANCE 2009-25**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING CHAPTER 34, ARTICLE II OF THE CODE OF ORDINANCES, CITY OF MARATHON, BY ADDING NEW DEFINITIONS THERETO AND BY CREATING A MECHANISM FOR BUSINESSES THAT MEET CERTAIN PUBLIC GOOD CRITERIA TO RECEIVE ASSISTANCE FROM THE CITY IN CONNECTION WITH EDU ASSESSMENTS; IMPLEMENTING OTHER PROCEDURAL AMENDMENTS; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCORPORATION INTO THE CITY OF MARATHON CODE; 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, some properties have very high potable water usage by the nature of the business located on the property and therefore will be assessed at a high EDU level; and

WHEREAS, the City Council acknowledges that some businesses that have received a high assessment provide a valuable public service to the residents of the City and it is in the best interests of the City to provide assistance to such businesses in meeting the financial obligation of the assessment; and

WHEREAS, the City Council would like to create a mechanism to allow businesses that provide such a “public good” to avoid the long term obligation of the assessment while still requiring them to pay on an annual basis as long as the business is operating; and

WHEREAS, the City Council desires to amend the Rules and Regulations.

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

Section 1. The above recitals are hereby confirmed and adopted.

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.

“Public Good” means a business or other operation that provides a public benefit to the City by virtue of meeting one of the following criteria:

- (a) Provides an essential service to City residents and visitors of the City; or
- (b) Provides an important economic stimulus to the economy of the City; or
- (c) Represents a property with historical or environmental significance.

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

Section ____ Assistance for Businesses providing a Public Good

- (a) Business that provide a Public Good and which has been assessed a System Development Charge based on high potable water usage that results in an EDU count in excess of five (5), may petition the City Council in writing for relief in accordance with this Section 34- . If the business in question is actually operated by a tenant of the property owner, then the petition must be submitted by the tenant and acknowledged by the property owner.
- (b) T he petition must set forth in writing the following:

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

- (1) The nature of the business and the reasons why this business represents a Public Good; and
 - (2) The reasons why the assessment imposed by the Utility will likely and imminently result in a significant reduction or a cessation of the operation of the business; and
 - (3) Evidence that the owner of the business has the ability to pay 1/20th of the assessment amount on a quarterly basis so long as the business is in operation. Such evidence shall include, but not be limited to, personal financial statements, business financial statements or such other information the City may request.
- (c) All petitions shall be delivered to the City Manager. The City Manager shall prepare a report with his recommendations on the petition, and the petition shall be placed on the agenda for the next regularly scheduled City Council meeting.
- (d) The City Council can entertain public comment on the petition, and any action on the petition shall be by majority vote of the City Council. The City Council, in its sole discretion, can choose to grant or deny relief hereunder. This section does not create any right to any particular action or approval by the City Council.
- (e) If the City Council finds, in its sole discretion, that the criteria set forth in subsection (b) above have been met, the City Council may enter into a written agreement with the business whereby the City will assign City owned EDUs to the business so long as the business agrees to pay 1/20th of the assessment differential (including applicable interest) to the City on a quarterly basis and the business remains in operation.
- (f) If the business fails to make the payments to the City as per the written agreement between the parties, the agreement shall automatically terminate, the business shall immediately cease operation, and the City shall have the right to lien the personal property of the business, terminate service, and pursue all other remedies available at law or equity.
- (g) If the written agreement between the parties is terminated for any reason, or the business closes, the EDUs shall revert to the City and the City shall have the right to re-assign The EDUs to another business located in the same service area or another 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.

(h) This Section 34- does not apply to any assessments based on the individual service hook-ups (connections) applicable to a property.

(i) The maximum number of EDUs available in each service area for lease under this Section shall be established by resolution, based upon the recommendation off the City Manager.

Section 4. 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 5. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of said conflict.

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 Code.

Section 7. This Ordinance shall be 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