

**Sponsored by:** Snead  
**Introduction Date:** November 24, 2009  
**Public Hearing Dates:** December 8, 2009 and January 12, 2010  
**Enactment Date:** January 12, 2010

**CITY OF MARATHON, FLORIDA  
ORDINANCE 2009-28**

**AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING SECTION 6-58 OF THE CODE OF ORDINANCES OF THE CITY OF MARATHON, FLORIDA, ENTITLED "EXPIRED BUILDING PERMITS" PROHIBITING THE ISSUANCE OF A BUILDING PERMIT TO ANY CONTRACTOR OR OWNER BUILDER RESPONSIBLE FOR AN EXPIRED BUILDING PERMIT; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Marathon (the "City") is experiencing an increase in expired permits; and

**WHEREAS**, the City wishes to create an incentive for homeowners and contractors to close a permit after the work has been completed and inspected; and

**WHEREAS**, the City has determined that preventing a contractor or owner builder from obtaining a building permit while an expired permit exists in their name will create the desired incentive.

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

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

**Section 2.** Section 6-58 of the Code of Ordinances, City of Marathon, Florida, is hereby amended to read as follows:

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<sup>1</sup> / Additions to existing text are shown by underline, changes to existing text on second reading are shown by double underline, and deletions are shown as ~~strikethrough~~.

Sec. 6-58. Expiration of building permit.

- (a) If work has commenced under a building permit or the permit becomes null and void or expires because of lack of progress or abandonment, a new permit covering the proposed construction shall be obtained before proceeding with the work under regulations in effect at the time the new permit is issued. In the event that a building permit issued by the City of Marathon expires, except as provided in subsection (b), the contractor or owner builder who was issued the building permit will shall be prohibited from obtaining any additional building permits other than pursuant to Sec. 6-58 of this Code.
- (b) The prohibitions in this Section shall not apply, and the Building Official shall issue a new permit to a contractor, if:
- (i) The contractor and the property owner are involved in litigation concerning the work authorized by the expired permit; or
  - (ii) The contractor has not received payment from the property owner for the work authorized by the expired permit; or
  - (iii) The property that is subject to the expired permit is part of a probate proceeding, and the expiration of the subject permit is a result of such proceeding; or
  - (iv) The property that is subject to the expired permit is part of a bankruptcy, foreclosure, or receivership proceeding, and the expiration of the subject permit is a result of such proceeding; or
  - (v) The expired permit is the subject of a stop work issued as a result of actions by a party other than the contractor.

If a new building permit is not obtained within 90 days from the date the initial permit became null and void or expires because of lack of progress or abandonment, the Building Official shall require that any work which has been commenced or completed be removed from the building site. If, or he may issue a new permit is issued, the Building Official shall require on application, providing that the work in place and the work required to complete the structure meets all applicable regulations in effect at the time of the issuance of the new permit.

- (c) If the contractor or the "owner builder" feels believes that there are extenuating circumstances which that would justify the issuance of a permit despite the existence of an expired permit, the contractor or "owner builder" may appeal the denial of a building permit under this Section to the City Council. The City Council shall have the sole discretion whether or not to waive the provisions of this Section and authorize the Building Official to issue the building permit.

**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.

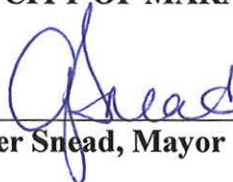
**Section 4.** The provisions of this Ordinance are declared to be severable, and if any sentence, section, clause or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sentences, sections, clauses or 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.** It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and be made part of the Code of Ordinances of the City of Marathon, Florida, that the sections of the Ordinance may be renumbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

**Section 6.** This Ordinance shall be effective immediately upon adoption.


**PASSED AND ADOPTED** on second reading this 12<sup>th</sup> day of January, 2010.

**THE CITY OF MARATHON, FLORIDA**

  
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**Ginger Snead, Mayor**

AYES: Cinque, Ramsay, Worthington, Keating, Snead  
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