

**Sponsored by:** Hernstadt  
**Introduction Date:** January 12, 2010  
**Planning Commission Date:** February 17, 2010  
**City Council Dates:** February 23, 2010 and March 9, 2010

**CITY OF MARATHON, FLORIDA  
ORDINANCE 2010-04**

**AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING SECTIONS 6-52(a) AND 6-52(b) OF THE CODE OF ORDINANCES OF THE CITY OF MARATHON, FLORIDA, AUTHORIZING A FILL PERMIT ON PROPERTY WHICH DOES NOT HAVE A PERMIT FOR A PRINCIPLE STRUCTURE OR USE IF SPECIFIED REVIEW CRITERIA ARE MET; ESTABLISHING SPECIFIED REVIEW CRITERIA, 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") is in the process of constructing a City-wide wastewater collection, treatment and disposal system pursuant to Chapter 99-395 *Laws of Florida* (the "Project"); and

**WHEREAS**, the Project has generated a substantial amount of inorganic soil material suitable for use as fill; and

**WHEREAS**, Section 6-52(a) of the Code of Ordinances of the City of Marathon, Florida (the "Marathon Code") prohibits the placement of fill on any property in the City without a City building permit; which must be in conjunction with the establishment of a use or structure allowed in the zoning district where the property is located; and

**WHEREAS**, the City desires to amend the Marathon Code to authorize the placement of fill on property in the City without a building permit or the establishment of a use or structure allowed in the zoning district where the property is located if specified review criteria is met.

**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.

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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~~.

**Section 2.** Section 6-52(a) of the Marathon Code is hereby amended to read as follows:

**Sec. 6-52. Building or site preparation permits required; exceptions.**

~~No development shall occur except pursuant to a building permit.~~

(a) A building or site preparation permit shall be required for the following type of work:

(1) ~~Site preparation permits, which involve involving~~ land clearing, the placement of fill, commercial demolition, blasting, excavation, or the storage of materials. ~~Provided that no site preparation permit shall be issued except in conjunction with the establishment of a use or structure allowed in the zoning district where the site is located except that a site preparation permit may be issued to clear invasive exotic vegetation without the establishment of a use or structure.~~

a. A site preparation permit for the placement of fill on a parcel without a principal use or structure shall only be issued if the site meets the following criteria as determined by the City Biologist, Planning Director and Public Works Director:

i. The property owner provides a boundary survey showing existing elevations, proposed elevations, flood zone boundaries, the site to be filled, and a stormwater management plan in accordance with Article 11 of Chapter 107 of the Marathon Code of Ordinances; and

ii. The site in question is not zoned either Conservation Native Area (C-NA), Conservation – Offshore Island (C-OI), or Residential Low – Conservation (RL-C); and

iii. The site contains only Class III habitat types as defined in Section 106.16 and Table 106.16.1 of the City Land Development Regulations and would not require a habitat analysis or KEYWEP Score as is described in Sections 106.18 and 106.27 respectively. A narrow band of shoreline mangroves for properties seeking permits on manmade water bodies and canals is excepted from this requirement; and

iii. The placement of fill on the site does not require a federal or state dredge and fill permit; and

iv. No fill may be placed in a “VE” flood zone as described in Article 12 of Chapter 107 of the Marathon Code of Ordinances; and

v. The placement of fill on the site does not affect existing or proposed stormwater structures or functions within the City’s right-of-way; and

iv. All other Sections of the City Land Development Regulations are met.

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**Section 3.** Section 6-52(b) of the Marathon Code is hereby amended to read as follows:

(b) A building or site preparation permit shall not be required for the following type of work:

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(10) The clearing of invasive exotic vegetation.

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**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 for the term of this Ordinance.

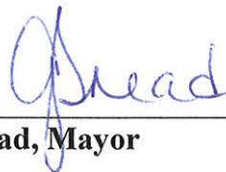
**Section 5.** The provisions of this Ordinance are declared to be severable, and if any sentence, section, clause or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sentences, sections, clauses or 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 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 7.** This Ordinance shall be effective immediately upon approval by the State Department of Community Affairs pursuant to Chapter 380, Florida Statutes.

**PASSED AND ADOPTED ON SECOND READING** this 9 day of March, 2010.

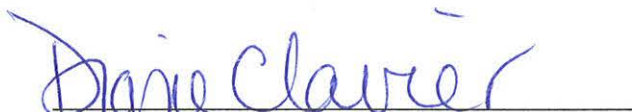
**THE CITY OF MARATHON, FLORIDA**



**Ginger Snead, Mayor**

AYES: Cinque, Ramsay, Worthington, Keating, Snead  
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