

Sponsored by: Hernstadt
Introduction Date: October 18, 2010
Public Hearing Dates: November 9, 2010
November 23, 2010
Enactment date: November 23, 2010

**CITY OF MARATHON, FLORIDA
ORDINANCE 2010-13**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING SECTION 107.07 G. 3., 'APPLICATIONS' AND ADDING SECTION 107.09 C. 1., 'LIMITS TO HAMMOCK BPAS ALLOCATION;' 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 Florida Keys Carrying Capacity Study has clearly indicated that the carrying capacity of Keys' Hardwood Hammock environments has been exceeded; and

WHEREAS, the Florida Department of Community Affairs has requested through its Rule Making process that the City strengthen its regulations for the protection of Hardwood Hammock environments within the City's limits in line with regulations adopted by Monroe County and other municipalities of the County; and

WHEREAS, it is the desire of the City through its elected officials to protect Hardwood Hammocks to the greatest extent practicable without unduly impacting the property rights of the citizens of the City of Marathon; and

WHEREAS, City has determined that this proposed Land Development Regulation (LDR) is consistent with the City's existing Comprehensive Plan, Goals, Objectives, and Policies,

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, correct, and incorporated herein by this reference.

Section 2. Revise the following sections of the City of Marathon Land Development Regulations as prescribed:

Additions to existing text are shown by bold and underline, changes to existing text on second reading are shown by double underline, and deletions are shown as ~~strike through~~.

Section 107.07. - Applications.

G.

3. Applicants who indicate that they are willing to build shall be issued a notice of allocation as further defined in this section. No more than 15 allocations shall be made in all categories per BPAS period, unless otherwise specified by the Council as provided for elsewhere in this section. **In no case shall more than one (1) BPAS allocation per year be issued for properties which are in part or whole designated as Hardwood Hammock, Palm Hammock, Cactus Hammock or Beach/Berm on the City of Marathon Existing Conditions Maps or as determined by the City Biologist or private habitat survey. This standard shall apply to applicants and allocations as outlined in Section 107.09 C.**

Section 107.09. - BPAS Scoring System.

C. Limits to Hammock BPAS Allocations: In no case shall more than one (1) BPAS allocation per year be issued for properties which are in part or whole designated as Hardwood Hammock, Palm Hammock, Cactus Hammock, or Beach/Berm on the City of Marathon Existing Conditions Maps or as determined by the City Biologist or private habitat survey. This standard shall apply to applicants and allocations which are approved as part of the Temporary Procedure outlined in Section 107.07 G.

~~C.D.~~ **D.** Changes in BPAS Score: Upon review of the allocation applications and evaluation worksheets, the City Council may adjust the points awarded for meeting particular criteria, adjust the rankings as a result of changes in points awarded, or make such other changes as may be appropriate and justified. The basis for the Council changes shall be specified in the form of a motion to adopt the allocation rankings and may include the following:

1. An error in the designation of the application's size classification.
2. A mistake in the application of one (1) or more of the evaluation criteria.
3. A misinterpretation of the applicability of an evaluation criterion.

Section 5. 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 6. 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 7. 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.

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Section 8. 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 23RD DAY OF NOVEMBER, 2010.

THE CITY OF MARATHON, FLORIDA



Ginger Snead, Mayor

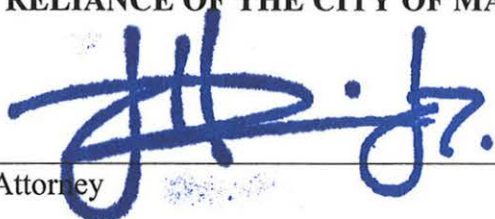
AYES: Cinque, Worthington, Ramsay, Keating, Snead
NOES: None
ABSENT: None
ABSTAIN: None

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