

Sponsored By: Hernstadt
Planning Commission Public Hearing Date: July 16, 2012
City Council Public Hearing Dates: July 24, 2012 & August 14, 2012
Enactment Date: August 14, 2012

**CITY OF MARATHON, FLORIDA
ORDINANCE 2012-09**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING CHAPTER 106 AND CHAPTER 110 OF THE LAND DEVELOPMENT REGULATIONS ALLOWING FOR THE DISTINCTION BETWEEN RIPARIAN MANGROVE FRINGES AND ISOLATED MANGROVE COMMUNITIES; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY IN ACCORDANCE WITH STATE LAW.

WHEREAS, the City of Marathon (the “City”) has adopted the City of Marathon Land Development Regulations (the “LDRs”) which have been found to be in compliance by the State Department of Economic Opportunity, f/k/a the State Department of Community Affairs (the “Department”), pursuant to Chapter 163, *Florida Statutes*; and

WHEREAS, the City is located within the Florida Keys Area of Critical State Concern (the “FKACSC”), as established pursuant to Chapter 380, *Florida Statutes*; and

WHEREAS, Section 380.552, *Florida Statutes*, establishes Principles for Guiding Development in the FKACSC; and

WHEREAS, the City finds it appropriate to amend Chapters 106 and 110 of the LDRs in order to further protect the health, safety, and welfare of the residents of the City; and

WHEREAS, the City Council finds that enactment of this Ordinance furthers the objectives, goals and policies of the City’s Comprehensive Plan and complies with the Principles for Guiding Development of the FKACSC and applicable State laws and rules.

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

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

Section 2. Chapter 106, Article 3, Section 106.16, Table 106.16.1 of the LDRs is hereby amended to read as follows:

¹ 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~~.

2. To fill a manmade, excavated water body such as a canal, boat ramp, boat slip, boat basin or swimming pool, providing that the City Biologist determines there will be no significant impact upon marine or wetland communities;
3. As needed for shoreline stabilization or beach renourishment projects with a valid public purpose that further the goals of the Plan as determined by the City Biologist;
4. As approved for Disturbed Saltmarsh and Buttonwood Association Wetlands with appropriate mitigation, as established in this chapter.
5. Fill placed in Isolated Mangrove Communities, as defined in Chapter 110.
6. All such projects shall require approval by the FDEP and ACOE prior to submission to the City.

Section 5. Chapter 110, Article 3, “Defined Terms” is hereby amended to read as follows:

Isolated mangrove communities: means mangroves growing in isolated locations on relatively small landlocked, infill lots whose total area is less than one quarter acre (10,890 square feet), and whose spatial extent has a KEYWEP Score of less than 5.5 as determined by a competent biologist and where surface water run-off from surrounding development has created the wet condition which facilitated the establishment of the isolated community of mangroves. Isolated mangrove communities do not perform the functions of riparian mangrove fringes, i.e. resisting and preventing shoreline erosion, providing food and habitat for the marine food chain, maintaining and improving the quality of coastal waters. Isolated mangrove communities do not include mangroves on uninhabited islands, or public lands that have been set aside for conservation or preservation, or mangroves on lands that have been set aside as mitigation, or lands which are historically, naturally vegetated with mangroves such as are found on Grassy Key.

Riparian mangrove fringe: means mangroves growing along the shoreline on private property, property owned by a governmental entity, or sovereign submerged land. The riparian mangrove fringe performs the following functions: resist and prevent shoreline erosion, provide food and habitat for the marine food chain, maintain and improve the quality of coastal waters. The spatial extent of Riparian Mangroves may vary significantly, but the functional biological character of these areas, as determined within a KEYWEP score performed by a competent biologist, is greater than 5.5. Riparian Mangroves exhibit a hydrological regime which is little changed as a result of human activities in the Florida Keys and has regular, though not necessarily monthly, tidal inundation. Riparian mangroves include mangroves on uninhabited islands, or public lands that have been set aside for conservation or preservation, or mangroves on lands that have been set aside as mitigation, or lands which are historically, naturally vegetated with mangroves.

Section 6. The provisions of this Ordinance are declared to be severable and if any section, sentence, 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 sections, sentences, clauses, and phrases of this 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 the City Code or LDRs and all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

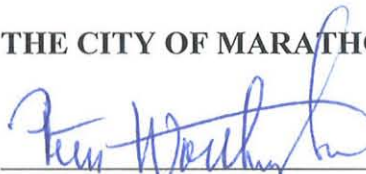
Section 8. The provisions of this Ordinance are declared to be severable, and if any sentence, section, clause or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sentences, sections, clauses or phrases 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 9. 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 Department for approval pursuant to Sections 380.05(6) and (11), Florida Statutes.

Section 10. This Ordinance shall be effective immediately upon approval by the Department pursuant to Chapter 380, Florida Statutes.

**ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA,
THIS ___th DAY OF SEPTEMBER, 2012.**

THE CITY OF MARATHON, FLORIDA



Pete Worthington, Mayor

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

ATTEST:



Diane Clavier, City Clerk

**APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:**



City Attorney