

RESOLUTION NO. 00-05-17

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MARATHON AND THE STATE OF FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS TO PROVIDE BETTER COORDINATION BETWEEN THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS AND THE CITY OF MARATHON IN THE IMPLEMENTATION OF PROVISIONS OF CHAPTER 380, FLORIDA STATUTES, AND THE COMPREHENSIVE PLAN AND LAND DEVELOPMENT REGULATIONS PERTAINING TO DEVELOPMENT ORDERS EXEMPT FROM REVIEW; AND AUTHORIZING THE MAYOR TO EXECUTE SAID MEMORANDUM OF UNDERSTANDING; AND PROVIDING AN EFFECTIVE DATE.

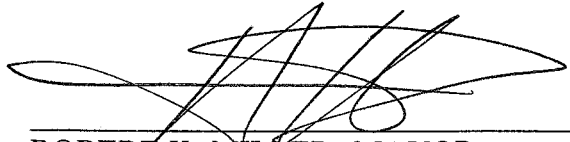
NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AS FOLLOWS:

Section 1. The Memorandum of Understanding between the City of Marathon, and the Florida Department of Community Affairs pertaining to Coordinated Development Permit Review Process, attached as Exhibit "A" is hereby approved.

Section 2. The Mayor is authorized to execute said Memorandum of Understanding.

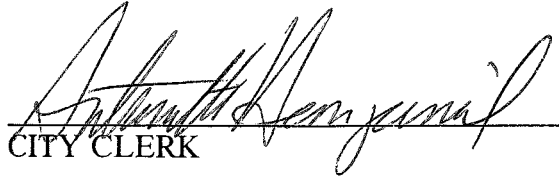
Section 3. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this 23rd day of May, 2000.




ROBERT K. MILLER, MAYOR

ATTEST:



CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY



CITY ATTORNEY

MEMORANDUM OF UNDERSTANDING

Coordinated Permit Review Process For Development

This Memorandum of Understanding ("MOU") is entered into by and between the State of Florida Department of Community Affairs ("DCA") and the City of Marathon, Florida ("City") to provide better coordination between DCA and the City in the implementation of provisions of Chapter 380, Florida Statutes, and the City Comprehensive Plan and Land Development Regulations.

W I T N E S S E T H

WHEREAS, the City is within an area that has been declared an Area of Critical State Concern pursuant to Section 380.05 and 380.0552, Fla. Stat., and pursuant to Chapter 99-427, Laws of Florida, the Comprehensive Plan and Land Development Regulations of Monroe County, as the same existed on November 30, 2000, are the Comprehensive Plan and Land Developments Regulations of the City; and

WHEREAS, the City is required to issue development orders only in conformity with its approved Comprehensive Plan and Land Development Regulations; and

WHEREAS, the DCA is the state land planning agency authorized to administer the provisions of Chapter 380, Florida Statutes, and has promulgated rules in Chapter 9J-1, Florida Administrative Code (F.A.C.), to provide for the form and manner of the rendition of development orders issued by local governments within Areas of Critical State Concern; and

WHEREAS, the DCA is authorized to appeal any City development order to the Florida Land and Water Adjudicatory Commission if DCA determines that the development order was issued in error; and

WHEREAS, DCA as provided in Rule 9J-1.002(3), F.A.C., does hereby exempt certain categories of City development orders from DCA review.

WHEREAS, DCA and the City do mutually agree as follows:

I. Exemptions.

A. DCA as provided in Rule 9J-1.002(3), F.A.C., does hereby exempt certain categories of City development orders from DCA review.

B. The exemption is for development orders that are properly issued by the City in accordance with its comprehensive plan and land development regulations, and applies to the following types of development orders:

- (1) Demolition of structures.
- (2) Interior alterations of structures.
- (3) Electrical, plumbing and mechanical repair activity of structures, except for development orders or permits for such activity in or through wetlands.
- (4) Re-roofing of structures, so long as the structure's height or the overhang of the "footprint" is not changed.
- (5) Roof repairs to structures.
- (6) Transfer of ownership of structures or land.

- (7) Fences.
- (8) Installation of hurricane shutters on structures.
- (9) Installation of awnings on structures.
- (10) Installation of concrete slabs under structures except those located in both disturbed and undisturbed wetlands or beach berm habitats.
- (11) Replacement of residential dwelling units (as defined in Chapter 9.5 of the City Code) within six (6) months of their removal if the replacement is on the same lot by the same owner, and does not involve an increase in density or encroach into the shoreline or wetland setbacks.
- (12) Installation or replacement of air conditioning units in structures.
- (13) Change out of condensing units.
- (14) Installation or replacement of vinyl siding on structures.
- (15) Painting of structures.
- (16) Door and window replacements on structures.
- (17) Installation of approved on-site waste disposal systems, package plants and wastewater treatment plants.
- (18) Replacement or repair of existing riprap, docks, seawalls or dock caps within an existing footprint.
- (19) Installation of davit pads, davits or boatlifts on an existing dock located on a canal.
- (20) Clearing permits for invasive exotic plant species.

- (21) Temporary construction trailers.
- (22) Temporary public assembly tents.
- (23) Installation, repair or replacement of paver or concrete driveways that do not encroach into the shoreline or wetland setbacks.
- (24) Signage that complies with Article VII, Division 13, of Chapter 9.5 of the City Code (as the same may be amended from time to time).
- (25) Containment walls around existing above ground fuel tanks as required by the State of Florida.
- (26) Replacement of existing dock pilings or dolphin piles for residential use and on an existing footprint.
- (27) Fallen trees including hazard trees that are damaging development.

C. The exemptions established above shall terminate upon the termination of this Memorandum of Understanding, or as otherwise provided in Section IV below.

II. Notice to Permittees and Cooperation.

A. With the exception of those development orders exempted above, the City agrees to imprint all permits and development orders with cautionary language stating that pursuant to Chapter 9J-1, F.A.C., the permit or development order is not effective for 45 days after it has been rendered to DCA, that within the 45 day review period DCA can appeal the permit or development order to the Florida Land and Water Adjudicatory Commission, and that such an appeal stays the effectiveness of the permit or development order until the appeal is resolved by agreement or order. Permittees shall also be advised of the applicable appeal

period under the City Land Development Regulations. A permit validation form shall be prepared and approved by both DCA and the City, and any changes to the form shall be coordinated with and approved by DCA and the City.

B. The City and DCA will cooperate in an ongoing process to better define the types of development and development orders that are of concern to DCA. The City will continue to render to DCA's Field Office in Marathon, Florida, all development orders as specified in Chapter 9J-1, F.A.C., excluding copies of development orders exempted from review pursuant to Section I above.

C. The City recognizes that proper administration of its Comprehensive Plan and Land Development Regulations reduces the need for intervention by DCA, and both parties agree to pursue the goal of removal of the area of critical state concern designation in accordance with Section 380.0552, Fla. Stat.

III. Modifications.

Modifications to this Memorandum of Understanding shall only be valid when they have been reduced to writing and duly signed by each of the parties. Notwithstanding the foregoing, the State may add exempt development activities to the list set forth in Section II above by letter issued by the DCA pursuant to 9J-1, F.A.C., or Executive Order of the Governor.

IV. Termination.

Either party may terminate this Memorandum of Understanding at any time, with or without cause. Termination shall take effect one week or five (5) working days, whichever is earlier, after receipt of written notification as evidenced by a certified mail return receipt.

V. Notification.

1. All notices must be in writing and addressed as follow (or to any other address which either party may designate by notice):

If to City: Craig Wrathell
City Manager
City of Marathon
P.O. Box 500430
Marathon, Florida 33050

With a copy to: John R. Herin, Jr., Esq.
Weiss Serota Helfman Pastoriza & Guedes, P.A.
2665 South Bayshore Drive, Suite 420
Miami, Florida 33133

If to Department: Growth Management Administrator
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

With a copy to: DCA Keys Field Office
Marathon Regional Service Office
2796 Overseas Highway
Suite 212
Marathon, Florida 33050

Any notice shall be deemed to have been duly given if sent by certified mail, return receipt requested, postage and fees prepaid; hand delivered; or sent by overnight delivery service.

VI. Miscellaneous.

A. If any term or provision of this MOU shall be invalid or unenforceable to any extent, the remaining terms and provisions shall not be affected thereby; and each remaining term and provision shall be valid and shall be enforceable to the fullest extent permitted by law unless the enforcement of the remaining terms and provisions would prevent the accomplishment of the original intent of the agreement between the parties.

B. Each party represents and warrants to the other that the execution, delivery and performance of this MOU has been duly authorized by all necessary corporate or other organizational action, as required.

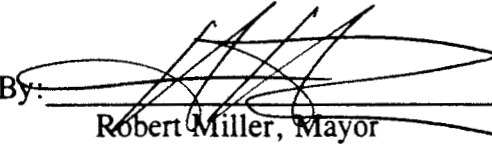
VII. Effective Date.

This Memorandum of Understanding shall become effective upon execution by both parties, and shall end upon the termination of the Florida Keys Area of Critical State Concern designation, unless termination earlier according to Section IV, above.

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IN WITNESS WHEREOF, the parties have executed this Memorandum of Understanding.

CITY OF MARATHON, FLORIDA

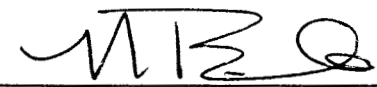
By: 
Robert Miller, Mayor

Date: 5/23/00

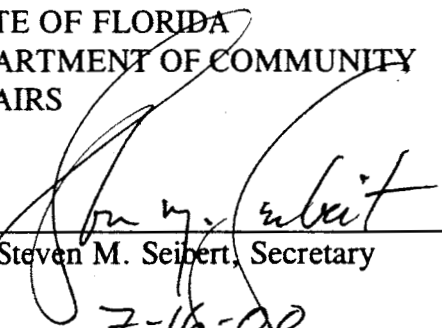
ATTEST:

By: 
City Clerk

Approved as to form and legal
Sufficiency:

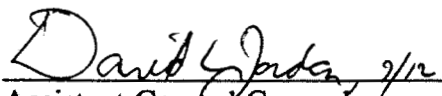

City Attorney

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY
AFFAIRS

By: 
Steven M. Seibert, Secretary

Date: 7-16-00

Approved as to form and sufficiency:


Assistant General Counsel