

COUNCIL AGENDA STATEMENT



Meeting Date: October 8, 2019

To: Honorable Mayor and Council Members

From: George Garrett, Planning Director

Through: Chuck Lindsey, City Manager

Agenda Item: **Ordinance 2019-10**, Amending The City’s Comprehensive Plan To Modify Or Add To Its Conservation And Coastal Element, Goals Objectives, And Policies To Comply With Florida Statute 163.3178(2)(F) “Peril of Flood”; Intending To Modify, “Purpose;” Goal 4-1, “Conserve, Manage, Use, And Protect Natural And Environmental Resources;” Policy 4-1.3.3, “Surface Water Management And Flood Damage Prevention;” And Objective 4-1.17, “Minimum Coastal Hazards;” And Intending To Add Policies To Include Policy 4-1.17.8, “Strategies For Responding To Sea Level Rise;” Policy 4-1.17.9, “Flood-Resistant Development Requirements;” Policy 4-1.17.10, “Extreme Weather Event Mitigation;” And Policy 4-1.17.11, “Best Practices And Mitigation Strategies;” And Finally, Intending To Modify Objective 4-1.22, “Reduce Exposure To Natural Hazards,” Policy 4-1.22.5, “Manage Redevelopment Activities; And Policy 4-1.22.8, “Regulate Redevelopment Of Non-Conforming Structures To The Required Base Flood Elevation;” Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity After The First Hearing By The City Council; And Providing For An Effective Date.

RECOMMENDATION:

The Planning Commission reviewed the proposed Comprehensive Plan amendment on May 20, 2019 and recommends Approval in order to meet the minimum standards of the Perils of Flood requirements promulgated in Section 163.3178(2)(f), Florida Statutes.

APPLICANT: City of Marathon

REQUEST: Amend City of Marathon Comprehensive Plan in order to bring it into compliance with recent legislative amendments to Section 163.3178(2)(f), Florida Statutes (commonly referred to as the “Peril of Flood” statute).

ANALYSIS OF COMPREHENSIVE PLAN CHANGE REQUEST:

Preface

The current Land Development Regulations provide only brief guidance concerning the review of a proposed Comprehensive Plan Amendment.

Section 102.19 simply states:

Section 102.19. Standards for Review.

When considering an application for a Comprehensive Plan Amendment, the review shall include all standards and criteria of Fla. Stat. ch. 163.

Standards in Chapter 163, F.S. offer some additional guidance, but are limited. Pertinent sections of Chapter 163 promulgate process rather than establishing criteria for the development of a proposed Comprehensive Plan Amendment. Chapter 163.3184, Process for adoption of comprehensive plan or plan amendment, define the sequential process for transmittal, review, and approval of a Comprehensive Plan Amendment. Most relevant to this delineation of process is the definition of “**compliance**” which is recited for review below:

163.3184 Process for adoption of comprehensive plan or plan amendment.--

(1) DEFINITIONS.--As used in this section, the term:

(b) "In compliance" means consistent with the requirements of ss. [163.3177](#), when a local government adopts an educational facilities element, 163.3178, 163.3180, 163.3191, and 163.3245, with the state comprehensive plan, with the appropriate strategic regional policy plan, and with chapter 9J-5, Florida Administrative Code, where such rule is not inconsistent with this part and with the principles for guiding development in designated areas of critical state concern and with part III of chapter 369, where applicable. Thus, leading through an exhaustive process, the State Land Planning Agency must find a Comprehensive Plan or Plan Amendment in compliance in accordance with the above definition. Process as further defined in the section leads from Local Government Transmittal through review by the State Land Planning Agency and other required local and state government bodies to a finding of “in compliance” by the State Land Planning Agency.

Review is contemplated and expected to be completed by such agencies as the South Florida Regional Planning Council, whose responsibility it is to review the proposal for consistency with the Strategic Regional Policy Plan. Such review is not therefore, the responsibility of the local government to determine consistency in this regard and will not be addressed herein. Though referenced in the definition of compliance and elsewhere Chapters 163.3177, 163.3191, 163.3245, and 369 will not be reviewed as a compliance matter. Chapter 163.3177 defines required elements in a comprehensive plan. The City has an approved comprehensive plan which must be assumed to have all required elements. Chapter 163.3191 refers to the required Evaluation and Appraisal Report (EAR); a review of an approved comprehensive plan required of the City every seven years. The City is not subject to an EAR at this juncture and therefore is not relevant as a criterion to the review herein. Finally, Chapter 163.3245 refers to the development of an optional sector plan. This optional element of an approved comprehensive plan was not adopted by the City and therefore will not be used as a criterion for review in this proposed FLUM amendment. Chapter 369 refers to invasive aquatic plant control and the Wekiva River area and similarly will not be the subject of compliance review herein.

Other pertinent review elements leading to a determination of compliance are found in Chapter 163.3178 Coastal management, Chapter 163.3180 Concurrency and the principals for guiding development in the Florida Keys Area of Critical State Concern. This application for a FLUM amendment will be analyzed against the limited compliance issues found in sections of Chapter 163 F.S. and Chapter 380 F.S. noted immediately above. Relevant sections are provided in EXHIBITS 2, 3, & 4 attached or with website references for your review

Compliance Discussion

Relevant criteria promulgated in Chapters 163 and 380 F.S. can be itemized in bullets as follows based on the critical concerns more specifically identified in the City's comprehensive plan:

- Natural Resource Protection
 - Wetlands
 - Estuaries
 - Living marine resources
 - Beaches / Dunes
 - Unique wildlife habitat
 - Water Quality
- Historical Resources
- Infrastructure / Concurrency Management
 - Wastewater
 - Stormwater
 - Potable Water
 - Solid Waste
 - Transportation
- Affordable Housing
- Hazard Mitigation
 - CHHA
 - Hurricane Evacuation
- Ports
 - Marina Siting
- Public Use
 - Shoreline use and Access
 - Water dependent and independent activity
- Land Acquisition
 - Conservation
 - CHHA
 - Public Services

These bullet items should be utilized as the focus points for review of the proposed FLUM amendment and for future comprehensive plan amendments.

SUMMARY

The University Of Florida Levin College Of Law Conservation Clinic in partnership with Florida land use and environmental attorney Byron Flagg have examined the City of Marathon's Comprehensive Plan for compliance with the Florida "Peril of Flood" statute. As a result, the reviewers recommend that the City of Marathon make minor amendments to its Comprehensive Plan to comply with recent legislative amendments to Section 163.3178(2)(f), Florida Statutes (commonly referred to as the "Peril of Flood" statute). The reviewers recommend minor additions to the City's Conservation and Coastal Element of its Comprehensive Plan to comply with Section 163.3178(2)(f), Florida Statutes. This report and attached draft ordinance (Exhibit B) constitute Deliverables 3.2 and 3.3 of Task 3 under the City's Grant # 1816 from the Florida DEP's Florida Coastal Office, Florida Resilient Coastlines Program.

The short review provided by the University of Florida explains the Background & Legislative History of statutory changes to Section 163.3178(2)(f) and the new statutory requirements coastal local governments must now implement. This report also provides the recommended text changes that will bring the City's Comprehensive Plan into compliance and brief legal analysis for each change. The report identifies which sections of the City's current Conservation and Coastal Element already satisfy the new statutory requirements and the report provides additional resources in "Exhibit 3.1" regarding resiliency planning, best practices, and FEMA guidelines for communities that participate in the National Flood Insurance Program's (NFIP) Community Rating System (CRS), as well as a draft ordinance as "Exhibit 3.2" implementing the recommended text changes to the City's Comprehensive Plan.

BACKGROUND & LEGISLATIVE HISTORY

A. *The Comprehensive Plan's "Coastal Management" Element*

All of Florida's counties and municipalities are required to adopt local government comprehensive plans that guide future growth and development pursuant to Chapter 163, Florida Statutes, which comprise Florida's *Community Planning Act* and growth management policies. Each local government comprehensive plan must include at least two planning periods (one covering at least the first 5-year period occurring after the plan's adoption and one covering at least a 10-year period). Comprehensive plans contain chapters or "elements" that address future land use, housing, transportation, water supply, drainage, potable water, natural groundwater recharge, coastal management, conservation, recreation and open space, intergovernmental coordination, capital improvements, and public schools. Comprehensive Plans are developed through a public participatory visioning process and then articulated through specific Goals, Objectives, and Policies under each Element.

In addition to these general comprehensive planning requirements under state law, local governments in coastal areas must include a *coastal management element* in their comprehensive plan pursuant to Section 163.3177(6)(g), Florida Statutes. The coastal management element must set forth the principles, guidelines, standards, and strategies that shall guide the local government's decisions and adoption of land development regulations and special issues related to coastal development. In addition, Section 163.3178, Florida Statutes, (entitled *Coastal Management*) requires coastal management comprehensive plan policies to be based on studies, surveys, and

data but also requires coastal planning elements to include a “redevelopment component” which outlines the principles used to eliminate inappropriate and unsafe development in coastal areas.

During the 2015 Florida Legislative Session, the Legislature passed Senate Bill 1094 which was signed into law by the Governor in May, 2015. That law is now commonly referred to as the “Peril of Flood” statute because it addressed new requirements related to flood insurance provisions under Florida Law, required record keeping for certain flood elevation certificates, and also required coastal local governments to include in their comprehensive plans (if they had not already done so), new “development and redevelopment principles, strategies, and engineering solutions” focused on reducing flood risks and flood losses within coastal areas. In general, the statute requires coastal communities to more specifically consider future flood risk in the coastal management element of the comprehensive plan, including consideration of sea level rise.

But prior to Senate Bill 1094 going into effect, Section 163.3178, Florida Statutes was not specific about what aspects of coastal planning a “redevelopment component” must address. Senate Bill 1094 changed that lack of specificity by adding new language aimed at reducing flood risk from natural events including consideration of sea level rise by adding six requirements to a local government’s “redevelopment component.”

The City of Marathon’s coastal management element is combined with its conservation element in Chapter Four of the City’s Comprehensive Plan and is named the “Conservation & Coastal Element.”

B. Senate Bill 1094’s “Redevelopment Component” Requirements

As a result of Senate Bill 1094’s amendments to Section 163.3178(2)(f), the City of Marathon’s Conservation and Coastal Management Element must include a redevelopment component that now meets the following statutory criteria. Section 163.3178(2)(f) states:

(f) A redevelopment component that outlines the principles that must be used to eliminate inappropriate and unsafe development in the coastal areas when opportunities arise. The component must:

- 1. Include development and redevelopment principles, strategies, and engineering solutions that reduce the flood risk in coastal areas which results from high-tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea-level rise.*
- 2. Encourage the use of best practices development and redevelopment principles, strategies, and engineering solutions that will result in the removal of coastal real property from flood zone designations established by the Federal Emergency Management Agency.*
- 3. Identify site development techniques and best practices that may reduce losses due to flooding and claims made under flood insurance policies issued in this state.*
- 4. Be consistent with, or more stringent than, the flood-resistant construction requirements in the Florida Building Code and applicable flood plain management regulations set forth in 44 C.F.R. part 60.*
- 5. Require that any construction activities seaward of the coastal construction control lines established pursuant to s. 161.053 be consistent with chapter 161.*
- 6. Encourage local governments to participate in the National Flood Insurance Program*

Community Rating System administered by the Federal Emergency Management Agency to achieve flood insurance premium discounts for their residents.

C. Florida DEO's, Bureau of Community Planning and Growth Guidance

The DEO's Bureau of Community Planning has broken the criteria listed above into two parts for consideration:

- 1.) Subsections (1)-(3) above are strategies for implementing a redevelopment component that include programs, activities and land development regulations. According to the Department of Economic Opportunity, it is up to local governments to establish policies that comply with these requirements. The statutory language does not direct explicitly what those requirements are; rather, it is up to communities to determine appropriate plan policy.
- 2.) Subsections (4)-(6) above are easily adoptable as policies that incorporate these requirements in the text of the Coastal Management Element.

Subsections (1)-(3) can be implemented in many ways. At the minimum, language related to all of the six components must appear in the Coastal Management Element with slight tailoring to (1)-(3) to apply to the City of Marathon. As stated in DEO's break down, Subpolicies (4)-(6) can mimic the statutory language without much tailoring to comply with Florida law. The most thorough amendment would go beyond DEO's analysis and not only alter the Coastal Management Element, but also incorporate amendments throughout the entire Comprehensive Plan as appropriate. At this time, the City of Marathon does not require such an elaborate approach and can safely satisfy the statutory requirements by limiting changes to the Coastal Management Element.

Subsection (5), regarding Coastal Construction Control Lines, need not be addressed in the City of Marathon's Comprehensive Plan because no Control Line has been set for this area of Monroe County. Thus, Subsection (5) will not be addressed in this report. However, the recommended changes to the text of the City's Conservation & Coastal Element does mirror the the language in subsection (5) so that it exists in the event coastal construction control lines are established later on.

D. PURPOSE OF PROPOSED AMENDMENTS TO CITY OF MARATHON'S CONSERVATION & COASTAL ELEMENT

E.

- To bring the City of Marathon into compliance with Florida law, specifically the new statutory requirements codified in Section 163.3178(2)(f).
- To maintain the high-level direction-setting goals, objectives and policies of the City of Marathon's Comprehensive Plan while complying with the specific requirements set forth in §163.3178(2)(f)(1).
- In 2017, Hurricane Irma devastated the City of Marathon, causing tens of millions of dollars in damage. The requirements of the Peril of Flood statute, if implemented throughout the City's Comprehensive Plan and land development regulations and consistently enforced, could lessen the impact on real property and structures from flood-related natural disasters over time.

- The sixth criterion of §163.3178(2)(f) encourages communities to participate in the National Flood Insurance Program Community Rating System (CRS). While Marathon has participated in the program since incorporating in 1999, its current Community Rating is a 6. As a result, this community rating allows residents to currently save 20% on their flood insurance premiums. If the City is able to improve its CRS rating under the National Flood Insurance Program, property owners in Marathon could be eligible for even more savings on flood insurance – the maximum discount reaching up to 45% for communities that implement and enforce land development regulations that reduce flood risk. The highest score in the CRS is 1. Link to: FEMA publication FEMA B 575/2018; *National Flood Insurance Program, Community Rating System, A Local Official’s Guide to Saving Lives, Preventing Property Damage, and Reducing the Cost of Flood Insurance:* https://www.fema.gov/media-library-data/1535126505943-439b296e7778b037d05f698f65c7891b/2018NFIP_CRS_Brochure_June_2018_508OK.pdf

ANALYSIS

Natural Resources

The City of Marathon Comprehensive Plan places significant emphasis on the protection of its environmental resources while protecting the property rights of its citizens. The proposed amendment through the implementation of the existing and these modified Comprehensive Plan and Land Development Regulations has the potential to enhance the protection of natural resources through continued land acquisition and/or development of conservation easements, .

Historical and Cultural Resources

No Significant Impact would result from the proposed change.

Infrastructure

Implementation of the Perils of Flood Goals, Objectives, and Policies will lead to the review of the potential to enhance the protection of all of the City’s infrastructure. This will require review of potential threats to the City’s infrastructure, primarily from hurricanes and sea level rise, consider options, prioritize those options, and develop or seek the funding to implement infrastructure improvements.

Wastewater infrastructure

Implementation of the Perils of Flood Goals, Objectives, and Policies will lead to the review of the potential to enhance the protection of all of the City’s wastewater infrastructure. This will require review of potential threats to the City’s infrastructure, primarily from hurricanes and sea level rise, consider options, prioritize those options, and develop or seek the funding to implement infrastructure improvements.

Stormwater infrastructure

Implementation of the Perils of Flood Goals, Objectives, and Policies (GOPs) will lead to the review of the potential to enhance the protection of all of the City's stormwater infrastructure. This will require review of potential threats to the City's infrastructure, primarily from hurricanes and sea level rise, consider options, prioritize those options, and develop or seek the funding to implement infrastructure improvements.

Potable Water

The City will work with the Florida Keys Aqueduct Authority to insure that its infrastructure is well protected from the potential impacts of hurricanes and sea level rise through implementation of the modified GOPs proposed herein.

Solid Waste

No Significant Impact would result from the proposed change.

Transportation

The City will work with the Florida Department of Transportation and review the threats to its own streets to insure that its infrastructure is well protected from the potential impacts of hurricanes and sea level rise through implementation of the modified GOPs proposed herein.

Affordable Housing

No Significant Impact would result from the proposed change.

Hazard Mitigation

No Significant Impact would result from the proposed change.

Coastal High Hazard Areas

Implementation of the Perils of Flood revisions will have some, but limited, impact on the City's current enforcement of regulations regarding the Coastal High Hazard Areas (CHHAs as we already heavily regulate development in what are otherwise known as Category 1 surge zones or VE Zones.

Hurricane Evacuation

No Significant Impact would result from the proposed change. All transient residents would be required to evacuate within the first 24 hours of a 48 hour evacuation window. The City's (and County) obligation is to be prepared to evacuate its permanent population at 24 hours before the impacts of Tropical Storm Force Winds in the Keys.

As sea level rise begins to impact the Florida Keys, the City and County will be required to ensure that roads will not be inundated with tidal waters. This may require elevating collector roads and U.S. Highway 1.

Ports – Marina Siting

No Significant Impact would result from the proposed change.

Public Use – Access to Water

No Significant Impact would result from the proposed change.

Land Acquisition

The proposed amendment will utilize existing land acquisition mechanisms to further the purposes of providing green buffers and shoreline protection from the immediate impacts of high tides, storm surge, and approaching hurricanes..

Alternate Compliance Review Criteria

Since there are no internal Comprehensive Plan change review criteria available in Chapter 102, Article 6, those that would apply for an LDR text change request (Chapter 102, Article 7) are useful. The basis for the LDR text change criteria are the same as for a Comprehensive Plan change ultimately.

Section 102.26(B) of the Land Development Regulations requires that the following standards and criteria be considered for any proposed text amendment. Each criteria and explanation of relevance to this proposed amendment are listed below:

A. The need and justification for the change;

The University Of Florida Levin College Of Law Conservation Clinic in partnership with Florida land use and environmental attorney Byron Flagg have examined the City of Marathon's Comprehensive Plan for compliance with the Florida "Peril of Flood" statute. As a result, the reviewers recommend that the City of Marathon make minor amendments to its Comprehensive Plan to comply with recent legislative amendments to Section 163.3178(2)(f), Florida Statutes (commonly referred to as the "Peril of Flood" statute). The reviewers recommend minor additions to the City's Conservation and Coastal Element of its Comprehensive Plan to comply with Section 163.3178(2)(f), Florida Statutes. This report and attached draft ordinance (Exhibit B) constitute Deliverables 3.2 and 3.3 of Task 3 under the City's Grant # 1816 from the Florida DEP's Florida Coastal Office, Florida Resilient Coastlines Program.

This report briefly explains the Background & Legislative History of statutory changes to Section 163.3178(2)(f) and the new statutory requirements coastal local governments must now implement. This report also provides the recommended text changes that will bring the City's Comprehensive Plan into compliance and brief legal analysis for each change. The report

identifies which sections of the City's current Conservation and Coastal Element already satisfy the new statutory requirements and the report provides additional resources in "Exhibit 3.1" regarding resiliency planning, best practices, and FEMA guidelines for communities that participate in the National Flood Insurance Program's (NFIP) Community Rating System (CRS), as well as a draft ordinance as "Exhibit 3.2" implementing the recommended text changes to the City's Comprehensive Plan.

B. The consistency of the proposed amendment with the Comprehensive Plan; and

Statutory modifications to Section 163.3178(2)(f), Florida Statutes require that all Comprehensive Plans for coastal Counties include amendments in compliance with the statutory changes. The City has reviewed its Comprehensive Plan which largely meets the requirements of the Perils of Flood Statute, to create the minimum necessary changes while retaining complete internal consistency of all GOPs.

C. Whether the proposed change shall further the purposes of the LDRs and other City Codes, regulations and actions designed to implement the Comprehensive Plan.

The proposed text amendments furthers the purposes of the LDRs and other City Codes, regulations and actions designed to implement the Comprehensive Plan by providing the mechanism to carry out the requirements of the Perils of Flood Statute.

CONCLUSION:

The proposed Amendment is consistent with and furthers the goals of the City of Marathon Comprehensive Plan and Land Development Regulations.

RECOMMENDATION:

The Planning Commission reviewed the proposed Comprehensive Plan amendment on May 20, 2019 and recommends Approval in order to meet the minimum standards of the Perils of Flood requirements promulgated in Section 163.3178(2)(f), Florida Statutes. The Council heard this ordinance at the May 28, 2019 Council meeting where it was unanimously approved by the Council.

Sponsored By: Lindsey
Planning Commission Public Hearing Date: May 20, 2019
City Council Public Hearing Date: May 28, 2019
October 8, 2019
Enactment Date:

**CITY OF MARATHON, FLORIDA
ORDINANCE 2019-10**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING THE CITY'S COMPREHENSIVE PLAN TO MODIFY OR ADD TO ITS CONSERVATION AND COASTAL ELEMENT, GOALS OBJECTIVES, AND POLICIES TO COMPLY WITH FLORIDA STATUTE 163.3178(2)(F), "PERIL OF FLOOD;" INTENDING TO MODIFY, "PURPOSE;" GOAL 4-1, "CONSERVE, MANAGE, USE, AND PROTECT NATURAL AND ENVIRONMENTAL RESOURCES;" POLICY 4-1.3.3, "SURFACE WATER MANAGEMENT AND FLOOD DAMAGE PREVENTION;" AND OBJECTIVE 4-1.17, "MINIMUM COASTAL HAZARDS;" AND INTENDING TO ADD POLICIES TO INCLUDE POLICY 4-1.17.8, "STRATEGIES FOR RESPONDING TO SEA LEVEL RISE;" POLICY 4-1.17.9, "FLOOD-RESISTANT DEVELOPMENT REQUIREMENTS;" POLICY 4-1.17.10, "EXTREME WEATHER EVENT MITIGATION;" AND POLICY 4-1.17.11, "BEST PRACTICES AND MITIGATION STRATEGIES;" AND FINALLY, INTENDING TO MODIFY OBJECTIVE 4-1.22, "REDUCE EXPOSURE TO NATURAL HAZARDS;" POLICY 4-1.22.5, "MANAGE REDEVELOPMENT ACTIVITIES; AND POLICY 4-1.22.8, "REGULATE REDEVELOPMENT OF NON-CONFORMING STRUCTURES TO THE REQUIRED BASE FLOOD ELEVATION;" PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY AFTER FINAL ADOPTION BY THE CITY COUNCIL; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Marathon (the "City") has adopted a Comprehensive Plan which has been found to be in compliance by the State Department of Economic Opportunity ("DEO"), pursuant to Chapters 163 and 380, Florida Statutes; and

WHEREAS, Florida Senate Bill 1094, also known as the "Peril of Flood Act," was signed into law and became effective in 2015 as Section 163.3178(2)(f), Florida Statute; and

WHEREAS, the Peril of Flood Act requires each coastal local government to include a redevelopment component in the coastal management element of its comprehensive plan, and

WHEREAS, the Peril of Flood Act specifies six aspects of redevelopment that a coastal management element must address to reduce the risk of flood and encourage a local government's

participation in the FEMA Community Rating System; and

WHEREAS, the Peril of Flood Act included sea level rise as one of the causes of flood risk that must be addressed in the Coastal Management Element of a Comprehensive Plan; and

WHEREAS, the City desires to address the Peril of Flood requirements using the findings and recommendations from Bermello, Ajamil, and Partners and the University of Florida, Levin College of Law Conservation Clinic provided to the City as deliverables under Florida DEP’s Coastal Office “Resilient Coastlines Program Funding” Grant #1816; and

WHEREAS, this ordinance addresses the Peril of Flood requirements within the “Conservation and Coastal Element” of the City’s Comprehensive Plan; and

WHEREAS, the City Council finds it necessary, desirable, and proper to adopt the amendments to the Goals, Objectives and Policies of the Comprehensive Plan in order to reflect changing conditions, pursuant to Sections 163.3191 and 163.3178(2)(f) Florida Statute.; and

WHEREAS, this Ordinance, thus passed at its first reading, shall be transmitted to DEO and sister State Agencies for their coordinated Comprehensive Plan review so as to obtain and receive the DEO Objections, Recommendations, and Comments (ORC) prior to final adoption,

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

~~Strikethrough~~ = deletion **bold underline** = addition

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

SECTION 2. Amend the Comprehensive Plan, Chapter 4, Conservation and Coastal Element, “Purpose:”

PURPOSE

Pursuant to ~~Chapter~~ Sections 163.3177(6)(d)&(g), and 163.3178, F.S., the purpose of the Conservation and Coastal Element is to promote the conservation, use and protection of natural resources as well as to plan for, and where appropriate, restrict development and redevelopment activities where such activities would damage or destroy coastal resources, and protect human life and property ~~and~~ while limiting public expenditures in ~~areas~~ locations that are subject to destruction by natural disaster, high tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea level rise. The Conservation and Coastal Element also includes a redevelopment component that outlines the broad Goals, Objectives and Policy principles that must be used to eliminate inappropriate and unsafe development in the coastal areas when opportunities arise as mandated by Section 163.3178(2)(f), Florida Statutes.

SECTION 3. Amend the Comprehensive Plan, Chapter 4, Conservation and Coastal Element, to include Goal 4-1:

¹Additions to existing text are shown by underline/red print; deletions are shown as ~~strikethrough~~

GOAL 4-1 CONSERVE, MANAGE, USE AND PROTECT NATURAL AND ENVIRONMENTAL RESOURCES

It is the goal of the City to conserve, manage, use and protect the natural and environmental resources within the City to ensure continued resource availability and environmental quality and to manage development and redevelopment activities to protect coastal resources, protect human life and property and limit public expenditures in areas subject to destruction by natural disasters, flooding, and sea level rise. §163.3177(6)d.2, §163.3177(6)(g) F.S. & 163.3178(2)(f).

SECTION 4. Amend the Comprehensive Plan, Chapter 4, Conservation and Coastal Element, to include Policy 4-1.3.3:

Objective 4-1.3 Protect, Conserve, and Enhance Coastal Resources

The City shall protect, conserve and enhance coastal resources, wetlands, water resources, living marine resources, wildlife habitats and other natural resources and the environmental health of Florida Bay, the Atlantic Ocean and all surface and ground waters within its jurisdiction, in order to maintain the economic and social well being of its citizens. The City shall help ensure that the ambient water quality of near shore waters meets or exceeds State standards for Class II Outstanding Florida Waters. §163.3177(6)(d)2.; §163.3177(6)(g)1. And §163.3178(2)(e). F.S.

Policy 4-1.3.3 Surface Water Management and Flood Damage Prevention

The City shall continue to maintain surface water management and flood damage prevention regulations. New development and all redevelopment encroaching into the 100 year floodplain shall incorporate elevation and flood protection measures sufficient to protect against the 100 year flood. The City shall maintain consistency with program policies of the National Flood Insurance Program to ensure that it maintains the highest possible rating within the National Flood Insurance Program's Community Rating System. The City shall monitor and implement new cost effective ~~programs~~ development and redevelopment principles, strategies, and engineering solutions for minimizing flood damage resulting from high tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea level rise. Such ~~programs~~ principles, strategies, and engineering solutions may include modifications to construction setback requirements, ~~or~~ othersite design techniques, as well as upgraded building and construction techniques which include resilient construction techniques and increasing "Freeboard" elevation requirements.

SECTION 5. Amend the Comprehensive Plan, Chapter 4, Conservation and Coastal Element, to include Objective 4-1.13 and Policy 4-1.13.1:

Objective 4-1.13 Prioritize and Limit Shoreline Uses

The City shall prioritize shoreline uses to limit the specific and cumulative impacts of

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development and redevelopment, enhance coastal resources and ensure the continued economic viability of the City. §163.3177(6)(g), §163.3178(2)(f) F.S. and §163.3178(2)(g) F.S.

Policy 4-1.13.1 Shoreline Uses

The City shall continue to maintain Land Development Regulations to establish shoreline land use priorities. These regulations shall categorize water-dependent and water-related land uses, establish permitting criteria and use priorities. Priority shall be given to water dependent uses over water related. Water-dependent and water-related uses shall take priority over uses that are not water-dependent or -related. In conjunction with the development of these regulations, the City shall:

- a. Identify environmentally suitable waterfront areas, using the most up to date data on sea level rise, and recommend strategies for reserving such areas for water-dependent and water-related development sites consistent with estimated need;
- b. Analyze conflicts among existing shoreline uses and recommend strategies for reducing or eliminating such conflicts;
- c. Identify strategies for encouraging appropriate mixed use development that includes water-dependent and water-related uses and is compatible with existing land uses;
- d. Develop strategies to protect the waterfront sites exhibiting Keys Unique Character;
- e. Complete a survey of all other water-dependent uses; and
- f. Complete an inventory of public access points to the beach or shoreline through public and through private lands.

SECTION 6. Amend the Comprehensive Plan, Chapter 4, Conservation and Coastal Element, to include Objective 4-1.17 and adding Policies 4-1.17. 8 through 4-1.17.11:

Objective 4-1.17 Minimum Coastal Hazards

The City shall continue to maintain Land Development Regulations which regulate development and redevelopment activities in a manner that minimizes the danger to life and property occasioned by hurricane events, high tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea level rise. §163.3178(2)(f) & §163.3178(2)(h) F.S.

Policy 4-1.17.8 Strategies for Responding to Sea-level rise

The City will develop strategies for responding to sea-level rise, including consideration of the effects of sea-level rise on potable water sources, saltwater intrusion, septic systems, wastewater treatment facilities and associated systems, the water table, public infrastructure, redevelopment strategies, and affordable housing policies. The City's planning decisions shall consider and utilize the 1-Foot, 2-Foot, and 3-Foot Sea Level Rise planning horizon projections as established by the Southeast Florida Climate Change Compact's "Unified Seal Level Rise Projection" report published in October 2015. Those planning horizons are: 1) short term, by 2030, sea level is projected to rise 6 to 10 inches above 1992 mean sea level, 2) medium term, by 2060, sea level is projected to rise 14 to 34 inches above 1992 mean sea level, 3) long term, by 2100, sea level is projected to rise 31 to 81 inches above 1992 mean sea level.

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Policy 4-1.17.9 Flood-resistant Development Requirements

All development and redevelopment in the City will be consistent with or more stringent than the flood-resistant construction requirements in the Florida Building Code and applicable floodplain management regulations set forth in 44 C.F.R. part 60. All new development and redevelopment shall incorporate freeboard of at least three feet over minimum Base Flood Elevation as depicted on current FEMA Flood Insurance Rate Maps. The City shall develop and adopt regulations in its Land Development Code to implement this requirement.

Policy 4-1.17.10 Extreme Weather Event Mitigation

The City shall document and maintain maps depicting the extent of flood inundation from extreme high tides (“king tides”), more frequent severe rainfall events, and newly revealed areas at risk of flooding to efficiently target mitigation efforts.

Policy 4-1.17.11 Best Practices and Mitigation Strategies

The City shall utilize best practices and initiate mitigation strategies to reduce the flood risk in coastal areas that result from high tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea level rise by incorporating into its land development regulations where practical and economically feasible, resilient construction technique requirements, promotion of living shorelines, protection of coastal marsh and mangroves, and use of innovative natural material breakwaters to reduce wave energy.

SECTION 7. Amend the Comprehensive Plan, Chapter 4, Conservation and Coastal Element, to include Objective 4-1.22, Policy 4-1.22.5 and Policy 4-1.22.8:

Objective 4-1.22 Reduce Exposure to Natural Hazards

The City shall reduce or eliminate exposure of human life and public and private property to natural hazards resulting from high-tide events, storm surge, flash floods, nuisance flooding, stormwater runoff, and the related impacts of sea-level rise, through establishment and update of a Post Disaster Redevelopment Plan. In addition, the City shall develop local plan components including policies for managing recovery operations through a Recovery Task Force. §163.3178(2)(f) F.S.

Policy 4-1.22.5 Manage Redevelopment Activities

The City shall manage unanticipated future redevelopment activities necessitated by hurricane events, high-tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea-level rise or other natural disasters through this Plan, the adopted Land Development Regulations and the City Master Plan. Redevelopment in the City will be consistent with or more stringent than the flood-resistant construction requirements in the Florida Building Code and applicable floodplain management regulations set forth in 44 C.F.R. part 60. Furthermore, in the event that coastal construction control lines become established within the City’s jurisdiction pursuant to Section 161.053, F.S., all construction activities seaward of established coastal construction control lines shall be consistent with Chapter 161, Florida Statutes.

¹Additions to existing text are shown by underline/red print; deletions are shown as ~~strikethrough~~

Policy 4-1.22.8 Regulate Redevelopment of Non-Conforming Structures ~~Non-Conforming~~ to the Required Base Flood Elevation

If an existing structure which is non-conforming to the required base flood elevation is substantially damaged (based on the definition in Chapter 161, F.S.) or abandoned, it shall be rebuilt ~~only to the extent that complies with the current Flood Plain Management standards for the affected property.~~ to add freeboard at least three feet over minimum Base Flood Elevation as depicted on current FEMA Flood Insurance Rate Maps. The City shall develop and adopt regulations in its Land Development Code to implement this requirement.

SECTION 8. 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 9. The provisions of this Ordinance constitute a “Comprehensive Plan amendment” as defined by State law. Accordingly, the City Clerk is authorized to forward a copy of this Ordinance to the DCA and other state agencies for review and approval pursuant to Sections 380.05(6) and (11), Florida Statutes.

SECTION 10. This Ordinance shall be effective immediately upon approval by Department of Economic Opportunity pursuant to Chapters 163 and 380, Florida Statutes.

ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 8TH DAY OF OCTOBER, 2019.

THE CITY OF MARATHON, FLORIDA

John Bartus, Mayor

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

¹Additions to existing text are shown by underline/red print; deletions are shown as ~~strikethrough~~

ATTEST:

Diane Clavier, City Clerk

(City Seal)

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

David Migut, City Attorney