

## COUNCIL AGENDA STATEMENT



**Meeting Date:** November 12, 2019  
**To:** Honorable Mayor and Council Members  
**From:** George Garrett, Planning Director  
**Through:** Chuck Lindsey, City Manager

**Agenda Item:** **Ordinance 2019-11**, Amending The City Of Marathon, Florida's Comprehensive Plan, Modifying Chapter one, "Future Land Use," Table 1-1, "Future Land Use Densities and Intensities," To Allow Transient Rights That Hold No Monetary Value To Be Allowed In An RV Park That Also Allows Permanent Code Compliant Residences; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity; And Providing For An Effective Date.

### **RECOMMENDATION:**

The City of Marathon Planning Department staff recommend approval WITH SUGGESTED REVISIONS of this proposed amendment to the City of Marathon Comprehensive Plan. In review, at a properly noticed public hearing, the City of Marathon Planning Commission approved adoption of the staff's recommendation with Planning Commission modifications, moving the Ordinance forward to the City Council for potential adoption. The Planning Commission vote was unanimous (4/0 with one absence).

**APPLICANT:** Trailer Ranch By The Sea / Bob Young, Association President

**REQUEST:** Amend City of Marathon Comprehensive Plan by amending Chapter One, "Future Land Use," Table 1-1, "Future Land Use Densities and Intensities," allowing RVs to utilize Permanent RV Sites, with Conditions.

### **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 proposed Comprehensive Plan Amendment is intended to allow fully operable RVs to utilize properties or RV/Mobile Home Park spaces that were previously occupied by “Permanent RVs” as identified elsewhere in the Comprehensive Plan, Policy 1-3.2.8. Permanent RVs are identified as “Market Rate” building rights which are retained on site as “Market Rate” units if rebuilt and transfer as Transferable Building Rights (TBRs) as Affordable Building Rights. The intent of the proposed amendment is to allow Permanent RVs (as structures) to be demolished and to allow RVs, under RV regulations, to occupy the site. If a Permanent RV property or site is ever re-built, the reconstructed units would be required to meet the Florida Building Code and would be designated as a Market Rate residential unit. While being used as an RV site, the Site would NOT be assumed to have a Transient Residential Unit (TRU) development right and COULD NOT be transferred to another site as a TRU.

City Planning staff believes that the proposed Amendment to the Comprehensive Plan generally “hits the mark” and can be supported by the City and can meet the Goals, Objectives, and Policies of the Comprehensive Plan and the regulations for the Land Development Regulations (LDRs). The proposed amendment does need some “word smithing” in order to have staff support. Those considerations are provided below in the analysis section.

## **ANALYSIS**

### Natural Resources

No Significant Impact would result from the proposed change.

### Historical and Cultural Resources

No Significant Impact would result from the proposed change.

### Infrastructure

No Significant Impact would result from the proposed change.

### Wastewater infrastructure

No Significant Impact would result from the proposed change.

### Stormwater infrastructure

No Significant Impact would result from the proposed change.

### Potable Water

No Significant Impact would result from the proposed change.

### Solid Waste

No Significant Impact would result from the proposed change.

Transportation

No Significant Impact would result from the proposed change.

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

No Significant Impact would result from the proposed change.

Hurricane Evacuation

No Significant Impact would result from the proposed change. All Early Evacuation units (tenants) 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 at 24 hours before the impacts of Tropical Storm Force Winds in the Keys.

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

No Significant Impact would result from the proposed change.

**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;**

There may be no absolute need for this amendment, but Permanent RVs are recognized as affordable housing within the City of Marathon (See quoted sections of the Comprehensive Plan referenced below). Many of these units are nearly or entirely paid for and are generally not insurable. Many of the owners of these units are seasonal residents living on fixed incomes. Others are renters, equally living on limited incomes. Thus, the suggested amendment does continue the existing Permanent RV properties and sites as affordable.

The important thing to note in the proposed amendment and the revisions suggested by staff, though operable Road Ready RVs would be allowed to occupy Permanent RV sites, the property or site itself would only retain its Market Rate residential units status for the sake of a “Determination of Building Rights” and could not be transferred as a Transient Residential Unit.

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

Permanent RVs are recognized in the City’s Comprehensive Plan and LDRs. They are allowed to continue under our Ordinances. Equally, operable Road Ready RVs are allowed in the Residential High Future Land Use category. Thus, the proposed amendment is simply “marrying” the two concepts while insuring that a Permanent RV property or site Development Right shall not transfer to another property as a Transient Residential Unit.

With modifications to the proposed Ordinance noted immediately below, the Ordinance meets the Goals, Objectives and Policies of the City of Marathon Comprehensive Plan (see **Bold Type underlined** below). A number sequential Objectives and Policies are reproduced in order to allow a full review of the importance of Permanent RVs to the City’s Comprehensive Plan. Most notably, Permanent RVs may be maintained with the ultimate goal that they be replaced with Florida Building Code compliant residential structures. This Ordinance provides an interim or even long term alternative for the elimination of these Permanent RV residents.

Citations from the City of Marathon Comprehensive Plan

**Objective 1-3.2 Regulate Density and Intensity**

*The City shall direct and regulate density and intensity to maintain the character of the community, protect the natural resources and provide for the compatible distribution of land uses. §163.3177(6)(a)3, 4 and 9. F.S.*

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**Policy 1-3.2.8 Permanent RVs**

**Permanent RVs** are recreational vehicles that, as of the effective date of the Plan, meet all of the following criteria:

- a. have been tied down or otherwise affixed to the property on which they are located, and
- b. have permanent attachments such as carports, porches, screened rooms, or similar improvements, and
- c. are continuously occupied for more than six months and are being used as a permanent dwelling unit,
- d. are no longer capable of traveling on the public roadways of the state, and
- e. no new additions shall be added to a permanent RV.

At such time as the City establishes a Transfer of Building Rights (TBR) process, the building right for a permanent RV may be transferred to an approved site by the owner of the property on which the TBR is located and the TBR shall be considered and deed restricted as an affordable dwelling unit.

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**TABLE 1-1  
Future Land Use Densities and Intensities\***

Future Land Use Category	Permitted Residential Density (Units per acre)			Hotel/Motel/RV Spaces (Units per acre)	Maximum Intensity (floor area ratio)	Minimum Open Space Ratio
	Market Rate	Affordable	Licensed Mobile Home or RV Parks			
Airport (AD)	0		0	N/A	0.15 - 0.50	0.2
Conservation (C)	0.1- 0.25	0.1- 0.25	0	N/A	0.05 - 0.10	0.5
Industrial (I)	0	5-10	0	N/A	0.85	0.2
Mixed Use Commercial (MUC)	2 – 6	10 – 15	10-25	5 - 25	0.15 - 0.60 <sup>4</sup>	0.2
Public Uses (PU)	0	15-25	0	3 – 25	0.15 - 0.75	0.2
Recreation (R)	0.25	0.25	0	5 – 15	0.15 - 0.50	0.2
Residential High (RH) <sup>2</sup>	8	15 - 25	15-25	0	0	0.2
Residential Medium (RM)	5	10	0	0	0	0.2
Residential Low (RL)	0.5	0.5	0	0	0	0.5

Note:

1. See Objective 1-3.9 and subsequent policies.
2. The allocated and maximum net densities for submerged lands shall be 0.
3. For properties consisting of hammocks or disturbed wetlands within the Mixed Use Commercial future land use categories, the floor area ratio shall be 0.10 and the maximum net residential density shall be 0.
4. Open space shall be increased based upon the requirement for a habitat evaluation and shall conform to Table 4-1 of the Coastal and Conservation Element.
5. The FAR in Mixed Use developments may be increased to .75 if mitigated by the development of affordable/workforce housing is provided.
6. Residential Densities found in this Table are subject to the provisions of Policy 1-3.5.16
7. **This Footnote applies ONLY to properties and/or developed RV or Mobile Home sites which have been or would be recognized as having a Permanent RV structure, as defined in Policy 1-3.2.8, which are located in the Residential High Land Use Category. Operable Road Ready RVs may be placed on the site of a Permanent RV once the Permanent RV structure is demolished and ONLY if it is determined that the property or site has retained its Transferable Building Right and the Right hasn't been previously transferred to another location within the City. Otherwise, said Permanent RV properties or sites will retain their Market Residential Building Right or allocation. Said Market Rate Building Rights may be retained on-site as Market Rate residential units with the redevelopment of a Florida Building Code compliant residential structure. If the Development Right is transferred, it shall only be transferred as an Affordable Building Right. Though an operable Road Ready RV may utilize Permanent RV properties or sites, it shall not be assumed that the site has a Transient Residential Unit which can be transferred as such.**

\*All development and redevelopment shall comply with this Plan and the Land Development regulations



**Objective 1-3.3 Encourage Redevelopment**

*The City shall evaluate potential redevelopment areas and prepare redevelopment plans or Land Development Regulations for areas determined to be in need of redevelopment. §163.3177(6)(a)3, 4 and 9 and §163.330 F.S.*

**Policy 1-3.3.1 General Redevelopment Criteria**

The City shall investigate commonly used planning strategies and identify available funding sources to address the revitalization of areas in need of redevelopment. The City shall strive to utilize the most appropriate and creative mechanisms available to address such issues. Additionally, the City shall analyze existing development patterns, property values, structural conditions, renter/owner ratios, commercial vacancy rates, and other indicators of economic vitality and physical living conditions as part of the preparation of redevelopment plans or Land Development Regulations. Such redevelopment plans or Land Development Regulations shall:

- a. Prevent negative impacts on the fragile coastal ecosystem by directing development away from environmentally sensitive lands and critical habitat;
- b. Revitalize existing commercial areas;
- c. Promote safe and efficient vehicular, bicycle, and pedestrian movement;
- d. Prevent or minimize the City's cost to provide infrastructure;
- e. Mitigate incompatible commercial activity where commercial activity is adjacent to established residential neighborhoods;
- f. Enhance the unique character of the City's commercial land uses through incentives for bufferyards and landscaping; and
- g. Facilitate within the City, the creation of aesthetically pleasing commercial spaces outdoors, as places for social leisure and interaction, while limiting light industrial uses, outdoor storage and sales as a primary use of land, and outdoor retail sales as an accessory use of land; and
- h. Provide for affordable/workforce housing.

**Policy 1-3.3.2 Removal of Hazard Structures**

The City shall ensure that its code compliance process identifies and requires removal or rehabilitation of structures that are a hazard to the public health, safety and welfare.

**Policy 1-3.3.3 Encourage Redevelopment of Aging Mobile Homes and Permanent RVs**

The City shall continue to maintain Land Development Regulations that provide incentives and encourage the redevelopment of lawfully established mobile home and permanent RV parks. However, the City recognizes that existing mobile homes and permanent RVs in lawfully established mobile home and RV parks provide a critical source of affordable/workforce housing in the City. Accordingly, the redevelopment of lawfully established mobile home and RV parks shall incorporate development techniques which integrate the maintenance and promotion of affordable/workforce housing as part of the redevelopment project.

**Policy 1-3.3.4 Encourage Redevelopment of Tourist/Resort/Campground Facilities**

The City shall continue to maintain Land Development Regulations that provide incentives and encourage the redevelopment of existing resort and tourist facilities in the City. These Regulations shall include, but not be limited to:

- a. Mandatory hurricane evacuation.
  - i. **All operable Recreational Vehicles (RVs) shall be “Road Ready. Road Ready means that such units shall be fully licensed, shall have wheels on, be on an internal jacking system. And only be affixed to the site by quick disconnect-type utilities commonly utilized in campgrounds and trailer parks and shall not have any permanent attachments such as Florida rooms or porches.**
  - ii. **In the event of a mandatory evacuation, all RVs shall be removed from their location and evacuate as required under a Monroe County and City of Marathon emergency declaration whether or not the RV is being used as a dwelling at the time of the emergency declaration. If the RV is not removed, the owner of the property or RV/Mobile Home site will be subject to a potential fine of \$250.00 per day by the City of Marathon, from the day after the evacuation order is given through the day that RVs are allowed to return to the City.**
- b. Provision of on-site/off-site employee housing
- c. Transportation
- d. Services/Amenities
- e. Protection of habitat
- f. Establish a motel/hotel/campground equivalency ratio
- g. Ensure compliance with 2010 wastewater standards
- h. Ensure that transient units remain transient through various mechanisms such as:
  - 1. Use of Development Agreements
  - 2. Deed restrictions prohibiting the use of Homestead Exemptions;
  - 3. Provision of a lobby/front desk; or
  - 4. Limiting the tenancy of each unit.

**Objective 1-3.4 Protect Established Uses, Densities, and Intensities**

*The City shall recognize and protect lawfully established uses, lawfully established transient, non-transient, and permanent RV residential densities and intensities within the City and shall encourage the rehabilitation and maintenance of all residential and non-residential structures within the community. §163.3177(6)(a)9. F.S.*

**Policy 1-3.4.1 Protect Established Residential Densities**

Notwithstanding Table 1-1, herein all lawfully established transient, non-transient, or permanent RV residential dwelling units in existence in 1996 shall be entitled to a density of one dwelling unit as follows: a transient dwelling unit, such as a campground space, recreational vehicle space or a motel/hotel unit, shall only be entitled to redevelop as a transient dwelling unit and a non-transient dwelling unit or **permanent RV** shall be entitled to redevelop as a non-transient dwelling unit. If any such residential dwelling unit is a legal nonconformity as a condition of redevelopment the developer/property owner shall:

- a. bring their property into compliance with the Plan and Land Development Regulations; or
- b. if it is physically impossible to bring the site into compliance with the Plan and Land Development Regulations due to the size of the site and physical layout of the structure, the site shall be brought into compliance to the maximum extent practical but at a minimum the site shall meet a fifteen percent open space ratio, and all applicable FEMA/floodplain, wastewater, and stormwater requirements, however the size of the structure shall not be increased unless it complies with all of the provision of this Plan and the Land Development Regulations.

The reestablishment of any such transient, non-transient, or permanent RV dwelling unit shall not adversely impact the existing inventory of affordable/workforce housing in the City, by decreasing the number of affordable housing units within the City. Any new parks must comply with density standards established in Table 1-1.

**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 preserve Permanent RV sites, while demolishing Permanent RV structures, until permanent Market Rate and Florida Building Code compliant structures are built on these properties or sites.

**CONCLUSION:**

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

**RECOMMENDATION:**

The City of Marathon Planning Department staff recommend approval WITH SUGGESTED REVISIONS of the proposed amendment to the City of Marathon Comprehensive Plan. In addition, the Planning Commission recommended and unanimous approved their own revisions which would extend this Ordinance to include Permanent RVs that exist within the Mixed Use Commercial Future Land Use Map category. In review, ay a properly noticed public hearing, the City of Marathon Planning Commission approved adoption of the staff's recommendation moving their language forward to the City Council for potential adoption. Their vote was unanimous (4/0 with one absence).

The Planning Staff recommended approval of the proposed amendment to the Comprehensive Plan as follows:

1. Amend Table 1-1 as follows (bold and underlined verbiage):

**TABLE 1-1  
Future Land Use Densities and Intensities\***

Future Land Use Category	Permitted Residential Density (Units per acre)			Hotel/Motel/RV Spaces (Units per acre)	Maximum Intensity (floor area ratio)	Minimum Open Space Ratio
	Market Rate	Affordable	Licensed Mobile Home or RV Parks			
Airport (AD)	0		0	N/A	0.15 - 0.50	0.2
Conservation (C)	0.1- 0.25	0.1- 0.25	0	N/A	0.05 - 0.10	0.5
Industrial (I)	0	5-10	0	N/A	0.85	0.2
Mixed Use Commercial (MUC)	2 – 6	10 – 15	10-25	5 - 25	0.15 - 0.60 <sup>4</sup>	0.2
Public Uses (PU)	0	15-25	0	3 – 25	0.15 - 0.75	0.2
Recreation (R)	0.25	0.25	0	5 – 15	0.15 - 0.50	0.2
Residential High (RH) <sup>2</sup>	8	15 - 25	15-25	0	0	0.2
Residential Medium (RM)	5	10	0	0	0	0.2
Residential Low (RL)	0.5	0.5	0	0	0	0.5

Note:

1. See Objective 1-3.9 and subsequent policies.
2. The allocated and maximum net densities for submerged lands shall be 0.
3. For properties consisting of hammocks or disturbed wetlands within the Mixed Use Commercial future land use categories, the floor area ratio shall be 0.10 and the maximum net residential density shall be 0.
4. Open space shall be increased based upon the requirement for a habitat evaluation and shall conform to Table 4-1 of the Coastal and Conservation Element.
5. The FAR in Mixed Use developments may be increased to .75 if mitigated by the development of affordable/workforce housing is provided.
6. Residential Densities found in this Table are subject to the provisions of Policy 1-3.5.16
7. **This Footnote applies ONLY to properties and/or developed RV or Mobile Home sites which have been or would be recognized as having a Permanent RV structure, as defined in Policy 1-3.2.8 which are located in the Residential High or Mixed Use Commercial Land Use Categories, Operable Road Ready RVs may be placed on the site of a Permanent RV once the Permanent RV structure is demolished and ONLY if it is determined that the property or site has retained its Transferable Building Right and the Right hasn't been previously transferred to another location within the City. Otherwise, said Permanent RV properties or sites will retain their Market Residential Building Right or allocation. Said Market Rate Building Rights may be retained on-site as Market Rate residential units with the redevelopment of a Florida Building Code compliant residential structure. If the Development Right is transferred, it shall only be transferred as an Affordable Building Right. Though an operable Road Ready RV may utilize Permanent RV properties or sites, it shall not be assumed that the site has a Transient Residential Unit which can be transferred as such.**

\*All development and redevelopment shall comply with this Plan and the Land Development regulations

2. Amend Policy 1-3.3.4 as follows(bold and underlined verbiage):

Policy 1-3.3.4 Encourage Redevelopment of Tourist/Resort/Campground Facilities

The City shall continue to maintain Land Development Regulations that provide incentives and encourage the redevelopment of existing resort and tourist facilities in the City. These Regulations shall include, but not be limited to:

- a. Mandatory hurricane evacuation.
  1. **All operable Recreational Vehicles (RVs) shall be “Road Ready. Road Ready means that such units shall be fully licensed, shall have wheels on, be on an internal jacking system. And only be affixed to the site by quick disconnect-type utilities commonly utilized in campgrounds and trailer parks and shall not have any permanent attachments such as Florida rooms or porches.**
  2. **ii. In the event of a mandatory evacuation, all RVs shall be removed from their location and evacuate as required under a Monroe County and City of Marathon emergency declaration whether or not the RV is being used as a dwelling at the time of the emergency declaration. If the RV is not removed, the owner of the property or RV/Mobile Home site will be subject to a potential fine of \$250.00 per day by the City of Marathon, from the day after the evacuation order is given through the day that RVs are allowed to return to the City.**
- b. Provision of on-site/off-site employee housing
- c. Transportation
- d. Services/Amenities
- e. Protection of habitat
- f. Establish a motel/hotel/campground equivalency ratio
- g. Ensure compliance with 2010 wastewater standards
- h. Ensure that transient units remain transient through various mechanisms such as:
  1. Use of Development Agreements
  2. Deed restrictions prohibiting the use of Homestead Exemptions;
  3. Provision of a lobby/front desk; or
  4. Limiting the tenancy of each unit.

**Sponsored By:** Lindsey  
**Planning Commission Public Hearing Date:** October 21, 2019  
**City Council Public Hearing Date:** November 12, 2019  
tbd  
**Enactment Date:** tbd

**CITY OF MARATHON, FLORIDA  
ORDINANCE 2019-11**

**AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING THE CITY'S COMPREHENSIVE PLAN; MODIFYING CHAPTER ONE, "FUTURE LAND USE," TABLE 1-1, "FUTURE LAND USE DENSITIES AND INTENSITIES," TO ALLOW TRANSIENT RIGHTS THAT HOLD NO MONETARY VALUE TO BE ALLOWED IN AN RV PARK THAT ALSO ALLOWS PERMANENT CODE COMPLIANT RESIDENCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY; 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**, there may be no absolute need for this amendment, but Permanent RVs are recognized as affordable housing within the City of Marathon. Many of these units are nearly or entirely paid for and are generally not insurable. Many of the owners of these units are seasonal residents living on fixed incomes. Others are renters, equally, living on limited incomes. Thus, the suggested amendment does continue the existing Permanent RV properties and sites as affordable; and

**WHEREAS**, the important thing to note in the proposed amendment and the revisions suggested by staff and the Planning Commission, is that the location of the Permanent RV property or site would retain its Market Rate residential unit status for the sake of a "Determination of Building Rights" and Transferable Building Right could not be transferred as a Transient Residential Unit, and

**WHEREAS**, a number of Objectives and Policies allow a full review of the importance of Permanent RVs to the City's Comprehensive Plan. Most notably, Permanent RVs may be maintained with the ultimate goal that they be replaced with Florida Building Code compliant residential structures. This Ordinance provides an interim or even long term alternative for the elimination of these Permanent RV residents; and

**WHEREAS**, the Ordinance meets the Goals, Objectives and Policies of the City of Marathon Comprehensive; 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 1, “Future Land Use Element,” Table 1-1 as follows:

<b>TABLE 1-1 Future Land Use Densities and Intensities*</b>						
<b>Future Land Use Category</b>	<b>Permitted Residential Density (Units per acre)</b>			<b>Hotel/Motel/RV Spaces (Units per acre)</b>	<b>Maximum Intensity (floor area ratio)</b>	<b>Minimum Open Space Ratio</b>
	<b>Market Rate</b>	<b>Affordable</b>	<b>Licensed Mobile Home or RV Parks</b>			
Airport (AD)	0		0	N/A	0.15 - 0.50	0.2
Conservation (C)	0.1- 0.25	0.1- 0.25	0	N/A	0.05 - 0.10	0.5
Industrial (I)	0	5-10	0	N/A	0.85	0.2
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Recreation (R)	0.25	0.25	0	5 – 15	0.15 - 0.50	0.2
Residential High (RH) <sup>Z</sup>	8	15 - 25	15-25	0	0	0.2
Residential Medium (RM)	5	10	0	0	0	0.2
Residential Low (RL)	0.5	0.5	0	0	0	0.5
Note:						
1. See Objective 1-3.9 and subsequent policies.						

<sup>4</sup>Additions to existing text are shown by underline/red print; deletions are shown as ~~strikethrough~~

**TABLE 1-1  
Future Land Use Densities and Intensities\***

Future Land Use Category	Permitted Residential Density (Units per acre)	Hotel/Motel/RV Spaces (Units per acre)	Maximum Intensity (floor area ratio)	Minimum Open Space Ratio
<p>2. The allocated and maximum net densities for submerged lands shall be 0.</p> <p>3. For properties consisting of hammocks or disturbed wetlands within the Mixed Use Commercial future land use categories, the floor area ratio shall be 0.10 and the maximum net residential density shall be 0.</p> <p>4. Open space shall be increased based upon the requirement for a habitat evaluation and shall conform to Table 4-1 of the Coastal and Conservation Element.</p> <p>5. The FAR in Mixed Use developments may be increased to .75 if mitigated by the development of affordable/workforce housing is provided.</p> <p>6. Residential Densities found in this Table are subject to the provisions of Policy 1-3.5.16</p> <p>7. <b><u>This Footnote applies ONLY to properties and/or developed RV or Mobile Home sites which have been or would be recognized as having a Permanent RV structure, as defined in Policy 1-3.2.8 which are located in the Residential High or Mixed Use Commercial Land Use Categories. Operable Road Ready RVs may be placed on the site of a Permanent RV once the Permanent RV structure is demolished and ONLY if it is determined that the property or site has retained its Transferable Building Right and the Right hasn't been previously transferred to another location within the City. Otherwise, said Permanent RV properties or sites will retain their Market Residential Building Right or allocation. Said Market Rate Building Rights may be retained on-site as Market Rate residential units with the redevelopment of a Florida Building Code compliant residential structure. If the Development Right is transferred, it shall only be transferred as an Affordable Building Right. Though an operable Road Ready RV may utilize Permanent RV properties or sites, it shall not be assumed that the site has a Transient Residential Unit which can be transferred as such.</u></b></p>				
<p>*All development and redevelopment shall comply with this Plan and the Land Development Regulations</p>				

**SECTION 3.** Amend the Comprehensive Plan, Chapter 1, “Future Land Use Element,” Policy 1-3.3.4, “Encourage Redevelopment of Tourist/Resort/Campground Facilities” to read as follows:

**Policy 1-3.3.4 Encourage Redevelopment of Tourist/Resort/Campground Facilities**

The City shall continue to maintain Land Development Regulations that provide incentives and encourage the redevelopment of existing resort and tourist facilities in the City. These Regulations shall include, but not be limited to:

- a. Mandatory hurricane evacuation.
  - 1. **All operable Recreational Vehicles (RVs) shall be “Road Ready. Road Ready means that such units shall be fully licensed, shall have wheels on, be on an internal jacking system. And only be affixed to the site by quick disconnect-type utilities commonly**

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



utilized in campgrounds and trailer parks and shall not have any permanent attachments such as Florida rooms or porches.

2. ii. In the event of a mandatory evacuation, all RVs shall be removed from their location and evacuate as required under a Monroe County and City of Marathon emergency declaration whether or not the RV is being used as a dwelling at the time of the emergency declaration. If the RV is not removed, the owner of the property or RV/Mobile Home site will be subject to a potential fine of \$250.00 per day by the City of Marathon, from the day after the evacuation order is given through the day that RVs are allowed to return to the City.

- b. Provision of on-site/off-site employee housing
- c. Transportation
- d. Services/Amenities
- e. Protection of habitat
- f. Establish a motel/hotel/campground equivalency ratio
- g. Ensure compliance with 2010 wastewater standards
- h. Ensure that transient units remain transient through various mechanisms such as:
  - 1. Use of Development Agreements
  - 2. Deed restrictions prohibiting the use of Homestead Exemptions;
  - 3. Provision of a lobby/front desk; or
  - 4. Limiting the tenancy of each unit.

**SECTION 4.** 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 5.** 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 6.** 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 \_\_ DAY OF \_\_\_\_\_, 2020.**

**THE CITY OF MARATHON, FLORIDA**

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**Mayor Steven Cook**

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

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

**ATTEST:**

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Diane Clavier, City Clerk

(City Seal)

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

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David Migut, City Attorney

Sponsored By: George Garret, Planning Director

Planning Commission Public Hearing Date: XXX

City Council Public Hearing Dates: XXX

Enactment Date: XXX

**CITY OF MARATHON, FLORIDA**

**ORDINANCE 2019-xx**

**AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA,**

**AMENDING THE CITY OF MARATHON'S COMPREHENSIVE PLAN MODIFYING CHAPTER ONE, "FUTURE LAND USE," TABLE 1-1, FUTURE LAND USE DENSITIES AND INTENSITIES," TO ALLOW TRANSIENT RIGHTS THAT HOLD NO MONITARY VALUE TO BE ALLOWED IN AN RV PARK THAT ALSO ALLOW PERMANENT CODE COMPLIANT RESIDENCES; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINACE 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.**

**WHEREAS**, the Local Government Comprehensive Planning and Land Development Regulation Act, Chapter 163, Florida Statutes; provides for comprehensive plan implementation through the enactment of certain ordinances; and

**WHEREAS**, the City of Marathon is located within an Area of Critical State Concern (ACSC), pursuant to Section 380.05 and 380.0552, Florida Statutes, hereinafter referred to "Keys ACSCs"; and

**WHEREAS**, Keys' Local Governments have adopted state-mandated Comprehensive Plans and Land Development Regulations pursuant to both Chapters 163 and 380.055, Florida Statutes, which have been approved by the State, as required by law, and

**WHEREAS**, pursuant to the provisions of Chapters 163, 166 and 380 Florida Statutes, the City of Marathon, Florida (the "City") proposes to amend Chapter 1, "Future Land Use element," of the Comprehensive Plan; and

**WHEREAS**, the purpose of the proposed Ordinance is to allow a state recognized RV park the ability to allow their owners the ability to use their plot as a transient unit or permanent residence. Transient units will not be sellable and all permanent residences must meet all Florida Building Code regulations.

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

~~Strikethrough~~ = deletion

**bold underline** = addition

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

**SECTION 2.** Amend the Comprehensive Plan, Chapter 1, Table 1-1 to read as follows:

TABLE 1-1 Future Land Use Densities and Intensities*				
Future Land Use Category	Permitted Residential Density (units per acre)	Hotel/Motel/RV Spaces (units per acre)	Maximum Intensity (floor area ratio)	Minimum Open Space Ratio
<p>Note:</p> <ol style="list-style-type: none"> <li>1. See Objective 1-3.9 and subsequent policies</li> <li>2. The allocated and maximum net densities for submerged lands shall be 0.</li> <li>3. For properties consisting of hammocks or disturbed wetlands within the Mixed Use Commercial future land use categories, the floor area ration shall be 0.10 and the maximum net residential density shall be 0.</li> <li>4. Open space shall be increased based upon the requirements for a habitat evaluation and shall confirm to Table 4-1 of the Coastal and Conservation Element.</li> <li>5. The FAR in Mixed Use developments may be increased to .75 if mitigated by the development of affordable/workforce housing is provided.</li> <li>6. Residential Densities found in this Table are subject to the provisions of Policy 1-3.5.16.</li> <li>7. <b><u>For properties recognized as RV parks located in Residential High Land Use Category, an agreed upon portion of those RV units may be treated as Transient Units that conform with Policy 1-3.3.4. These Transient Rights cannot be sold and transferred out of the RV park.</u></b></li> </ol>				

**SECTION 3.** Amend the Comprehensive Plan, Chapter 1, Policy 1-3.3.4 to read as follows:

**Policy 1-3.3.4 Encourage Redevelopment of Tourist/Resort/Campground Facilities**

The City shall continue to maintain Land Development Regulations that provide incentives and encourage the redevelopment of existing resort and tourist facilities in the City. These Regulations shall include, but not be limited to:

- a. Mandatory hurricane evacuation;
  1. **All Recreational Vehicles must be “Road Ready”. Road Ready, means that such units will be fully licensed, will have wheels on, be on internal jacking system, and only be affixed to the site by quick disconnect-type utilities commonly utilized in campgrounds and trailer parks, and shall have no permanent attachments such as Florida rooms or porches.**
  2. **In the event of a mandatory evacuation, all Recreational Vehicles must be removed from the Park and evacuate as required under the County’s emergency declaration whether or not they are currently being used as a dwelling. If the RV is not removed the owner of the lot and/or RV will be fined \$250.00 per day by the City of Marathon, from the day after the evacuation order is given to the day that RV’s are allowed to return.**
- b. Provisions of on-site/off-site employee housing
- c. Transportation
- d. Services/Amenities
- e. Protection of habitat
- f. Establish a motel/hotel/campground equivalency ration
- g. Ensure compliance with 201 wastewater standards
- h. Ensure that transient units remain transient through various mechanisms such as:
  1. Use of Development Agreements
  2. Deed restrictions prohibiting the use of Homestead Exemptions;
  3. Provisions of a lobby/front desk; or
  4. Limiting the tenancy of each unit.

**SECTION 4.** The Provisions of the Code of Ordinances, City of Marathon, Florida and all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

**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, by the shall remain in effect it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**SECTION 6.** It is the intention of the City Council and it is hereby ordained the provisions of this Ordinance shall become and be made part of the Marathon Comprehensive Plans, that sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be changes to "Section" or other appropriate word.

**SECTION 7.** The provisions of this Ordinance constitutes a "land development regulations" 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 Economic Opportunity for approval pursuant to Section 380.05(6) and (11), Florida Statutes.

**SECTION 8.** This Ordinance shall be effective immediately upon approval by the Department of Economic Opportunity pursuant to Chapters 163 and 380, Florida Statutes.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA,**

**THIS \_\_\_ TH DAY OF \_\_\_, 2019**

**THE CITY OF MARATHON, FLORIDA**

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**John Bartus, Mayor**