

Sponsored By: Council
City Council Public Hearing Date: September 14, 2021
October 12, 2021
Enactment Date: October 12, 2021

**CITY OF MARATHON, FLORIDA
ORDINANCE 2021-21**

AN ORDINANCE BY THE CITY OF MARATHON, FLORIDA, AMENDING CHAPTER 104, ARTICLE I (“GENERAL PROVISIONS”) BY AMENDING SECTION 104.62 TO LIMIT ACCESS OF MOBILE VENDORS ON SOMBRERO BEACH ROAD IMMEDIATELY ADJACENT TO SOMBRERO BEACH; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS THEREOF FOUND TO BE IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY AFTER FINAL ADOPTION BY THE CITY COUNCIL; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Local Government Comprehensive Planning and Land Development Regulations 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, pursuant to Sections 380.05 and 380.0552, Florida Statutes; and

WHEREAS, Florida 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, the City of Marathon (“City”) is a municipal corporation of the State of Florida with such power and authority as has been conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes, and

WHEREAS, there have been numerous problems with mobile vendor food units (MVFUs) on the right-of-way immediately adjacent to Sombrero Beach, leading to frustrated visitors and citizens, increased congestion, and frequent noise concerns for the nearby residential neighborhood; and

WHEREAS, the area around to Sombrero Beach is a residential neighborhood, and the inclusion of businesses such as MVFUs does not conform with the community character of the surrounding neighborhood; and

WHEREAS, in order to maintain the character of the residential neighborhood around Sombrero Beach as well as reduce the traffic and congestion for those visiting the beach, it is in the best interest of the visitors and citizens of the City of Marathon to limit access of MVFUs to the area immediately in front of Sombrero Beach.

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. Chapter 104, Article 1, Section 104.62 “Mobile Vendor Food Units” is hereby amended to read as follows:

Section 104.62. – Mobile Vendor Food Units.

D. Exceptions.

1. Hot Dog Carts may operate without a City license under this section as long as said unit is associated on the same property with a restaurant licensed by the State of Florida and is itself licensed by the State.

2. No MVFUs may operate at Sombrero Beach or the right-of-way immediately adjacent to Sombrero Beach, more particularly described as the southbound end of Sombrero Beach Road including and between the intersection of Avenida Primiceria and the roundabout, as well as the connected roads Corte Del Brisas, Corte Del Sol, Corte Chica, and Corte De Luna.

SECTION 3. Any provisions of the Code of Ordinances of the City of Marathon, Florida or Ordinances or parts of Ordinances that are in conflict with the provisions of this Ordinance are hereby repealed.

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, or 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. It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and be made part of the Marathon Code, that sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions, and that the “Ordinance” shall be changed to “Section” or other appropriate word.

SECTION 6. The provisions of this Ordinance constitute a “land development regulation” as state law defines that term. Accordingly, the City Clerk is authorized and directed to forward a copy of this Ordinance to the State Department of Economic Opportunity for approval pursuant to Section 380.05(6) and (11), Florida Statutes.

SECTION 7. This Ordinance shall become effective immediately upon approval.

**ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA,
THIS XX DAY OF XXXX, 2021.**

THE CITY OF MARATHON, FLORIDA

Luis Gonzalez, Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:

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:**

Steven Williams, City Attorney