

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

**CITY OF MARATHON, FLORIDA
ORDINANCE 2021-22**

AN ORDINANCE BY THE CITY OF MARATHON, FLORIDA, AMENDING CHAPTER 102, ARTICLE 6 (“COMPREHENSIVE PLAN AMENDMENT”) TO ACCOUNT FOR CHANGES IN FLORIDA STATE LEGISLATION SINCE INITIAL ADOPTION; 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, Florida Statutes §163.3161 through §163.3217, previously known as the Local Government Comprehensive Planning and Land Development Regulation Act was reformulated into the Community Planning Act in 2011, with such major changes as elimination of the twice-a-year limitation to plan amendments and transference of State Authority from the Department of Community Affairs to the Department of Economic Opportunity; and

WHEREAS, Section 102, Chapter 6 does not currently reflect the changes enacted in the Community Planning Act and therefore do not comport with current Florida State Law; and

WHEREAS, in order to maintain full legal force and effect, the City of Marathon Land Development Regulations must be amended so as not to conflict with Florida State Law.

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 102, Article 6, “Comprehensive Plan Amendment” is hereby amended to read as follows:

Section 102.15. – Types of Comprehensive Plan Amendments.

For the purposes of the LDRs, there shall be two (2) types of Comprehensive Plan amendments: small scale plan amendments and ~~large scale~~ **standard** plan amendments.

Section 102.18. – Processing of Applications.

Applications for all Comprehensive Plan amendments shall be submitted in accordance with Article 2, “Common Development Application Elements’, of this Chapter.

- A. ~~Large-Scale Amendments~~ **Standard Amendments**: In accordance with Fla. Stat. ch. 163, ~~§163.3187(1)~~ **§163.3184(4)**, applications may be made and shall be processed ~~in cycles occurring no more than two times during any calendar year, unless an application is covered by exception in the Florida Statutes~~ **at any time during the year, unless specifically exempted by Florida Statute.**
- B. *Small Scale Amendments*: Applications for small scale map amendments **specifically** relating to affordable/workforce housing as defined in Fla. Stat. ch. 163, §163.3187**(1)**(c), may be received by the Department at any time during the year ~~without regard to the twice a year limit stated above.~~

Section 102.20. – ~~Large-Scale Comprehensive Plan Amendment Cycles.~~ **State Coordinated Review Process**

- A. ~~Advertising~~: The Department shall advertise in a newspaper of general circulation the deadline for submittal of applications for Comprehensive Plan amendments ~~for plan amendment cycles to be set by the Department. The advertisements shall appear a minimum of six (6) weeks in advance of the deadline for filing an application.~~

- ~~B. *Receipt of Applications after Deadline:* Proposed amendments received after the advertised deadline shall be considered for the next cycle. Time extensions to the advertised deadline shall not be granted.~~
- ~~C. *Modification of Proposed Comprehensive Plan Amendments:* Should the applicant request a modification to the proposed amendment after the advertised deadline for the Comprehensive Plan amendment cycle, the amendment shall be removed from the current plan amendment cycle. Once received by the Department and deemed complete, the modified amendment shall be rescheduled for the next plan amendment cycle.~~

All plan amendments that are in an area of critical state concern designated pursuant to Fla. Stat. §380.05 must follow the state coordinated review process outlined in Fla. Stat. §163.3184(4) unless they qualify as a small-scale amendment specifically exempted by Fla. Stat §163.3187(1)(c).

Section 102.21.- Determination of Completeness.

After submittal of a proposed plan amendment, the Director shall determine if information presented is complete. An application shall be deemed complete when it contains all required information and documents.

B. *Additional Information:*

2. *Failure to Respond:* Failure to provide the requested information within the allotted time period shall preclude review of the proposed plan amendment ~~for the current plan amendment cycle unless the application is exempt from the twice a year limit as provided in Florida Statutes.~~

Section 102.22. – Review of Applications.

- A. *Planning Commission Review:* The PC shall review and consider all applications for ~~Large Scale~~ **Standard** amendments to the Comprehensive Plan in accordance with Fla. Stat. ch. 163, and shall submit a recommendation, including the proposals' consistency with the Comprehensive Plan, to the Council regarding each application, and may recommend that an application be:
1. Approved;
 2. Approved subject to modifications; or
 3. Denied.

Figure 102.22.1 Comprehensive Plan Amendment Review Process

SEE EXHIBIT “A” FOR AMENDED FIGURE.

B. *Council Review:*

1. *Required Public Hearings for ~~Large-Scale~~ **Standard** Amendments:* Unless otherwise provided by state law, the Council shall hold two public hearings, as provided below, to consider all ~~large-scale~~ **Standard** Comprehensive Plan amendments.
 - (a) Transmittal Public Hearing: A public hearing shall be held prior to transmittal of all proposed Comprehensive Plan amendments to the ~~Department of Community Affairs~~ **Stand Land Planning Agency** for review. **The hearing shall be held on a weekday at least 7 days after the day that the first advertisement is published pursuant to the requirements of chapter 125 and chapter 166 of the Florida Statutes.**
 - (b) Adoption Public Hearing: A public hearing shall be held after receipt from the ~~Department of Community Affairs~~ an **State Land Planning Agency with an** objections, recommendations and comments report on each proposed Comprehensive Plan amendment. **The hearing shall be held on a weekday at least 5 days after the day that the second advertisement is published pursuant to the requirements of chapter 125 and chapter 166 of the Florida Statutes.**
 - i. The public hearing shall be held within 60 days after receipt of the report from the ~~Department of Community Affairs~~ **State Land Planning Agency** or after notification that no report will be issued, or within 120 days pursuant to Fla. Stat. §163.319. **The hearing date shall not be extended beyond 180 days, as failure to hold the hearing within that timeframe will result in the amendment being deemed withdrawn pursuant to Fla. Stat. §163.3184(4)(e).**

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

EXHIBIT "A"

