

CITY COUNCIL AGENDA STATEMENT



Meeting Date: November 9, 2021

To: Honorable Mayor and Members of City Council

From: Brian Shea, Planning Director

Through: George Garrett, City Manager

Item: **Ordinance 2021-24**, Amending The Code Of Ordinances Chapter 6 Entitled “Buildings And Building Regulations” Article III Entitled “Building Code” Sections 6-25 And 6-26 Entitled “Amendments To The Florida Building Code, Building” And “Amendments To The Florida Building Code, Existing Building” Respectively, Amending The Cumulative Period For Substantial Damage And Substantial Improvement; And Amending The Land Development Regulations Chapter 110 Entitled “Definitions”, Article 3 Entitled “Defined Terms”; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity; Providing For The Transmittal Of This Ordinance To The Florida Building Commission; And Providing For An Effective Date Upon The Approval Of This Ordinance By The State Department Of Economic Opportunity.

RECOMMENDATION

Staff is recommending approval of the ordinance as written.

I. BACKGROUND AND JUSTIFICATION

City Council directed staff to look into changing the cumulative requirement for substantial improvement. The current cumulative is tracked over a three-year period. Staff verified that the changes to reduce to a one-year period will not alter our point value in the Community Rating System.

II. ANALYSIS AND RECOMMENDATION

Staff is recommending amending the code sections that amend the Florida Building Code to change the specific language for the cumulative substantial improvement.

Based on the above, Planning Staff recommends that the City Council **APPROVE** the ordinance as written.

Sponsored by: Garrett
Introduction Date: October 12, 2021
Public Hearing Dates: October 12, 2021
November 9, 2021
Enactment Date:

**CITY OF MARATHON, FLORIDA
ORDINANCE 2021-24**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA AMENDING THE CODE OF ORDINANCES CHAPTER 6 ENTITLED “BUILDINGS AND BUILDING REGULATIONS” ARTICLE III ENTITLED “BUILDING CODE” SECTIONS 6-25 AND 6-26 ENTITLED “AMENDMENTS TO THE FLORIDA BUILDING CODE, BUILDING” AND “AMENDMENTS TO THE FLORIDA BUILDING CODE, EXISTING BUILDING” RESPECTIVELY, AMENDING THE CUMULATIVE PERIOD FOR SUBSTANTIAL DAMAGE AND SUBSTANTIAL IMPROVEMENT; AND AMENDING THE LAND DEVELOPMENT REGULATIONS CHAPTER 110 ENTITLED “DEFINITIONS”, ARTICLE 3 ENTITLED “DEFINED TERMS”; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE FLORIDA BUILDING COMMISSION; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY.

WHEREAS, the Legislature of the State of Florida in Chapter 166 – Municipalities, Florida Statutes, confers upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the City of Marathon participates in the National Flood Insurance Program and participates in the NFIP’s Community Rating System, a voluntary incentive program that recognizes and encourages community floodplain management activities that exceed the minimum program requirements, achieving a CRS rating of Class 6; and

WHEREAS, the City Council determined that it is in the public interest to amend the floodplain management regulations to amend the substantial improvement code sections while maintain existing points in the Community Rating System at the current class rating.

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

Section 1. The above recitals are hereby confirmed and adopted.

Section 2. Code of Ordinances Chapter Six, Section 6-25 and Section 6-26 Amendments to the Florida Building Code, Building & Amendments to the Florida Building Code, Existing Building respectively are hereby amended by the following amendments:

Sec. 6-25. - Amendments to the Florida Building Code, Building.
Modify Sec. 107.3.5 as follows:

107.3.5 Minimum plan review criteria for buildings.

Commercial Buildings: Building

8. Structural requirements shall include:

Flood requirements in accordance with Section 1612, including lowest floor elevations, the City of Marathon's V-Zone Certification form, FEMA's Floodproofing Certification form (FEMA Form 086-0-34), enclosures, declaration of land restriction (non-conversion agreement), flood damage-resistant materials.

Residential (one- and two-family):

6. Structural requirements shall include:

Flood hazard areas, flood zones, design flood elevations, lowest floor elevations, enclosures, declaration of land restriction (non-conversion agreement), equipment, and flood damage-resistant materials.

Modify Sec. 110.3 as follows:

110.3 Required inspections.

Building [partial shown]

1. Foundation inspection.

1.1. In flood hazard areas, upon placement of the lowest floor, including basement, and prior to further vertical construction, the FEMA Elevation Certificate (FEMA Form 086-0-33) shall be submitted to the authority having jurisdiction.

5. Final inspection.

5.1. In flood hazard areas, as part of the final inspection, final FEMA Elevation Certificate (FEMA Form 086-0-33) of the lowest floor elevation shall be submitted to the authority having jurisdiction.

Modify Sec. 202 as follows:

SUBSTANTIAL IMPROVEMENT. Any combination of repair, reconstruction, rehabilitation, alteration, addition or other improvement of a building or structure taking place during a ~~3~~¹-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. The period of accumulation begins when the first improvement or repair of each building or structure is permitted subsequent to June 1, 2012. If the structure has sustained substantial damage, any repairs are

considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that is the minimum necessary to assure safe living conditions.
2. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

(Ord. No. [2018-05](#), § 5, 8-14-2018)

Sec. 6-26. - Amendments to the Florida Building Code, Existing Building.
Modify Sec. 202 as follows:

SUBSTANTIAL IMPROVEMENT. Any combination of repair, reconstruction, rehabilitation, alteration, addition or other improvement of a building or structure taking place during a ~~3~~1-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. The period of accumulation begins when the first improvement or repair of each building or structure is permitted subsequent to June 1, 2012. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

3. Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that is the minimum necessary to assure safe living conditions.
4. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

(Ord. No. [2018-05](#), § 5, 8-14-2018)

Section 3. The Land Development Code, Chapter 110 Definitions, is hereby amended by the following amendments:

Chapter 110 - DEFINITIONS

ARTICLE 1. - GENERAL Section 110.00. - Construction of Words and Phrases.

ARTICLE 3. - DEFINED TERMS

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Substantial Damage: Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 50 percent of the market value of the building or structure before the damage occurred.

Substantial Improvement: Any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure taking place during a ~~three~~-one-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure, either; (1) before the improvement or repair is started; or (2) if the structure has been damaged and is being restored, before the damage occurred. The period of accumulation begins when the first improvement or repair of each building is permitted subsequent to June 1, 2012. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed.

The term does not, however, include either:

- A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- B. Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure".

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Section 4. The Provisions of the Marathon Code 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 section, sentence, clause or phrase of this Ordinance shall 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 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 Code, that sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 7. This Ordinance shall become effective immediately upon adoption on second reading.

**ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON,
FLORIDA, THIS ____ DAY OF _____, 2021.**

THE CITY OF MARATHON, FLORIDA

Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:
ATTEST:

Diane Clavier, City Clerk

(CITY SEAL)

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

City Attorney, Steven T. Williams