



## CITY COUNCIL AGENDA STATEMENT

**Meeting Date:** May 10, 2022  
**To:** Honorable Mayor and Members of City Council  
**Through:** George Garrett, City Manager  
**From:** Brian Shea, Planning Director

Agenda Item: **Ordinance 2022-10**, Amending Chapter 102 “Development Application Review Procedures”, Article 17 “Appeals”, Amending Section 102.92 “Appeal Period” And Section 102.93 “Applicability” To Address Timeframes, Of The City Of Marathon Land Development Regulations; Providing For The Repeal Of All Code Provisions And Ordinances Inconsistent With This Ordinance; Providing For Severability; Providing For Inclusion In The Code; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity; And Providing For An Effective Date Upon The Approval Of This Ordinance By The Department Of Economic Opportunity In Accordance With State Law.  
An Effective Date.

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### **RECOMMENDATION:**

Staff recommends APPROVAL

### **BACKGROUND:**

**APPLICANT:** City of Marathon

### **REQUEST:**

The proposed ordinance has been proposed to modify language in Chapter 102, Sections 102.92, “Applicability” and 102.93, “Applicability” provide that a de novo hearing shall be conducted upon appeal of a decision by the Planning Commission, of the City of Marathon Land Development Regulations.

#### **Section 102.92. Appeal Period.**

An appeal of the decision of the administrative official or body may be made within 30 ~~working~~ days from the date of such decision. If filed, an appeal stays any further action on the permit until final resolution of the appeal, unless the administrative official or body, whose action is the subject of the appeal, certifies in writing that the stay poses an imminent peril to life or property.

#### **Section 102.93. Applicability.**

Any appealable decision may be appealed by an applicant, the City, if affected, or any aggrieved party, including neighborhood, community and civic associations, whose name appears in the record of the appropriate person or body from which the appeal is made by filing with the Department a petition in a form prescribed by the Director and a written statement specifying in brief, concise language the grounds and reasons for requesting a reversal of the ruling made by the lower person or body together with a fee for the processing of the appeal, as provided by the

Director as amended from time to time, within the 30 ~~working~~ days set forth in Section 102.92 above.

### **Purpose of Proposed Amendment:**

The purpose of the amendment is to provide clear cut measures for the appeal of a Planning Commission decision through the concise and finite process of a de novo appeal hearing.

### **AUTHORITY**

#### **Section 102.26. Planning Commission Recommendation.**

A. *Authority:* The PC shall consider a proposed text amendment at the request of the Council.

B. *Review Criteria:* The PC shall review such proposed amendment, based upon the criteria listed below:

1. The need and justification for the change;
2. The consistency of the proposed amendment with the Comprehensive Plan; and
3. Whether the proposed change shall further the purposes of the LDRs and other City Codes, regulations and actions designed to implement the Comprehensive Plan.

C. *Findings:* The PC shall make a finding of whether the proposed amendment is consistent with the Comprehensive Plan and a recommendation shall be prepared and forwarded to the Council, indicating if the proposed amendment should be:

1. Approved as proposed;
2. Approved with amendments proposed by the PC; or
3. Denied

#### **Section 102.27. - Hearing(s) by Council.**

A. The decision to process a text amendment is within the sole discretion of the Council.

B. For any proposed text amendment, the Council shall hold a minimum of two (2) public hearings, conforming to the requirements of Fla. Stat. Ch. 166, before taking action on the amendment.

#### **Section 102.28. - Action by Council.**

Following the public hearings, the Council shall make a finding of whether the proposed text amendment is consistent with the Comprehensive Plan and may approve, approve with changes, or deny the proposed amendment.

As noted, review of proposed LDR text amendments is to be made based on three basic criteria: need and justification for change, consistency with the adopted Comprehensive Plan, and whether the proposed amendment will further the purposes of the LDRs, other ordinances, and actions taken to further the implementation of the Comprehensive Plan. The Planning Commission, in reviewing the proposed amendment, may recommend approval as is, approval with changes, or denial to the City Council.

### **ANALYSIS OF LAND DEVELOPMENT REGULATION TEXT AMENDMENTS:**

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 City of Marathon wishes to strengthen its regulations regarding the Appeals process defined in various sections of the LDRs.

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

The proposed text amendment is consistent with the Comprehensive providing for appropriate and adequate due process under Florida Law.

**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 offering a clear, concise, and finite mechanism for the appeal of a decision of the Planning Commission.

**CONCLUSION:**

Staff indicates that the proposed text amendments are consistent with the standards and tenants of Chapter 163 and 380 F.S., and the City's Comprehensive Plan adopted under the requirements of these statutes and rules.

**RECOMMENDATION:**

Staff recommends APPROVAL

Sponsored by: Garrett  
Introduction Date: April 18, 2022  
Public Hearing Dates: April 18, 2022  
City Council Hearing Date: May 10, 2022  
Enactment Date: XXXX

**CITY OF MARATHON, FLORIDA  
ORDINANCE 2022-10**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AMENDING CHAPTER 102 “DEVELOPMENT APPLICATION REVIEW PROCEDURES”, ARTICLE 17 “APPEALS”, AMENDING SECTION 102.92 “APPEAL PERIOD” AND SECTION 102.93 “APPLICABILITY” TO ADDRESS TIMEFRAMES, OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE DEPARTMENT OF ECONOMIC OPPORTUNITY IN ACCORDANCE WITH STATE LAW.**

**WHEREAS**, the City Council (the “Council”) enacted its Comprehensive Plan on July 5, 2005, and its Land Development Regulations (LDRs) on November 7, 2007; and

**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**, it is the desire of the City of Marathon City Council to amend its current landscape regulations; and

**WHEREAS**, pursuant to Section 163.3174 and 166.041, *Florida Statutes*, and Section 102, Article 7 of the Marathon Code, the City’s Planning Commission sitting as the Local Planning Agency on April 18, 2022 publicly considered the amendments to Land Development Regulations set forth in this Ordinance (the “Amendment”) at a properly noticed public hearing and recommended to the City Council the adoption of the Amendment; and

**WHEREAS**, the City Council publicly considered the amendments to Land Development Regulations set forth in this Ordinance (the “Amendment”) at a properly noticed public hearing and finds the adoption of the Amendment, in the form attached hereto, is in the best interest of the City and complies with applicable State laws and rules

~~Strikethrough~~ = deletion      underline = addition

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA:**

**Section 1. Recitals.** The foregoing “WHEREAS” clauses are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

**Section 2. Code Amendment.** The Code of the City of Marathon, Florida is hereby amended as follows:

**Section 102.92. Appeal Period.**

An appeal of the decision of the administrative official or body may be made within 30 ~~working~~ days from the date of such decision. If filed, an appeal stays any further action on the permit until final resolution of the appeal, unless the administrative official or body, whose action is the subject of the appeal, certifies in writing that the stay poses an imminent peril to life or property.

**Section 102.93. Applicability.**

Any appealable decision may be appealed by an applicant, the City, if affected, or any aggrieved party, including neighborhood, community and civic associations, whose name appears in the record of the appropriate person or body from which the appeal is made by filing with the Department a petition in a form prescribed by the Director and a written statement specifying in brief, concise language the grounds and reasons for requesting a reversal of the ruling made by the lower person or body together with a fee for the processing of the appeal, as provided by the Director as amended from time to time, within the 30 ~~working~~ days set forth in Section 102.92 above.

**Section 3. Conflict.** 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 4. Severability.** 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, but they shall remain in effect it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 5. Inclusion in the Code of Ordinances.** It is the intention of the City Council, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the City of Marathon Code of Ordinances, that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and the word “ordinance” may be changed to “Section” or other appropriate word.

**Section 6. Land Development Regulations.** 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 Sections 380.05(6) and (11), Florida Statutes.

**Section 7. Effective Date.** This Ordinance shall be effective immediately upon approval by the State Department of Community Affairs pursuant to Chapter 380, Florida Statutes.

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**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON,  
FLORIDA, THIS XX<sup>th</sup> DAY OF XXX 2022.**

**THE CITY OF MARATHON, FLORIDA**

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**John Bartus, Mayor**

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

**ATTEST:**

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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:**

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Steven Williams, City Attorney

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