

**CITY COUNCIL AGENDA STATEMENT**



**Meeting Date:** June 14, 2022  
**To:** Honorable Mayor and Members of City Council  
**Through:** George Garrett, City Manager  
**From:** Brian Shea, Planning Director

**Agenda Item:** **Ordinance 2022-11**, Amending Chapter 104 “Specific Use Regulations”, Article 1 “General Provisions”, Amending Section 104.52 “Small Animal Shelter Or Animal Day Care”, 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.

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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 104, Section 104.52, “Small Animal Shelter or Animal Day Care”, of the City of Marathon Land Development Regulations

Sec. 104.52. Small Animal Shelter or Animal Day Care.

Private and public animal shelters may be allowed pursuant to Table 103.15.1, subject to the following standards:

A. Hours of operation, including times for feeding and use of outdoor areas by the animals, shall occur between 6 a.m and 7 p.m.

B. No boarding of animals as a stand-alone commercial use shall be permitted.

C. Boarding of animals as a commercial use shall be permitted as accessory to a grooming or dog training use.

## **Purpose of Proposed Amendment:**

The purpose of the amendment is to remove the inconsistencies between the permitted use table that allows for kennels as a conditional use, and the specific conditions that then conflict.

## **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 address the inconsistency of table 103.51.1 regarding kennels that does not allow kennels in Section 104.52. Clearly the intent was not to allow kennels as the sole use of the business.

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

The proposed text amendment is consistent with the Comprehensive Plan and LDRs providing consistency within current City code.

### **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 further the purposes of the LDRs and other City Codes, regulations and actions designed to implement the Comprehensive Plan by code consistency.

## **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  
May 10, 2022  
June 14, 2022  
**Enactment Date:** June 14, 2022

**CITY OF MARATHON, FLORIDA  
ORDINANCE 2022-11**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AMENDING CHAPTER 104 “SPECIFIC USE REGULATIONS”, ARTICLE 1 “GENERAL PROVISIONS”, AMENDING SECTION 104.52 “SMALL ANIMAL SHELTER OR ANIMAL DAY CARE”, 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 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 Sections 380.05 and 380.0552, Florida Statutes, hereinafter referred to the “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**, Chapter 166, *Florida Statutes*, grants the City of Marathon (the “City”) broad municipal home rule powers to provide for the health, safety and welfare of its residents, business owners and visitors by enacting business regulations for the protection of the public; 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 substantially the form attached hereto, is in the best interest of the City and complies with applicable State laws and rules

**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.** Section 104.52 of the Code of Ordinances, City of Marathon, Florida is hereby amended to read as follows:

Sec. 104.52. Small Animal Shelter or Animal Day Care.

Private and public animal shelters may be allowed pursuant to Table 103.15.1, subject to the following standards:

A. Hours of operation, including times for feeding and use of outdoor areas by the animals, shall occur between 6 a.m. and 7 p.m.

B. No boarding of animals as a stand-alone commercial use shall be permitted.

C. Boarding of animals as a commercial use shall be permitted as accessory to a grooming or dog training use.

**Section 3.** 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 4.** 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 5.** 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 6.** This Ordinance shall become effective immediately upon adoption on second reading.

**ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON,  
FLORIDA, THIS 14<sup>th</sup> DAY OF JUNE, 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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City Attorney  
Steven T. Williams