

CITY COUNCIL AGENDA STATEMENT



Meeting Date: October 11, 2022
To: Honorable Mayor and Council Members
Through: George Garrett, City Manager
From: Brian Shea, Planning Director

Agenda Item: **Ordinance 2022-24**, Amending Chapter 107, Article 7 (“Signs”) By Deleting Section 107.621(F)(3)G Which Previously Required A Photometric Study To Be Conducted For Every Digital Sign; 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; Providing For An Effective Date Upon The Final Approval Of This Ordinance By The State Department Of Economic Opportunity; And Providing For Inclusion In The Code Of Ordinances.

RECOMMENDATION:

Staff recommends APPROVAL

REQUEST:

On March 8, 2022, the Marathon City Council enacted Ordinance 2022-02 which repealed the previously enacted sign code and replaced it with one that comports with current constitutional constraints, however during the council meeting it was agreed upon that Section 107.621(f)(3)g should be stricken from the final ordinance. However, the ordinance was transmitted without making this change, so a new ordinance is necessary to correct this error.

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, regulation 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 acting 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.

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 Planning Commission already approved the original ordinance, however this section was recommended for removal, and now that the code is legal, can be removed.

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

This Ordinance is consistent with the goals, objectives or policies identified in the Comprehensive Plan.

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 changes further the goals of the Comprehensive Plan, LDRs, and support the intent of other Components of the City's Code of Ordinances.

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: Council
Public Hearing Date: September 19, 2022
October 11, 2022
November 13, 2022
Enactment Date: November 13, 2022

**CITY OF MARATHON, FLORIDA
ORDINANCE 2022-24**

AMENDING CHAPTER 107, ARTICLE 7 (“SIGNS”) BY DELETING SECTION 107.621(F)(3)G WHICH PREVIOUSLY REQUIRED A PHOTOMETRIC STUDY TO BE CONDUCTED FOR EVERY DIGITAL SIGN; 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; PROVIDING FOR AN EFFECTIVE DATE UPON THE FINAL APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY; AND 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, on June 18, 2015, the Supreme Court decided the case of Reed v. Town of Gilbert, which set a new constitutional standard for what a municipal sign ordinance could and could not regulate; and

WHEREAS, because of the new regulations imposed by the Supreme Court, the previous iteration of the City of Marathon’s sign ordinance had become outdated; and

WHEREAS, in order to maintain an ordinance which regulates signs throughout the City of Marathon, the current sign code was re-written in line with Reed ruling.

WHEREAS, now that the sign code is conforming, minor amendments are being proposed that Council previously suggested.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA THAT

SECTION 1. The above recitals are true, correct, and incorporated herein by this reference.

SECTION 2. Chapter 107, Article 7 is amended.

SECTION 3. Section 107.621(F)(3)G will be stricken as denoted in Exhibit “A,” attached hereto, and Section H shall be re-lettered accordingly.

SECTION 4. 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 5. 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 6. 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 7. 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 8. This Ordinance shall become effective immediately upon approval.

**ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON,
FLORIDA, THIS 15TH DAY OF NOVEMBER 2022.**

THE CITY OF MARATHON, FLORIDA

XXX, 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"

Sec. 107.621 – General provisions for signs.

The requirements of this section shall apply to all signs whether or not a permit is required, unless otherwise noted below:

(f) Electric signs, digital signs and illuminated signs.

(3) Electronic message centers and digital signs shall comply with the following:

- a. Electronic message centers and digital signs shall contain static, motionless messages only;
- b. Displaying any form of motion, or the optical illusion of movement, video or varying light intensity is prohibited;
- c. Each message on a digital sign must be individually complete and shall not continue on a subsequently displayed message;
- d. Audio mechanisms, producing sounds, messages or music are prohibited.
- e. Brightness. Digital signs shall not operate at brightness levels of more than 0.3 foot candles above ambient light, as measured using a foot candle meter at a pre-set distance. This requirement is based on levels established by the Illuminating Engineering Society of North America (IESNA) for Light Emitting Diode (LED) signage as amended from time to time.
- f. Each digital sign must have a light sensing device that will adjust the display brightness in real-time as ambient light conditions change so that at no time a sign shall exceed a brightness level of three-tenths (0.3) footcandles above ambient light.
- ~~g. Photometric plan. Each building permit application for a digital sign shall be accompanied by a photometric plan. The photometric plan shall demonstrate the digital sign's maximum light intensity, in foot candles above ambient light, shall not impact neighboring properties, maximum illumination measured in footcandles at the property line shall not exceed 0.3 footcandles.~~
- hg. Malfunction. Digital signage shall have a default mechanism installed to either turn the display off or only show black on the display in the event of a malfunction.