



CITY COUNCIL AGENDA STATEMENT

Meeting Date: September 12, 2023
To: Honorable Mayor and City Council
From: Brian Shea, Planning Director
Through: George Garrett, City Manager

Agenda Item: **Ordinance 2023-15**, Amending Chapter 104 “Specific Use Regulations”, Article 1 “General Provisions”, Updating Section 104.25 “Hotels Or Motels”; Providing For The Repeal Of All Code Provisions And Ordinances Inconsistent With This Ordinance; Providing For Severability; Providing For Inclusion In The Code Of Ordinances, City Of Marathon, Florida; And Providing An Effective Date.

RECOMMENDATION:

Staff recommends APPROVAL.

BACKGROUND AND REQUEST:

The City of Marathon staff reviewed existing ordinances and their historical changes and previous conditional use approvals and have determined the hotel ordinance should be updated.

The proposed Ordinance

APPLICANT: City of Marathon

REQUEST: The ordinance amends chapter 103, article 3, “Use and Intensity Tables”.

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 existing ordinance has a built-in mechanism for the City Council to review and amend it. In reviewing previously approved projects and development agreements, language changes were recommended. Additionally exact regulations required from the Comprehensive Plan that are not already within the ordinance are being added. Minor changes are also being proposed to reference the appropriate code sections as they pertain to dormitories and community workforce housing.

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 compliance with State law and consistency within current City code. The existing policy list items to be included.

Policy 1-3.3.4 Encourage Redevelopment of Tourist/Resort/Campground Facilities

The City shall continue to maintain Land Development Regulations that provide incentives and encourage the redevelopment of existing resort and tourist facilities in the City. These Regulations shall include, but not be limited to:

- a. Mandatory hurricane evacuation
- b. Provision of on-site/off-site employee housing
- c. Transportation
- d. Services/Amenities
- e. Protection of habitat
- f. Establish a motel/hotel/campground equivalency ratio
- g. Ensure compliance with 2010 wastewater standards
- h. Ensure that transient units remain transient through various mechanisms such as:
 - 1. Use of Development Agreements
 - 2. Deed restrictions prohibiting the use of Homestead Exemptions;
 - 3. Provision of a lobby/front desk; or
 - 4. Limiting the tenancy of each unit.

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: July 17, 2023
Public Hearing Dates: July 17, 2023
August 8, 2023
September 12, 2023
Enactment date: September 12, 2023

**CITY OF MARATHON, FLORIDA
ORDINANCE 2023-15**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING CHAPTER 104 “SPECIFIC USE REGULATIONS”, ARTICLE 1 “GENERAL PROVISIONS”, UPDATING SECTION 104.25 “HOTELS OR MOTELS”; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES, CITY OF MARATHON, FLORIDA; AND PROVIDING AN EFFECTIVE DATE.

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

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

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

SECTION 2. Amend the Land Development Regulations, Chapter 104, Section 104.25 “Hotels or

~~Strikethrough~~ = deletion **bold underline** = addition

Motels” as shown in Exhibit A

SECTION 3. 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. 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. 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 6. This Ordinance shall be effective immediately upon approval by the State Department of Economic Opportunity pursuant to Chapter 380, Florida Statutes.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 12th DAY OF SEPTEMBER, 2023.

THE CITY OF MARATHON, FLORIDA

Luis Gonzalez, Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

Diane Clavier, City Clerk

(City Seal)

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bold underline = addition

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

Steven Williams, City Attorney

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[Section 104.25.] Hotels or Motels.

An existing hotel or motel may be redeveloped pursuant to Table 103.15.1, subject to the following standards:

A. *General Provisions:*

~~1. Reserved.~~

12. Each hotel or motel shall comply with all mandatory hurricane evacuation requirements set forth by the City for hotel, motel, and other transient uses.

23. Each hotel or motel shall establish and maintain shuttle transport services to airports and tourist attractions individually or in conjunction with other hotel or motel operators.

34. Except as provided in Subsection (a), all hotel or motels shall provide on- or off-site employee housing living space in an amount equal to a minimum of 2025 percent (as may be adjusted from time to time by Council policy to reflect economic conditions) of the approved floor area in guest units; and such housing shall be of any of the following types as outlined in (b) below:

(a) An exception to the requirement for on- or off-site employee housing living space for hotel/motel redevelopment may be recommended by the Planning Director, the Planning Commission, and approved by the City Council as part of a conditional use and/or development agreement when the following criteria are met:

1. No increase in the number of hotel/motel transient units (unit as described in Subsection 104.25A. ~~54.~~ of the LDRs) ~~if existing hotel/motel unit density is non-conforming as defined in Chapter 108, Article 3 of the LDRs and as specifically outlined in Section 108.12 of the LDRs;~~
2. No use of transferable building rights (TBRs) (as described specifically in Subsection 107.14B. of the LDRs;
3. No significant change (+ or – 10%) in the current project floor area (Floor area as defined in Chapter 110, Article 3 of the LDRs);
4. No significant difference between the current and proposed uses of floor area;
5. No effort to move units off-site through TBRs as part of the proposed project, though they may be documented and preserved for future use; and
6. No significant change or increase in the size or type of project site amenities.

(b) Housing types:

1. Dormitory pursuant to Section 104.15;
2. Community Workforce Housing Unit pursuant to Section 104.13. ~~Studio; or~~
- ~~3. One (1) or two (2) bedroom units.~~

45. All entrances to a hotel or motel unit shall share the same key or means of controlling access so that the hotel or motel room as defined herein is not divisible into separately rentable units.

5. All hotels or motels must provide a lobby for guests to check in/out.

B. *Redevelopment Criteria:*

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1. An existing hotel or motel room may be redeveloped to a unit not exceeding ~~1,500 square feet consisting of no more than two and one half (2½) bathrooms, three (3) bedrooms and one (1) other living area~~ six (6) bedrooms, subject to the following rates of redevelopment:
 - (a) A one (1) bedroom unit may redevelop as a one (1) bedroom unit, without a reduction in the number of units; and
 - (b) A one (1) bedroom unit may redevelop as a two (2) bedroom unit at the rate of 90 percent of the one (1) bedroom units being redeveloped as two (2) bedroom units; and
 - (c) A one (1) bedroom unit may redevelop as a three (3) bedroom unit at the rate of 85 percent of the one (1) bedroom units being redeveloped as three (3) bedroom units; and
 - (d) A one (1) bedroom unit may redevelop as a four (4) bedroom unit at the rate of 80 percent of the one (1) bedroom units being redeveloped as four (4) bedroom units; and
 - (e) A one (1) bedroom unit may redevelop as a five (5) bedroom unit at the rate of 75 percent of the one (1) bedroom units being redeveloped as five (5) bedroom units; and
 - (f) A one (1) bedroom unit may redevelop as a six (6) bedroom unit at the rate of 70 percent of the one (1) bedroom units being redeveloped as six (6) bedroom units.
 2. The number of units reduced and not included in the redevelopment shall be tracked over time and registered with the City as Conditional Redevelopment Units and reflected in the data and analysis of the Comprehensive Plan as it is amended.
 3. Existing hotel units, which exceed allocated densities, may redevelop provided: (1) the parcel has a stormwater management system which meets the requirements of Article 11, of Chapter 107; (2) the wastewater treatment system meets Best Available Treatment wastewater standards; and (3) the structures meet the shoreline setback criteria as established in Article 4 "Open Water, Surface Waters and Wetlands" of Chapter 106.
 4. As a condition of redevelopment, the developer and the City shall enter into a Development Agreement, in addition to compliance with all other provisions of the Code.
 5. Redevelopment shall be clustered to the least environmentally sensitive portion of the property pursuant to Section 106.16 to protect existing habitat on site.
 - ~~5.~~ The City may consider, at a future time, proposed amendments to the LDRs to authorize the construction of Conditional Redevelopment Units. Prior to the consideration of such amendment, the City must demonstrate that: (1) a significant reduction in Hurricane Clearance Time has been achieved for the mandatory evacuation of permanent residents; (2) the Conditional Redevelopment Units have been tracked; and (3) other environmental and land use issues have been addressed.
 7. Notwithstanding the foregoing, the developer of a hotel or motel containing less than 12 units may convert existing, lawfully established accessory floor area in the hotel or motel to a second bedroom or third bedroom, as the case may be, to an adjacent existing hotel or motel unit without triggering the requirements of Subsections B.1 or B.4 above; provided, however, that the additional floor area hereunder shall not exceed 425 square feet per unit or 850 square feet in the aggregate per property.

(Ord. No. 2009-13, § 2, 3-31-2009; Ord. No. 2012-07, § 2, 8-14-2012)