



CITY COUNCIL AGENDA STATEMENT

Meeting Date: March 12, 2024
To: Honorable Mayor and City Council
From: George Garrett, City Manager
Through: Brian Shea, Planning Director

Agenda Item: **Ordinance 2024-05**, Amending Chapter 103 “Zoning Districts,” Article 3 “Use And Intensity Tables”, “Standards,” 103.15 “Standards”, And Chapter 110, “Definitions,” Article 3, “Defined Terms;” Modifying Accessory Structures And Accessory Uses; 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:

City Manager recommends APPROVAL.

BACKGROUND AND REQUEST:

The City Manager presents this item in order to provide some flexibility in how the terms “Accessory Structure and Use” are utilized in the context of approving development in common ownership on two contiguous or adjacent properties within the City of Marathon.

The proposed Ordinance

APPLICANT: City of Marathon

REQUEST: The ordinance amends chapter 103, article 3, “Use and Intensity Tables,” and Chapter 110, Article 3, “Defined Terms,” concerning the terms Accessory Structure and Accessory Use.

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;

Approval of accessory structures and their respective uses and the requirement that those structures and use be associated with a principal structure and/or use is reasonable. Such requirement helps sanctity and security of neighborhoods on the premise that there will be a responsible party occupying the principal structure, whether commercial or residential.

Not implicit in the City's Code of Ordinances is a policy that the City requires the consolidation of adjacent parcels in common ownership when the owner wishes to place an accessory structure on the adjacent parcel to a property with a principal structure and/or use. This policy helps the City ensure that the standard is met, but is not an essential for enforcement of other standards of either the Land Development Regulations or other elements of the City Code of Ordinances

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

The proposal of this Ordinance modification creates no inconsistency with any Goal, Objective, or Policy within the City's 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 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:

City Manager recommends APPROVAL.
Planning Commission recommended denial 2-1.

Sponsored by: Garrett
Introduction Date: February 26, 2024
Public Hearing Dates: February 26, 2024
March 12, 2024
April 9, 2024
Enactment date: tbd, 2024

**CITY OF MARATHON, FLORIDA
ORDINANCE 2024-05**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING CHAPTER 103 “ZONING DISTRICTS,” ARTICLE 3 “USE AND INTENSITY TABLES,” “STANDARDS,” 103.15 “STANDARDS”, AND CHAPTER 110, “DEFINITIONS,” ARTICLE 3, “DEFINED TERMS;” MODIFYING ACCESSORY STRUCTURES AND ACCESSORY USES; 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 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 9th DAY OF APRIL, 2024.

THE CITY OF MARATHON, FLORIDA

Robyn Still, 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:**

Steven Williams, City Attorney

Exhibit "A"

Sec 103.15 Standards

1. *Uses.* Certain uses, whether permitted as of right, limited, accessory or conditional uses may affect adjacent properties, the neighborhood, or community, even if the site planning and development standards of the applicable zoning district are satisfied. Uses in bold on Table 103.15.1 have special criteria contained in [Article 1 of Chapter 104](#) "Specific Use Regulations", which are intended to mitigate potential problems and hazards, and to ensure consistency with the Plan.
2. *Zoning Districts.* The density, intensity, setbacks, and dimensional standards relative to each parcel are subject to the limitations of the zoning district as reflected in Tables 103.15.1 and 103.15.2.

Table 103.15.1
Uses by Zoning District

Uses in bold have specific conditions listed in Chapter 104																
ZONING DISTRICT	C-NA	C-OI	RL-C	RL	RM	RM-1	RM-2	R-MH	RH	MU	MU-M*	I-G	I-M*	A	P	PR
Accessory buildings and accessory uses *****			P	P	P	P	P	P	P	P	P	P	P	P	P	P

*Permitted uses are limited to those which are related to the maritime industry

**Submerged Mooring Facilities may only be permitted in association with upland areas whose zoning is shown as having a "C"

***Existing Single-Family Residences may be repaired, modified, or replaced. Individual vacant Lots within Blocks defined within the Plat subject to RL-C zoning may be built upon IF the sum of all Lots within an individual Block are over 90 percent developed with single family residences as of the date that DEO accepts the Ordinance.

**** Limited to Florida Registered Beekeepers with the Florida Department of Agriculture and Consumer Services (FDACS).

***** In the event that an accessory structure and associated use is located or proposed to be located on one of two adjacent or contiguous properties in common ownership one of which contains a principal structure and use, the other of which contains or will contain the accessory structure and use, the two properties do not need to be combined into one property. However, should the ownership of the two properties be divided into two different ownerships, the accessory structure and use shall cease, and any accessory structures shall be demolished until such time that a principal structure is approved and placed on the property.

Note: Uses may be subject to additional requirements, see [Chapter 104](#), Specific Use Regulations.

ARTICLE 110-3 DEFINED TERMS

Accessory structure (Appurtenant structure). A structure that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, and storage sheds. In the event that an accessory structure and associated use is located or proposed to be located on one of two adjacent or contiguous properties in common ownership one of which contains a principal structure and use, the other of which contains or will contain the accessory structure and use, the two properties do not need to be combined into one property. However, should the ownership of the two properties be divided into two different ownerships, the accessory structure and use shall cease, and any accessory structures shall be demolished until such time that a principal structure is approved and placed on the property.

Use, Accessory. Activities established as secondary, in support of, and dependent upon the principal use. In the event that an accessory structure and associated use is located or proposed to be located on one of two adjacent or contiguous properties in common ownership one of which contains a principal structure and use, the other of which contains or will contain the accessory structure and use, the two properties do not need to be combined into one property. However, should the ownership of the two properties be divided into two different ownerships, the accessory structure and use shall cease, and any accessory structures shall be demolished until such time that a principal structure is approved and placed on the property.