



## CITY COUNCIL AGENDA STATEMENT

Meeting Date: March 12, 2024  
To: City Council  
From: Brian Shea, Planning Director

Agenda Item: **Ordinance 2024-08**, Amending Chapter 107, Article 13 (“Concurrency Management”) By Amending Section 107.113 Titled “Enforcement” To Clarify The Penalties; 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 Commerce After Final Adoption By The City Council; Providing For Inclusion In The Code Of Ordinances And Providing For An Effective Date.

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### **RECOMMENDATION:**

Staff recommends APPROVAL

### **BACKGROUND:**

**APPLICANT:** City of Marathon

### **REQUEST:**

The draft ordinance has been proposed to modify language in Chapter 107, Article 13, Section 107.113 of the Marathon Code of Ordinances as it pertains to enforcement and the penalties that may be imposed for violations.

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

The purpose of the amendment is to remove the ambiguity as to the penalties that may be imposed for violations of the section.

### **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 criterion and explanation of relevance to this proposed amendment are listed below:

**A. The need and justification for the change;**

The existing language as written is ambiguous. In order to make clear this ambiguity, the section needs to reflect the maximum penalties for same.

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

Objective 6-1.3 entitled Concurrency management, and subsequent policies sets the standards for concurrency management. Removing ambiguity in the enforcement allows for better management practices overall.

**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 ensuring compliance and enforcement as a mechanism to achieve compliance.

**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:**  
**Planning Commission Public Hearing Date:** February 26, 2024  
**City Council Public Hearing Date:** March 12, 2024  
April 9, 2024  
**Enactment Date:** XXXXXX XX, 2024

**CITY OF MARATHON, FLORIDA  
ORDINANCE 2024-08**

**AN ORDINANCE BY THE CITY OF MARATHON, FLORIDA, AMENDING CHAPTER 107, ARTICLE 13 (“CONCURRENCY MANAGEMENT”) BY AMENDING SECTION 107.113 TITLED “ENFORCEMENT” TO CLARIFY THE PENALTIES; 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 COMMERCE AFTER FINAL ADOPTION BY THE CITY COUNCIL; 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**, Chapter 107, Article 13, Section 107.113 of the Marathon Code of Ordinances is ambiguous as to the penalties that may be imposed for violations of the section; and

**WHEREAS**, in order to make clear this ambiguity, the section needs to reflect the maximum penalties for same.

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

Strikethrough = deletion

**Bold underline** = addition

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

**SECTION 2.** “Enforcement.” is hereby amended to read as follows:

Section 107.113. – Enforcement.

A violation of this Chapter shall be ~~a misdemeanor~~ punishable **by up to a \$500 fine and / or imprisonment for up to 60 days, consistent with Florida Statutes according to law; and shall be prosecuted in the same manner as misdemeanors are prosecuted in a court having jurisdiction of misdemeanors.** ~~however,~~ In addition to or in lieu of any ~~criminal~~ prosecution, the City shall have the power to sue in civil court to enforce the provisions of this Chapter. Violations of this Chapter may also be referred to the City of Marathon Code Compliance Board for enforcement in accordance with Fla. Stat. ch. 162, and Chapter 10 of the City of Marathon Code of Ordinances, which relate to the Code Compliance Board.

**SECTION 3.** 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 4.** 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 5.** 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 6.** This Ordinance shall become effective immediately upon approval.

**ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA,  
THIS XX DAY OF XXXX, 2024.**

**THE CITY OF MARATHON, FLORIDA**

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**Robyn Still, Mayor**

AYES:

NOES:

ABSENT:

ABSTAIN:

**ATTEST:**

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Diane Clavier, City Clerk

(City Seal)

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

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Steven Williams, City Attorney