



## CITY COUNCIL AGENDA STATEMENT

Meeting Date: April 9, 2024  
To: City Council  
From: Brian Shea, Planning Director

Agenda Item: **Ordinance 2024-06**, Amending Chapter 101, Article 3 (“Planning Commission”) By Amending Section 101.04 Titled “General” To Delete A Portion Regarding A Mailing List; 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 delete language in Chapter 101, Article 3, Section 101.04 of the Marathon Code of Ordinances as it pertains to maintaining a mailing list of persons wishing to receive notices of meetings, agendas or minutes and who have paid an annual fee set by Council to cover copying and mailing costs.

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

The purpose of the amendment is to remove language regarding a process that does not exist and is moot since notices, agendas and minutes are posted on the City of Marathon’s website.

### **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 moot since a mailing list is not kept, the listed documents are found online and the requirement that an annual fee be set by the Council has not been met. In order to clarify and remove unnecessary language, the section needs to delete the language outlining same.

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

Policy 9-1.1.2 titled Citizen Participation, and portion of the policy that public hearings shall be duly noticed. The removal of the moot language and procedure is still consistent with the notice requirements in the LDRs and Florida Statutes.

**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 that the language found in the LDRs reflect the practices of the City.

**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

**Planning Commission Public Hearing Date:** February 26, 2024

**City Council Public Hearing Date:** March 12, 2024

April 9, 2024

**Enactment Date:** April 9, 2024

**CITY OF MARATHON, FLORIDA  
ORDINANCE 2024-06**

**AN ORDINANCE BY THE CITY OF MARATHON, FLORIDA, AMENDING CHAPTER 101, ARTICLE 3 (“PLANNING COMMISSION”) BY AMENDING SECTION 101.04 TITLED “GENERAL” TO DELETE A PORTION REGARDING A MAILING LIST; 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 101, Article 3, Section 101.04 of the Marathon Code of Ordinances contains a provision for the recording secretary for the Planning Commission to keep of a mailing list of persons wishing to receive notices of meetings, agendas or minutes who have paid an annual fee; and

**WHEREAS**, such a mailing list of persons does not exist and is moot since notices, agendas and minutes are posted on the City of Marathon’s website.

**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.** Sec. 101.04 “General” is hereby amended to read as follows:

Sec 101.04 General

- A. *Number of Members.* The PC shall be comprised of five (5) voting members.
- B. *Appointment.* Each member of the City Council, at his or her discretion, shall appoint one (1) member of the Planning Commission to a term running concurrently with the appointing City Council Member's term. Where required by state statute, by majority vote, the Council may appoint a representative of the Monroe County School Board to serve in an advisory capacity as a nonvoting member of the Planning Commission.
- C. *Terms, Chair and Vice-Chair.*
  - 1. At an annual organizational meeting, the members of the Planning Commission shall elect one of their members as chair and one as vice-chair. In the absence of the chair, the vice-chair shall act as the chair and shall have all the powers of the chair. The chair shall serve a term of one (1) year. No member shall serve as chair for more than two (2) consecutive terms unless the PC votes by super-majority four-fifths (4/5) votes to approve reappointment for additional consecutive terms.
  - 2. The chair (or vice-chair acting in the capacity of chair) shall serve as the presiding officer of any meeting of the Planning Commission. The presiding officer or designee shall be in charge of all proceedings before the Planning Commission and shall take such action as shall be necessary to preserve order and the integrity of all proceedings before the Planning Commission. In the event that the chair or vice-chair is unavailable, the voting members of the Planning Commission who are present shall by majority vote select a voting member to act as presiding officer for the meeting in question.
- D. *Removal.* A member of the Planning Commission may be removed from the Planning Commission by vote of a majority of those members of the City Council present at the time of the removal vote, or as otherwise allowed by law.
- E. *Vacancies.* If any voting member of the Planning Commission shall fail to attend three (3) regular meetings of the Planning Commission within a three-month period, the voting member's appointment shall automatically be revoked. Thereafter, the Council shall fill the vacancy as soon as practicable in accordance with this section.

- F. *Recording Secretary.* The City Manager shall appoint a recording secretary to serve the Planning Commission. The secretary shall keep minutes of all proceedings, which minutes shall be a summary of all proceedings before the Planning Commission attested to by the secretary, and which shall include the vote of each member upon every question. The minutes shall be approved by a majority of the members voting. In addition, the secretary shall maintain all records of meetings, hearings and proceedings, **and** the correspondence of the Planning Commission, ~~and a mailing list of persons wishing to receive notices of meetings, agendas or minutes and who have paid an annual fee set by the Council to cover copying and mailing costs.~~
- G. *Staff.* The City Manager or designee shall appoint or assign such staff as may be necessary for the Planning Commission to conduct its business.

**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 9<sup>TH</sup> DAY OF APRIL, 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