



CITY COUNCIL AGENDA STATEMENT

Meeting Date: May 13th, 2025

To: Honorable Mayor and City Council

From: Brian Shea, Planning Director & James Muro, Fire Chief

Through: George Garrett, City Manager

Agenda Item: **Ordinance 2025-03;** Amending Chapter 15 Fire Prevention Article 1 In General, Amending Section 15-6 Entitled Chickees And Tikis, Amending Section 15-7 Entitled Penalty, Amending Sections 15-8 Through 15-26 Entitled Reserved; Of The City Of Marathon Code Of Ordinances; Amending Chapter 110 Definitions Article 3 Entitled Defined Terms; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The Department Of Commerce After Final Adoption By The City Council; And Providing For An Effective Date.

RECOMMENDATION:

Staff recommends APPROVAL.

APPLICANT: City of Marathon

REQUEST:

The proposed ordinance amends the Fire Prevention code in the code of ordinances, and the definitions section in the land development regulations.

Purpose of Proposed Amendment:

The purpose of the amendment is to codify permit conditions standards and avoid confusion between tikis and chickees and their permit requirements.

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;

Section 15-29 entitled “Duty To Investigate And Make Recommendations” establishes that it shall be the duty of the Fire Chief or designee to investigate and to recommend to the City Council such additional ordinances or amendments to existing ordinances as he may deem necessary for safeguarding life and property against fire. Additionally, Section 15-28 states that it shall be the duty of the Fire Chief or designee to enforce all laws and ordinances of the City, covering the prevention of fires. The 5’ setback for tiki and chickee structures was set by a previous fire marshal as a policy. This has been consistently applied to the structures obtaining permits as permit conditions. The adoption of the ordinance codifies the policy that has been in place.

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

The Comprehensive Plan is silent on the issue of fire prevention as it relates to the powers and duties of the Fire Marshal and Fire Chief.

C. Whether regulations 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. It provides clarity that both tikis and chickees must meet the same fire requirements. It allows for consistent definition, including the definition of a chickee as previously defined in the floodplain management LDR section. It also allows for smart development that by preventing the spread of fire risk, reduces the potential draw on City services to combat fires.

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.

Planning Commission recommends approval (2-1).

Business Impact Estimate Form

This Business Impact Estimate Form is provided to document compliance with and exemption from the requirements of Sec. 166.041(4), Fla. Stat. If one or more boxes are checked below under “Applicable Exemptions”, this indicates that the City of Marathon has determined that Sec. 166.041(4), Fla. Stat., does not apply to the proposed ordinance and that a business impact estimate is not required by law. If no exemption is identified, a business impact estimate required by Sec. 166.041(4), Fla. Stat. will be provided in the “Business Impact Estimate” section below. In addition, even if one or more exemptions are identified, the City of Marathon may nevertheless choose to provide information concerning the proposed ordinance in the “Business Impact Estimate” section below. This Business Impact Estimate Form may be revised following its initial posting.

Proposed ordinance’s title/reference:

An Ordinance Of The City Of Marathon, Florida; Amending Chapter 15 Fire Prevention Article 1 In General, Amending Section 15-6 Entitled Chickees And Tikis, Amending Section 15-7 Entitled Penalty, Amending Sections 15-8 Through 15-26 Entitled Reserved; Of The City Of Marathon Code Of Ordinances; Amending Chapter 110 Definitions Article 3 Entitled Defined Terms; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The Department Of Commerce After Final Adoption By The City Council; And Providing For An Effective Date.

Applicable Exemptions:

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant, or other financial assistance accepted by the municipal government;
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☐ The proposed ordinance is enacted to implement the following:
 - ☐ Development orders and development permits, as those terms are defined in s.163.3164, and, development agreements, as authorized by the Florida Local Government Development Agreement Act under ss. 163.3220-163.3243;
 - ☐ Comprehensive Plan Amendments and land development regulation amendments initiated by an application by a private party other than the municipality;
 - ☐ Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;

- ☐ Section 553.73, Florida Statutes, relating to the Florida Building Code; or
- ☐ Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

Business Impact Estimate:

The City of Marathon hereby publishes the following information:

- 1. A summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):**

Section 15-29 entitled "Duty To Investigate And Make Recommendations" establishes that it shall be the duty of the Fire Chief or designee to investigate and to recommend to the City Council such additional ordinances or amendments to existing ordinances as he may deem necessary for safeguarding life and property against fire. Additionally, Section 15-28 states that it shall be the duty of the Fire Chief or designee to enforce all laws and ordinances of the City, covering the prevention of fires. The 5' setback for tiki and chickee structures was set by a previous fire marshal as a policy. This has been consistently applied to the structures obtaining permits as permit conditions. The adoption of the ordinance codifies the policy that has been in place.

- 2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the municipality, including the following, if any:**

- (a) An estimate of direct compliance costs that businesses may reasonably incur if the ordinance is enacted:**

As this is codifying existing policy and forms, no new compliance costs are expected.

- (b) Identification of any new charge or fee on businesses subject to the proposed ordinance, or for which businesses will be financially responsible:**

There is no new charge or fee associated with this ordinance as it is codifying existing policy and forms.

- (c) An estimate of the municipality's regulatory costs, including an estimate of revenues from any new charges or fees that will be imposed on businesses to cover such costs:**

No additional regulatory costs.

3. A good faith estimate of the number of businesses likely to be impacted by the ordinance:

Five specialty tiki contractors, and any registered general contractor.

4. Additional information the governing body determines may be useful (if any):

The proposed amendments further the purposes of the LDRs and other City Codes, regulations and actions designed to implement the Comprehensive Plan by code consistency. It provides clarity that both tikis and chickees must meet the same fire requirements. It allows for consistent definition, including the definition of a chickee as previously defined in the floodplain management LDR section. It also allows for smart development that by preventing the spread of fire risk, reduces the potential draw on City services to combat fires.

Note: *The City's provision of information in the Business Impact Estimate section above, notwithstanding an applicable exemption, shall not constitute a waiver of the exemption or an admission that a business impact estimate is required by law for the proposed ordinance. The City's failure to check one or more exemptions below shall not constitute a waiver of the omitted exemption or an admission that the omitted exemption does not apply to the proposed ordinance under Sec. 166.041(4), Fla. Stat., Sec. 166.0411, Fla. Stat., or any other relevant provision of law.*

Sponsored By: Muro
Public Hearing Dates: April 15, 2025
May 13, 2025
June 10, 2025
Enactment Date: June 10, 2025

**CITY OF MARATHON, FLORIDA
ORDINANCE 2025-03**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA; AMENDING CHAPTER 15 FIRE PREVENTION ARTICLE 1 IN GENERAL, AMENDING SECTION 15-6 ENTITLED CHICKEES AND TIKIS, AMENDING SECTION 15-7 ENTITLED PENALTY, AMENDING SECTIONS 15-8 THROUGH 15-26 ENTITLED RESERVED; OF THE CITY OF MARATHON CODE OF ORDINANCES; AMENDING CHAPTER 110 DEFINITIONS ARTICLE 3 ENTITLED DEFINED TERMS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE DEPARTMENT OF COMMERCE AFTER FINAL ADOPTION BY THE CITY COUNCIL; 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, it is the intent of the City Council to safeguard both life and property against fire; and

WHEREAS, The City Council intends to adopt the language and further the policies of the Comprehensive Plan.

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. Chapter 15, Article 11, and Chapter 110, Article 3 are hereby amended and adopted as attached in Exhibit A.

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 10TH DAY OF JUNE, 2025.**

THE CITY OF MARATHON, FLORIDA

Lynn Landry, 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

Chapter 15 "Fire Prevention" Article 1 "In General"

Sec 15-6 Chickees And Tikis

- (a) All Chickees and Tikis shall be setback five (5) feet from any improved structure. In measuring setbacks, the horizontal distance between the dripline and the further most projection of the improved structure shall be used.
- (b) All Chickees and Tikis must be constructed with a fire-retardant coating:
 - a. The fire-retardant coatings such as paints and other surface coatings used to reduce certain burning characteristics of building materials such as exterior and interior combustible finish materials for a minimum of two years must be certified on a form as approved by the Fire Chief.
 - b. Fire-retardant coatings shall possess the desired degree of permanency and shall be maintained so as to retain the effectiveness of the treatment under the service conditions encountered in actual use. (The two years permanency and endurance requirement shall not be allowed to expire.)
 - c. Fire-retardant coatings shall remain stable and adhere to the material under all atmospheric conditions to which the material is exposed.
 - d. Fire-retardant coatings shall be applied in accordance with the manufacturer's directions and the application shall be certified by the applicator as being in conformance with the manufacturer's directions for application.
 - e. The fire-retardant coating shall not be coated over with any material unless both the fire-retardant coating and the overcoat have been tested as a system and are found to meet the requirements of a fire-retardant coating.
 - f. Fire-retardant coatings subjected to sustained humidity and exposure to the weather shall be tested by NFPA 255, ASTM E 84, UL 723 or ASTM D 2898, whichever is applicable.

Sec 15-~~7~~6 Penalty

- (a) The City may enforce the provisions of this chapter by any lawful means including, but not limited to, in accordance with Section 1-7 of the Marathon Code, Chapter 10 of the Marathon Code, or Chapter 109, Article II of the Land Development Regulations.

Secs 15-~~87~~--15-26 (Reserved)

Chapter 110 "Definitions" Article 3 "Defined terms":

Chickee. Chickees are constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. The term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.

Tiki. The term "tiki" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that may incorporate any electrical, plumbing, or other non-wood features.
