



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 2025-04**, Amending Chapter 104, Article 1, Section 104.51.1 “Single-Family Dwellings (7 Bedrooms Or More)” As Defined Therein; Amending Chapter 110 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:

Single-family residential structures which exceed six (6) bedrooms in number have a greater impact on the community than a more typical residence of six (6) or less bedrooms. Therefore, the City wishes to amend the permission of such structures in the wider context of a Conditional Use Permit review and approval. Particularly, the City needs to understand the greater impacts of the size of the property in question, the parking requirements, the traffic impacts, and the impacts on infrastructure such as water, sewer, electricity, and solid waste. We also need to understand the impacts of larger residential development and the larger number of individuals likely to reside there, on the community character of surrounding neighborhoods.

Purpose of Proposed Amendment:

To modify the Land Development Regulations that require that proposed residential development which has more than six (6) bedrooms must be approved through a Conditional Use Permit review and approval.

Particularly, the City is requesting to change, Chapter 104, Article 1, Section 104.51.1 “Single-Family Dwellings (7 Bedrooms or More)” and to change Chapter 110, “Defined Terms,” to modify or add necessary terms related to a change requiring Conditional Use permit approval.

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;

Council approved a moratorium to address the changes needed to this ordinance based upon previous applications being submitted that did not meet the community character criteria as part of the conditional use review. Staff was given some direction to create a framework for this criteria.

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

The proposed amendment does not change any of the basic purposes of the Comprehensive Plan. This proposal aims to provide more detail to the requirements for proposed developments which request single-family residences of greater than six (6) bedrooms.

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 regulations do further the basic goals and premises outlined in the introduction to the City's Comprehensive Plan as follows:

“With the knowledge that the City needs redevelopment and new development to provide the necessary improvements to guarantee the residents of the City a clean, healthy environment and a sound economy in which to live and enjoy their families, it is the desire and intent of the City through the GOALS, OBJECTIVES AND POLICIES OF THE ADOPTED COMPREHENSIVE PLAN AND LAND DEVELOPMENT REGULATIONS IMPLEMENTING THE PLAN TO PROTECT OUR CHARACTER, ENVIRONMENT AND VIABILITY THROUGH:

- Protection of the small-town family feel of the community
- Continued utilization of the established mixed-use pattern of the community
- Protection of the heritage of the commercial fishing industry
- Acknowledgement and protection of a character that is unique to the Keys
- Protection of existing and increased affordable housing opportunities
- Implementation of effective surface water management strategies
- Systematic removal of failing and inadequate on-site wastewater disposal systems
- Maintenance and management of central wastewater and stormwater facilities
- Protection and enhancement of sensitive upland, wetland, and submerged land habitat
- Protection for the existing uses, densities, and intensities
- Providing new investment and reinvestment opportunities
- Ensuring new development and redevelopment protects the environment
- Ensuring new and redevelopment compliments and enhances community character
- Implementation of thoughtful, managed growth.”

Additionally, language is being added that references back to sections that pertain to wastewater flows and assessments ensuring compliance, without removing the ability to enforce existing standards. Excerpts of the appropriate code sections are provided below.

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 recommended approval (3-0) with direction for aiming towards smaller, and provided additional language options.

Table 103.15.1

Uses by Zoning District

ZONING DISTRICT	RM	RM-1	RM-2	RH
Single-family dwellings (6 Bedrooms or less)	P	P	P	P
Single-family dwellings (7 Bedrooms or more)	C	C	C	C

Table 103.15.2

DENSITY, INTENSITY AND DIMENSIONS FOR ZONING DISTRICTS

	RH	RM	RM-1	RM-2
Market Rate (maximum)	8	5	4	5
Min lot area per unit (square feet)				
Market Rate	5,445	8,712	10,000	8,712

Sec 34-31 Right To Refuse Service

The City may refuse to extend wastewater service to any person on the basis of a use detrimental to the system, lack of payment of required fees or charges, or for any other reason which, in the judgment of the City, applying sound engineering principles, will cause the proposed service extension not to be of benefit to the City. No payment of costs, submittal of an application or other act to receive wastewater service will guarantee that such service will be made available.

Sec 34-41 Extension of Wastewater Facilities on Request

- (a) An owner seeking to obtain a commitment for wastewater service from the City for new development or re-development of an existing property that may require the installation or extension of wastewater facilities must identify system capacity needs for, or must have previously identified the number of EDUs corresponding to, the anticipated requirements of the project. The owner must complete and provide the City sufficient information for the City to determine whether extension of wastewater facilities to the new development or re-development is practicable and in the City's best interest.
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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 104, Article 1, Section 104.51.1 “Single-Family Dwellings (7 Bedrooms Or More)” As Defined Therein; Amending Chapter 110 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):**

Conditional uses are uses which, because of their character, size and potential impacts, may or may not be appropriate in particular zoning districts. The conditional use requirement is intended to allow for the integration of certain land uses and structures within the City of Marathon, based on conditions imposed by the Council. Review is based primarily on compatibility of the use with its proposed location and with surrounding land uses and on the basis of all zoning, subdivision and other ordinances applicable to the proposed location and zoning district.

Conditional uses shall not be allowed where the conditional use would create a nuisance, traffic congestion, a threat to the public health, safety or welfare of the community or a violation of any provision of the City Code, state law, rule or regulation. By amending the requirements for single family dwelling units exceeding 6 bedrooms, the ordinance furthers those protections.

- 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:**

This ordinance amends specific conditional use requirements, that would already need to be paid for as part of the conditional use. No additional direct costs are proposed.

- (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 amending existing specific use requirements for a conditional use.

- (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:

Any registered certified general contractor or certified residential contractor looking to build a new single-family residence or addition to a single family residence under the existing ordinance would still meet the same requirements under the amended ordinance.

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

Single Family Residences are not a business and therefore have little impact on businesses except those contractors as noted above.

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: Garrett
Public Hearing Dates: April 15, 2025
May 13, 2025
June 10, 2025
Enactment Date: June 10, 2025

CITY OF MARATHON, FLORIDA
ORDINANCE 2025-04

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING CHAPTER 104, ARTICLE 1, SECTION 104.51.1 “SINGLE-FAMILY DWELLINGS (7 BEDROOMS OR MORE)” AS DEFINED THEREIN; AMENDING CHAPTER 110 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 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

WHEREAS, the purpose of the proposed Ordinance is to manage growth and development in residential neighborhoods and zoning categories when large single family residential development are proposed (greater than six (6) bedrooms), thus requiring a Conditional Use Permit review and approval,

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 Chapter 104, Article 1, “General Provisions,” to amend Section 104.51.1, “Single-family dwellings (7 Bedrooms or more) as shown in Exhibit A

SECTION 3. Chapter 110 “Definitions” Article 3 Entitled “Defined Terms” as shown in Exhibit B.

SECTION 4. 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 5. 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 6. It is the intention of the City Council and it is hereby ordained 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 word “Ordinance” shall be changed to “Section” or other appropriate word.

SECTION 7. 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 Commerce for approval pursuant to Sections 380.05(6) and (11), Florida Statutes.

SECTION 11. This Ordinance shall be effective immediately upon approval by the State Department of Commerce pursuant to Chapter 380, Florida Statutes.

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

Steve Williams, City Attorney

ARTICLE 110-3 DEFINED TERMS

Bedroom. A room generally intended for sleeping in, typically for one or two individuals and perhaps a small child. A bedroom typically is defined on the basis of the following conditions, but may vary:

1. Doors: Typically contains at least one door for entry, though may not have a door in open living plans
2. Minimum square footage: 60 to 70 square feet.
3. Minimum horizontal footage: A minimum of at least seven (7) feet in any horizontal direction.
4. Two means of egress: There have to be two ways out of a bedroom.
5. Minimum ceiling height: At least half of the bedroom ceiling has to be at least seven (7) feet tall and meet the Florida Building Code (FBC).
6. Minimum window size: The window opening must be a minimum size, usually five and seven-tenths (5.7) square feet and must meet the Florida Building Code (FBC).
7. A heating/cooling element.
8. May have a closet, an associated bathroom, small refrigerator, and/or a microwave.

For the sake of calculating the number of bedrooms, the City may count an office, den, game/recreation room, alcove, or similar room or semi-enclosed space as a bedroom dependent on the apparent purpose and use for the space. [The City shall require a deed restriction documenting any additional office, den, game/recreation room, alcove, or similar room or semi-enclosed space intended to not be counted in the overall bedroom count.](#)

Dwelling Unit (Single-family residence). A single unit providing complete and independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, cooking and sanitation. The term is applicable to both permanent or rental residential development and living.

Dwelling units with seven (7) or more bedrooms are subject to Conditional Use Permit review and approval (see Chapter 104, Article 13). Dwelling units with seven (7) or more bedrooms shall not be set up in the fashion of a hotel or motel, so defined herein, to

provide common area facilities for reservations, cleaning services, site management, and reception. [The City shall require a deed restriction documenting the approved number of bedrooms, and any office, den, game/recreation room, alcove, or similar room or semi-enclosed space.](#)

For the purposes of calculation within the Building Permit Allocation System (BPAS), any Dwelling Unit or Single-family Residence which supports more than one complete kitchen shall be considered a Duplex (at least), must meet the minimum residential density requirements, and shall be required to obtain one (1) additional Residential allocation for each additional kitchen.

[Sec 104.51.1] Single-Family Dwellings (7 Bedrooms Or More)

The approval of Single-family dwellings (Seven (7) Bedrooms or more) requires a Conditional Use Permit review and approval pursuant to Chapter 102, Article 13 of the Land Development Regulations.

Single-family residential structures which include seven (7) or more bedrooms in number have a greater impact on the community than a more typical residence of six (6) bedrooms or less. Therefore, the City requires that the permission of such structures be considered in the wider context of a Conditional Use Permit. Particularly, the City must understand at a minimum, the greater impacts of the project related to the size of the property in question, the parking requirements, the traffic impacts, and the impacts on infrastructure such as water, sewer, electricity, and solid waste. However, as noted in the application submittal requirements below, other considerations and additional review areas may be considered and additional information may be requested.

SPECIFIC APPLICATION REQUIREMENTS
CONDITIONAL USE PERMITS

These requirements are to be met in addition to those requirements of Chapter 102, Article 13, Section 102.75. The Planning Department may require additional drawings, specifications or information in order to complete the review of the application.

1. *Wastewater Flow Calculations.*

- a. Residences with six (6) ~~six~~ bedrooms or less will be assumed to equate to one (1) Equivalent Dwelling Unit (EDU) at 167 gallons per day. System development and connection charges, as well as monthly base and flow charges will accrue and be billed as a single-family residence. [Nothing in this section shall preclude the City's ability to review EDU assessments and extensions of wastewater facilities requests for residences of six \(6\) bedrooms or less under section 34-41. Nor shall the City's right to refuse service under Section 34-31 be abrogated.](#)
- b. Residences with seven (7) bedrooms or more will be assessed based on a calculation of average wastewater flows developed and provided by a qualified wastewater engineer [or architect, in compliance with Florida Department of Health \(FDOH\) requirements as set forth in Rule Chapter 62-6 of the Florida Administrative Code.](#) Such wastewater flow will be calculated into the one-time System Development and Connection charges and be billed accordingly. [Nothing in this section shall preclude the City's ability to review EDU assessments and extensions of wastewater facilities requests for](#)

residences of seven (7) bedrooms or more under section 34-41. Nor shall the City's right to refuse service under Section 34-31 be abrogated.

2. *Parking space needs analysis.* The City will require a minimum of one (1) parking space per bedroom unless otherwise justified and validated by the Conditional Use Permit applicant.
3. A Traffic Study prepared by a licensed traffic engineer.
4. *Community Character Criteria (Use).*
 - a. An applicant who wishes to have a residence with seven (7) bedrooms or more will be reviewed based on a strict mathematical averaging of the actual bedroom counts of all properties within 500 feet of the property on the same street and within 250 feet on parallel streets. The distances noted (e.g., 500 feet and 250 feet) are flexible based on the actual location on the street of the property subject to conditional use and the meander of that street.
 - b. Alternatively, an applicant who wishes to have a residence with seven (7) bedrooms or more will be reviewed based on a strict mathematical averaging of the actual bedroom counts of all properties within the platted subdivision.
 - c. The bedroom count allowed shall be proportional to the community character average plus [one (1) bedroom, two (2) bedrooms, or three (3) bedrooms]. For the purposes of bedroom averages, the number shall always be rounded [up to a whole number, down to a whole number, or to the nearest whole number].
 - d. In the event a property can be assessed under both section a and b above, the average shall be used on the lesser of the two assessments.
 - e. The total square footage of the unit shall not exceed [Value] square feet.
5. *Community Character Criteria (Zoning).*
 - a. A site seeking conditional use approval for a residence with seven (7) bedrooms or more must have an upland area equivalent to [one and a half times (1.5x), two times (2x), two and a half times (2.5x), three times (3x)] the density of a market rate unit for the zoning of that site as established in Table 103.15.2.

a. A site seeking conditional use approval for a residence with seven (7) bedrooms or more must have excess upland area equivalent to [twenty percent (20%), twenty-five percent (25%), thirty percent (30%), fifty percent (50%)] the density of a market rate unit for the zoning of that site as established in Table 103.15.2.

b. For the purposes of this calculation, if multiple residences are on site, those densities will be subtracted from the overall upland area prior to calculations. If multiple residences on a site seek conditional use approval, the calculation in 5.a. above will be assessed for each unit.

c. A deed restriction must be filed documenting the square footage of density being extinguished on site as part of the Conditional Use approval.