

Sponsored by: Garrett
Introduction Date: February 23, 2026
Public Hearing Dates: March 10, 2026
April 14, 2026
Enactment Date: April 14, 2026

**CITY OF MARATHON, FLORIDA
ORDINANCE 2026-18**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AMENDING CHAPTER 107 “GENERAL DEVELOPMENT STANDARDS”, ARTICLE 2 “TRANSFER OF BUILDING RIGHTS”, SECTION 107.17 “GENERAL PROVISIONS”; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF COMMERCE; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE DEPARTMENT OF COMMERCE IN ACCORDANCE WITH STATE LAW.

WHEREAS, the City Council (the “Council”) enacted its Comprehensive Plan on July 5, 2005, and its Land Development Regulations (LDRs) on November 7, 2007; and

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, it is the desire of the City of Marathon City Council to amend its current LDRs to reflect the change from DEO and DCA to Florida Commerce by simplifying to the statutory definition of “State Land Planning Agency”; and

WHEREAS, pursuant to Section 163.3174 and 166.041, *Florida Statutes*, and Section 102, Article 7 of the Marathon Code, the City’s Planning Commission sitting as the Local Planning Agency on February 23rd, 2026 publicly considered the amendments to Land Development Regulations set forth in this Ordinance (the “Amendment”) at a properly noticed public hearing and recommended to the City Council the adoption of the Amendment; and

WHEREAS, the City Council publicly considered the amendments to Land Development Regulations set forth in this Ordinance (the “Amendment”) at a properly noticed public hearing and finds the adoption of the Amendment, in the form attached hereto, is in the best interest of the City and complies with applicable State laws and rules

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA:

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Section 1. Recitals. The foregoing “WHEREAS” clauses are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

Section 2. Code Amendment. The Code of the City of Marathon, Florida is hereby amended as Exhibit A attached.

Section 3. Conflict. 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. Severability. 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. Inclusion in the Code of Ordinances. It is the intention of the City Council, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the City of Marathon Code of Ordinances, that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and the word “ordinance” may be changed to “Section” or other appropriate word.

Section 6. Land Development Regulations. 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 7. Effective Date. 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 14th DAY OF APRIL 2026.

THE CITY OF MARATHON, FLORIDA

Lynny Del Gaizo, Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

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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

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Sec 107.17 General Provisions

In addition to the affordable housing requirements of Section 107.18, below, the transfer of building rights shall be subject to the following:

1. *Deed of Transfer.* Prior to the issuance of a building permit authorizing the development of the TBR on the receiving site, a deed of transfer shall be recorded in the chain of title of the sending site containing a covenant prohibiting the further use of the building right(s) utilized;
2. *Warranty Deed.* A warranty deed shall be recorded in the chain of title of the receiving site evidencing the transfer of the building right; however, all bonds, assessments, back City taxes, fees and liens (other than mortgages) affecting the parcel shall be paid in full prior to recordation of the warranty deed for the transfer of the building right; and
3. *Sending or Affordable Housing Site Compliance.* Prior to issuance of a Certificate of Occupancy on the receiving site, the sending site and, if applicable, the Affordable Housing Site, must be brought into compliance with the requirements of the Code and any conditions of approval required by the TBR permit must be met. These conditions may include, but are not limited to:
 1. Bringing the sending site and, if applicable, the Affordable Housing Site, into compliance with landscaping, bufferyards, waste treatment, stormwater, and access requirements;
 2. In the case of a nontransient dwelling unit, the structure containing the building right to be transferred may be demolished and a cash-in-lieu payment pursuant to Subsection 107.18 B. hereof shall be made to the City, or must obtain a BPAS allocation to either continue use of the existing structure on the sending site or, if demolished, to rebuild the structure on the sending site or, if applicable, the Affordable Housing Site; and
 3. The owner of such structure(s) shall upgrade the roof, electric and plumbing of any structure to meet the most recent requirements of the Florida Building Code, and must provide storm shutters that comply with the Florida Building Code. If the structure is rebuilt, the Certificate of Occupancy for such structure must be obtained prior to issuance of the Certificate of Occupancy on the receiving site.
4. *Environmental Mitigation.*

1. For parcels which contain tropical hardwood hammocks, palm hammocks or high quality wetlands, as determined by the City Biologist, from which less than all building rights have been transferred, the following will be required:
 1. A restrictive covenant shall be recorded with the Monroe County Clerk of the Court, at the applicant's expense, restricting transfer of building rights back to the parcel; and
 2. The sending site shall be restored pursuant to a restoration plan approved by the City Biologist. The restoration shall be certified as completed by the City Biologist within six (6) months from the approval of the transfer.
2. For parcels which contain tropical hardwood hammocks, palm hammocks or high quality wetlands, as determined by the City Biologist, from which all building rights have been transferred, the following will be required:
 1. A Grant of Conservation Easement shall be recorded with the Monroe County Clerk of the Court, at the applicant's expense, permanently restricting the sending site as open space; and
 2. The sending site shall be restored pursuant to a restoration plan approved by the City Biologist. The restoration shall be certified as completed by the City Biologist within six (6) months from the approval of the transfer.
5. *Allocation Availability.* The City will endeavor to make available to applicants hereunder affordable housing BPAS allocations for purposes of meeting the affordable housing requirements of this Article. The City, however, shall have no obligation to make such allocations available to any particular application hereunder, and shall have no liability to any applicant hereunder or any third party if additional affordable housing BPAS allocations have not been authorized by the State [Department of Community Affairs Land Planning Agency](#) or are otherwise not available.
6. *Duration of Right to Use.* After its transfer, the right to use the TBR would extend only for the period in which the owner of the receiving site must complete the conditions of development. The Director may approve an additional transfer should the development not occur. The additional transfer shall document the original sending site in the Deed of Transfer to ensure compliance with the provisions of this Article.

HISTORY

Amended by Ord. [2023-12](#) on 8/8/2023