

**Sponsored by: Lindsey**  
**Introduction Date:** February 25, 2019  
**Public Hearing Dates:** March 26, 2019  
August 13, 2019  
**Enactment date: August 13, 2019**

**CITY OF MARATHON, FLORIDA  
ORDINANCE 2019-09**

**ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING CHAPTER 103 “ZONING DISTRICTS”, ARTICLE 3 “USE AND INTENSITY TABLES”, MODIFYING TABLE 103.15.1 “USES BY ZONING DISTRICT” AND TABLE 103.15.2 “DENSITY, INTENSITY, AND DIMENSION FOR ZONING DISTRICTS;” AMENDING CHAPTER 108, ARTICLE 3, “NONCONFORMING USES,” SECTION 108.12, “NONCONFORMING DENSITY AND INTENSITY” AND ARTICLE 4, “NONCONFORMING LOTS,” SECTION 108.13, “NONCONFORMING LOTS;” PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES, CITY OF MARATHON, FLORIDA; AND PROVIDING 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 preserve the rights of individual single family residential lot and property owners through a clarification of language in the City’s Land Development Regulations.

~~Strikethrough~~ = deletion

**bold underline** = addition

**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 103, Article 3, Table 103.15.1 to read as follows:

Table 103.15.1 - USES BY ZONING DISTRICT

Uses in bold have specific conditions listed in Chapter 104																
ZONING DISTRICT	C-NA	C-OI	RL-C	RL	RM	RM-1	RM-2	R-MH	RH	MU	MU-M*	I-G	I-M*	A	P	PR
***																
Single Family Residence	P	P	<u>P***</u>	P	P	P	P	P	P	P	P	P	P			P
***																

\*\*\*

**\*\*\*Existing Single Family Residences may be repaired, modified, or replaced. Individual vacant Lots within Blocks defined within the Plat subject to RL-C zoning may be built upon IF the sum of all Lots within an individual Block are over 90% developed with single family residences as of the date that DEO accepts the Ordinance.**

**SECTION 3.** Amend Chapter 103, Article 3, Table 103.15.2 to read as follows:

Table 103.15.2 - DENSITY, INTENSITY AND DIMENSIONS FOR ZONING DISTRICTS

	A	C-NA	C-OI	I-G	I-M	MU	MU-M	P	PR	RH	R-MH	RM	RM-1	RM-2	RL	RL-C
Density Range (units per acre) <u>****</u>		.25	0.1	<u>5-10</u>	<u>5-10</u>	6-15	6-15	10-25	1/4ac	8-25	8-25	<u>5-10</u>	4	5	0.5	.25 <sup>4</sup>

Footnotes for Table 103.15.2

\*\*\*

~~Strikethrough~~ = deletion      **bold underline** = addition

<sup>4</sup>Existing Single Family Residences may be repaired, modified, or replaced. Individual vacant Lots within Blocks defined within the Plat subject to RL-C zoning may be built upon IF the sum of all Lots within an individual Block are over 90% developed with single family residences as of the date that DEO accepts the Ordinance.

SECTION 4. Amend Chapter 108, Article 3, Section 108.12 A. to read as follows:

Section 108.12. - Nonconforming Density and Intensity.

- A. Protection of Residential Density: All lawfully established residential dwelling units in existence in 1996 or thereafter shall be entitled to a density of one (1) dwelling unit and may be maintained or modified and shall be allowed to be rebuilt, subject to ~~the~~ all other provisions of the ~~Future Land Use Element of the Plan~~ Land Development Regulations.
- a. This subsection does not apply to duplex or multi-family unit structures. Such structures, if rebuilt, shall be subject to all provisions of the LDRs, including density provisions. Lawfully established units in excess of allowed densities provided in Table 103.15.2 shall be eligible for transfer of building rights pursuant to Chapter 107, Article 2.

\*\*\*

SECTION 5. Amend Chapter 108, Article 4, Section 108.13 A. to read as follows:

ARTICLE 4. - NONCONFORMING LOTS

Section 108.13. - Nonconforming Lots.

- A. Dwellings on Nonconforming Lots: A building permit may be issued for a single-family dwelling or a Florida Building Code compliant mobile home on any legally created lot within a recorded plat for a lot zoned Residential High (RH), Residential Medium (RM), or Residential Mobile Home (R-MH) that is rendered nonconforming for allowed maximum densities by the adoption of these LDRs, provided that such use is permitted otherwise under the Plan and the LDRs and complies with each and every other requirement of the Plan and LDRs.

\*\*\*

SECTION 6. 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 7. 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.

~~Strikethrough~~ = deletion

**bold underline** = addition

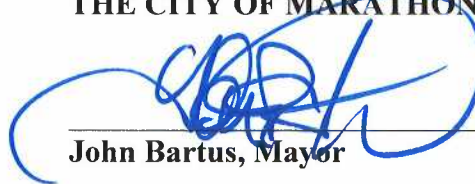
**SECTION 8.** It is the intention of the City Council and it is hereby ordained the provisions of this Ordinance shall become and be made part of the Marathon Code, that sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

**SECTION 9.** 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 Economic Opportunity for approval pursuant to Sections 380.05(6) and (11), Florida Statutes.

**SECTION 10.** This Ordinance shall be effective immediately upon approval by the State Department of Economic Opportunity pursuant to Chapter 380, Florida Statutes.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 13<sup>th</sup> DAY OF AUGUST, 2019.**

**THE CITY OF MARATHON, FLORIDA**



---

**John Bartus, Mayor**

AYES: Cook, Zieg, Senmartin, Gonzalez, Bartus  
NOES: None  
ABSENT: None  
ABSTAIN: None

**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:**



---

David Migut, City Attorney

Strikethrough = deletion

**bold underline** = addition

STATE OF FLORIDA  
DEPARTMENT OF ECONOMIC OPPORTUNITY

In re: A LAND DEVELOPMENT REGULATION  
ADOPTED BY CITY OF MARATHON  
ORDINANCE NO. 2019-09

---

**FINAL ORDER**  
**APPROVING CITY OF MARATHON ORDINANCE NO. 2019-09**

The Department of Economic Opportunity (“Department”) hereby issues its Final Order, pursuant to sections 380.05(6), Florida Statutes, approving land development regulations adopted by the City of Marathon, Florida, Ordinance No. 2019-09 (the “Ordinance”).

**FINDINGS OF FACT**

1. The Florida Keys Area is designated by section 380.0552, Florida Statutes, as an area of critical state concern. The City of Marathon (“City”) is a local government within the Florida Keys Area.
2. The Ordinance was adopted by the City on August 13, 2019, and rendered to the Department on August 26, 2020.
3. The Ordinance amends several sections of the Land Development Code to provide for the rebuilding or replacement of existing single-family residences on nonconforming lots and to allow the development of single-family residences on vacant lots in certain blocks within the Residential Low Conservation zoning district.

CONCLUSIONS OF LAW

4. The Department is required to approve or reject land development regulations that are adopted by any local government in an area of critical state concern. *See* § 380.05(6), Fla. Stat.

5. “Land development regulations” include local zoning, subdivision, building, and other regulations controlling the development of land. § 380.031(8), Fla. Stat. The regulations adopted by the Ordinance are land development regulations.

6. The Ordinance is consistent with the City’s Comprehensive Plan as required by Section 163.3177(1), Florida Statutes, generally, and is specifically consistent with Policy 1-3.2.7 of the Plan.

7. All land development regulations enacted, amended, or rescinded within an area of critical state concern must be consistent with the principles for guiding development for that area. *See* § 380.05(6), Fla. Stat. The Principles for Guiding Development for the Florida Keys Area of Critical State Concern are set forth in section 380.0552(7), Florida Statutes.

8. The Ordinance is consistent with the Principles for Guiding Development of the Florida Keys Area of Critical State Concern as a whole, and is specifically consistent with the following principles:

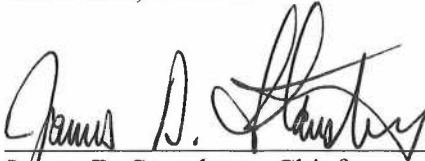
- (a) Strengthening local government capabilities for managing land use and development so that local government is able to achieve these objectives without continuing the area of critical state concern designation; and
- (d) Ensuring the maximum well-being of the Florida Keys and its citizens through sound economic development.

WHEREFORE, IT IS ORDERED that the Department finds that the City of Marathon Ordinance No. 2019-09 is consistent with the City of Marathon Comprehensive Plan and the Principles for Guiding Development for the Florida Keys Area of Critical State Concern, and is

hereby APPROVED.

This Order becomes effective 21 days after publication in the *Florida Administrative Register* unless a petition is timely filed as described in the Notice of Administrative Rights below.

DONE AND ORDERED in Tallahassee, Florida.



---

James D. Stansbury, Chief  
Bureau of Community Planning and Growth  
Department of Economic Opportunity

**NOTICE OF ADMINISTRATIVE RIGHTS**

ANY PERSON WHOSE SUBSTANTIAL INTERESTS ARE AFFECTED BY THIS ORDER HAS THE OPPORTUNITY FOR AN ADMINISTRATIVE PROCEEDING PURSUANT TO SECTION 120.569, FLORIDA STATUTES, BY FILING A PETITION.

A PETITION MUST BE FILED WITH THE AGENCY CLERK OF THE DEPARTMENT OF ECONOMIC OPPORTUNITY WITHIN 21 CALENDAR DAYS OF BEING PUBLISHED IN THE FLORIDA ADMINISTRATIVE REGISTER. A PETITION IS FILED WHEN IT IS RECEIVED BY:

AGENCY CLERK  
DEPARTMENT OF ECONOMIC OPPORTUNITY  
OFFICE OF THE GENERAL COUNSEL  
107 EAST MADISON ST., MSC 110  
TALLAHASSEE, FLORIDA 32399-4128  
FAX 850-921-3230  
AGENCY.CLERK@DEO.MYFLORIDA.COM

YOU WAIVE THE RIGHT TO ANY ADMINISTRATIVE PROCEEDING IF YOU DO NOT FILE A PETITION WITH THE AGENCY CLERK WITHIN 21 CALENDAR DAYS OF BEING PUBLISHED IN THE FLORIDA ADMINISTRATIVE REGISTER.

FOR THE REQUIRED CONTENTS OF A PETITION CHALLENGING AGENCY ACTION, REFER TO RULES 28-106.104(2), 28-106.201(2), AND 28-106.301, FLORIDA ADMINISTRATIVE CODE.


DEPENDING ON WHETHER OR NOT MATERIAL FACTS ARE DISPUTED IN THE PETITION, A HEARING WILL BE CONDUCTED PURSUANT TO EITHER SECTIONS 120.569 AND 120.57(1), FLORIDA STATUTES, OR SECTIONS 120.569 AND 120.57(2), FLORIDA STATUTES.

PURSUANT TO SECTION 120.573, FLORIDA STATUTES, AND CHAPTER 28, PART IV, FLORIDA ADMINISTRATIVE CODE, YOU ARE NOTIFIED THAT MEDIATION IS NOT AVAILABLE.



**CERTIFICATE OF FILING AND SERVICE**

I HEREBY CERTIFY that the original of the foregoing Final Order has been filed with the undersigned designated Agency Clerk, and that true and correct copies have been furnished to the following persons by the methods indicated this 20th day of October, 2020.

  
\_\_\_\_\_  
Agency Clerk  
Department of Economic Opportunity  
107 East Madison Street, MSC 110  
Tallahassee, FL 32399-4128

By U.S. Mail:

Steve Cook, Mayor  
City of Marathon, City Council  
9805 Overseas Highway  
Marathon, FL 33050

Diane Clavier, City Clerk  
City of Marathon, City Clerk  
9805 Overseas Highway  
Marathon, FL 33050

George Garrett, Planning Director  
City of Marathon, Planning Department  
9805 Overseas Highway  
Marathon, FL 33050