

Sponsored By: Lindsey
Planning Commission Public Hearing Date: May 20, 2019
City Council Public Hearing Date: May 28, 2019
October 8, 2019
Enactment Date: October 8, 2019

**CITY OF MARATHON, FLORIDA
ORDINANCE 2019-10**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING THE CITY'S COMPREHENSIVE PLAN TO MODIFY OR ADD TO ITS CONSERVATION AND COASTAL ELEMENT, GOALS OBJECTIVES, AND POLICIES TO COMPLY WITH FLORIDA STATUTE 163.3178(2)(F), "PERIL OF FLOOD;" INTENDING TO MODIFY, "PURPOSE;" GOAL 4-1, "CONSERVE, MANAGE, USE, AND PROTECT NATURAL AND ENVIRONMENTAL RESOURCES;" POLICY 4-1.3.3, "SURFACE WATER MANAGEMENT AND FLOOD DAMAGE PREVENTION;" AND OBJECTIVE 4-1.17, "MINIMUM COASTAL HAZARDS;" AND INTENDING TO ADD POLICIES TO INCLUDE POLICY 4-1.17.8, "STRATEGIES FOR RESPONDING TO SEA LEVEL RISE;" POLICY 4-1.17.9, "FLOOD-RESISTANT DEVELOPMENT REQUIREMENTS;" POLICY 4-1.17.10, "EXTREME WEATHER EVENT MITIGATION;" AND POLICY 4-1.17.11, "BEST PRACTICES AND MITIGATION STRATEGIES;" AND FINALLY, INTENDING TO MODIFY OBJECTIVE 4-1.22, "REDUCE EXPOSURE TO NATURAL HAZARDS;" POLICY 4-1.22.5, "MANAGE REDEVELOPMENT ACTIVITIES; AND POLICY 4-1.22.8, "REGULATE REDEVELOPMENT OF NON-CONFORMING STRUCTURES TO THE REQUIRED BASE FLOOD ELEVATION;" PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY AFTER FINAL ADOPTION BY THE CITY COUNCIL; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Marathon (the "City") has adopted a Comprehensive Plan which has been found to be in compliance by the State Department of Economic Opportunity ("DEO"), pursuant to Chapters 163 and 380, Florida Statutes; and

WHEREAS, Florida Senate Bill 1094, also known as the "Peril of Flood Act," was signed into law and became effective in 2015 as Section 163.3178(2)(f), Florida Statute; and

WHEREAS, the Peril of Flood Act requires each coastal local government to include a redevelopment component in the coastal management element of its comprehensive plan, and

WHEREAS, the Peril of Flood Act specifies six aspects of redevelopment that a coastal management element must address to reduce the risk of flood and encourage a local government's participation in the FEMA Community Rating System; and

WHEREAS, the Peril of Flood Act included sea level rise as one of the causes of flood risk that must be addressed in the Coastal Management Element of a Comprehensive Plan; and

WHEREAS, the City desires to address the Peril of Flood requirements using the findings and recommendations from Bermello, Ajamil, and Partners and the University of Florida, Levin College of Law Conservation Clinic provided to the City as deliverables under Florida DEP's Coastal Office "Resilient Coastlines Program Funding" Grant #1816; and

WHEREAS, this ordinance addresses the Peril of Flood requirements within the "Conservation and Coastal Element" of the City's Comprehensive Plan; and

WHEREAS, the City Council finds it necessary, desirable, and proper to adopt the amendments to the Goals, Objectives and Policies of the Comprehensive Plan in order to reflect changing conditions, pursuant to Sections 163.3191 and 163.3178(2)(f) Florida Statute.; and

WHEREAS, this Ordinance, thus passed at its first reading, shall be transmitted to DEO and sister State Agencies for their coordinated Comprehensive Plan review so as to obtain and receive the DEO Objections, Recommendations, and Comments (ORC) prior to final adoption,

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. Amend the Comprehensive Plan, Chapter 4, Conservation and Coastal Element, "Purpose:"

PURPOSE

Pursuant to ~~Chapter~~ Sections 163.3177(6)(d)&(g), and 163.3178, F.S., the purpose of the Conservation and Coastal Element is to promote the conservation, use and protection of natural resources as well as to plan for, and where appropriate, restrict development and redevelopment activities where such activities would damage or destroy coastal resources, and protect human life and property and while limiting public expenditures in areas locations that are subject to destruction by natural disaster, high tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea level rise. The Conservation and Coastal Element also includes a redevelopment component that outlines the broad Goals, Objectives and Policy principles that must be used to eliminate inappropriate and unsafe development in the coastal areas when opportunities arise as mandated by Section 163.3178(2)(f), Florida Statutes.

SECTION 3. Amend the Comprehensive Plan, Chapter 4, Conservation and Coastal Element, to include Goal 4-1:

¹Additions to existing text are shown by underline/red print; deletions are shown as ~~strikethrough~~

GOAL 4-1 CONSERVE, MANAGE, USE AND PROTECT NATURAL AND ENVIRONMENTAL RESOURCES

It is the goal of the City to conserve, manage, use and protect the natural and environmental resources within the City to ensure continued resource availability and environmental quality and to manage development and redevelopment activities to protect coastal resources, protect human life and property and limit public expenditures in areas subject to destruction by natural disasters, flooding, and sea level rise. §163.3177(6)d.2, §163.3177(6)(g) F.S. & 163.3178(2)(f).

SECTION 4. Amend the Comprehensive Plan, Chapter 4, Conservation and Coastal Element, to include Policy 4-1.3.3:

Objective 4-1.3 Protect, Conserve, and Enhance Coastal Resources

The City shall protect, conserve and enhance coastal resources, wetlands, water resources, living marine resources, wildlife habitats and other natural resources and the environmental health of Florida Bay, the Atlantic Ocean and all surface and ground waters within its jurisdiction, in order to maintain the economic and social well being of its citizens. The City shall help ensure that the ambient water quality of near shore waters meets or exceeds State standards for Class II Outstanding Florida Waters. §163.3177(6)(d)2.; §163.3177(6)(g)1. And §163.3178(2)(e). F.S.

Policy 4-1.3.3 Surface Water Management and Flood Damage Prevention

The City shall continue to maintain surface water management and flood damage prevention regulations. New development and all redevelopment encroaching into the 100 year floodplain shall incorporate elevation and flood protection measures sufficient to protect against the 100 year flood. The City shall maintain consistency with program policies of the National Flood Insurance Program to ensure that it maintains the highest possible rating within the National Flood Insurance Program's Community Rating System. The City shall monitor and implement new cost effective ~~programs~~ development and redevelopment principles, strategies, and engineering solutions for minimizing flood damage resulting from high tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea level rise. Such ~~programs~~ principles, strategies, and engineering solutions may include modifications to construction setback requirements, ~~or~~ ~~othersite~~ design techniques, as well as upgraded building and construction techniques which include resilient construction techniques.

SECTION 5. Amend the Comprehensive Plan, Chapter 4, Conservation and Coastal Element, to include Objective 4-1.13 and Policy 4-1.13.1:

Objective 4-1.13 Prioritize and Limit Shoreline Uses

The City shall prioritize shoreline uses to limit the specific and cumulative impacts of development and redevelopment, enhance coastal resources and ensure the continued economic viability of the City. §163.3177(6)(g), §163.3178(2)(f) F.S. and §163.3178(2)(g) F.S.

Policy 4-1.13.1 Shoreline Uses

The City shall continue to maintain Land Development Regulations to establish shoreline land use priorities. These regulations shall categorize water-dependent and water-related land uses, establish permitting criteria and use priorities. Priority shall be given to water dependent uses over water related. Water-dependent and water-related uses shall take priority over uses that are not water-dependent or -related. In conjunction with the development of these regulations, the City shall:

- a. Identify environmentally suitable waterfront areas, using the most up to date data on sea level rise, and recommend strategies for reserving such areas for water-dependent and water-related development sites consistent with estimated need;
- b. Analyze conflicts among existing shoreline uses and recommend strategies for reducing or eliminating such conflicts;
- c. Identify strategies for encouraging appropriate mixed use development that includes water-dependent and water-related uses and is compatible with existing land uses;
- d. Develop strategies to protect the waterfront sites exhibiting Keys Unique Character;
- e. Complete a survey of all other water-dependent uses; and
- f. Complete an inventory of public access points to the beach or shoreline through public and through private lands.

SECTION 6. Amend the Comprehensive Plan, Chapter 4, Conservation and Coastal Element, to include Objective 4-1.17 and adding Policies 4-1.17. 8 through 4-1.17.11:

Objective 4-1.17 Minimum Coastal Hazards

The City shall continue to maintain Land Development Regulations which regulate development and redevelopment activities in a manner that minimizes the danger to life and property occasioned by hurricane events, high tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea level rise. §163.3178(2)(f) & §163.3178(2)(h) F.S.

Policy 4-1.17.8 Strategies for Responding to Sea-level rise

The City will develop strategies for responding to sea-level rise, including consideration of the effects of sea-level rise on potable water sources, saltwater intrusion, septic systems, wastewater treatment facilities and associated systems, the water table, public infrastructure, redevelopment strategies, and affordable housing policies. The City's planning decisions shall consider and utilize the 1-Foot, 2-Foot, and 3-Foot Sea Level Rise planning horizon projections as established by the Southeast Florida Climate Change Compact's "Unified Seal Level Rise Projection" report published in October 2015. Those planning horizons are: 1) short term, by 2030, sea level is projected to rise 6 to 10 inches above 1992 mean sea level, 2) medium term, by 2060, sea level is projected to rise 14 to 34 inches above 1992 mean sea level, 3) long term, by 2100, sea level is projected to rise 31 to 81 inches above 1992 mean sea level.

Policy 4-1.17.9 Flood-resistant Development Requirements

All development and redevelopment in the City will be consistent with or more stringent than the flood-resistant construction requirements in the Florida Building Code and applicable floodplain management regulations set forth in 44 C.F.R. part 60.

¹Additions to existing text are shown by underline/red print; deletions are shown as strikethrough

Policy 4-1.17.10 Extreme Weather Event Mitigation

The City shall document and maintain maps depicting the extent of flood inundation from extreme high tides (“king tides”), more frequent severe rainfall events, and newly revealed areas at risk of flooding to efficiently target mitigation efforts.

Policy 4-1.17.11 Best Practices and Mitigation Strategies

The City shall utilize best practices and initiate mitigation strategies to reduce the flood risk in coastal areas that result from high tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea level rise by incorporating into its land development regulations where practical and economically feasible, resilient construction technique requirements, promotion of living shorelines, protection of coastal marsh and mangroves, and use of innovative natural material breakwaters to reduce wave energy.

SECTION 7. Amend the Comprehensive Plan, Chapter 4, Conservation and Coastal Element, to include Objective 4-1.22, Policy 4-1.22.5 and Policy 4-1.22.8:

Objective 4-1.22 Reduce Exposure to Natural Hazards

The City shall reduce or eliminate exposure of human life and public and private property to natural hazards resulting from high-tide events, storm surge, flash floods, nuisance flooding, stormwater runoff, and the related impacts of sea-level rise, through establishment and update of a Post Disaster Redevelopment Plan. In addition, the City shall develop local plan components including policies for managing recovery operations through a Recovery Task Force. §163.3178(2)(f) F.S.

Policy 4-1.22.5 Manage Redevelopment Activities

The City shall manage unanticipated future redevelopment activities necessitated by hurricane events, high-tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea-level rise or other natural disasters through this Plan, the adopted Land Development Regulations and the City Master Plan. Redevelopment in the City will be consistent with or more stringent than the flood-resistant construction requirements in the Florida Building Code and applicable floodplain management regulations set forth in 44 C.F.R. part 60. Furthermore, in the event that coastal construction control lines become established within the City’s jurisdiction pursuant to Section 161.053, F.S., all construction activities seaward of established coastal construction control lines shall be consistent with Chapter 161, Florida Statutes.

Policy 4-1.22.8 Regulate Redevelopment of Non-Conforming Structures ~~Non-Conforming~~ to the Required Base Flood Elevation

If an existing structure which is non-conforming to the required base flood elevation is substantially damaged (based on the definition in Chapter 161, F.S.) or abandoned, it shall be rebuilt only to the extent that complies with the current Flood Plain Management standards for the affected property.

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SECTION 8. 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, and 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 9. The provisions of this Ordinance constitute a “Comprehensive Plan amendment” as defined by State law. Accordingly, the City Clerk is authorized to forward a copy of this Ordinance to the DCA and other state agencies for review and approval pursuant to Sections 380.05(6) and (11), Florida Statutes.

SECTION 10. This Ordinance shall be effective immediately upon approval by Department of Economic Opportunity pursuant to Chapters 163 and 380, Florida Statutes.

**ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA,
THIS 8TH DAY OF OCTOBER, 2019.**

THE CITY OF MARATHON, FLORIDA



John Bartus, Mayor

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

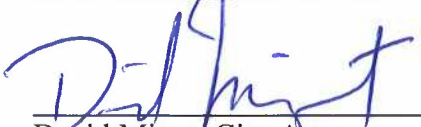
ATTEST:



Diane Clavier, City Clerk

(City Seal)

**APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:**



David Migut, City Attorney

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Ron DeSantis
GOVERNOR



Ken Lawson
EXECUTIVE DIRECTOR

December 11, 2019

The Honorable Steve Cook
Mayor, City of Marathon
9805 Overseas Highway
Marathon, Florida 33050

Dear Mayor Cook:

The Department of Economic Opportunity ("Department") has completed its review of the comprehensive plan amendment for The City of Marathon adopted by Ordinance No. 2019-10 on October 8, 2019 (Amendment No. 19-03ACSC), which was received and determined complete on October 28, 2019. We have reviewed the amendment in accordance with the state coordinated review process set forth in Sections 163.3184(2) and (4), Florida Statutes (F.S.), and have determined that the adopted amendment meets the requirements of Chapter 163, Part II, F.S., for compliance, as defined in Section 163.3184(1)(b), F.S. The Department is therefore issuing a Notice of Intent to find the comprehensive plan amendment "In Compliance." A copy of the Notice of Intent is enclosed and will be posted on the Department's Internet website. You may access the Notice of Intent at: <http://floridajobs.force.com/orc>.

The Department's Notice of Intent to find a plan amendment "In Compliance" is deemed to be a final order if no timely petition challenging the amendment has been filed. If this plan amendment is challenged by an affected person, the amendment will not become effective until the Department or the Administration Commission enters a final order determining the amendment to be "In Compliance."

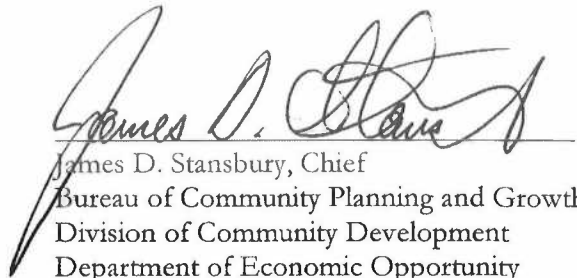
Florida Department of Economic Opportunity | Caldwell Building | 107 E. Madison Street | Tallahassee, FL 32399
850.245.7105 | www.FloridaJobs.org
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STATE OF FLORIDA
DEPARTMENT OF ECONOMIC OPPORTUNITY, THE STATE LAND PLANNING
AGENCY
NOTICE OF INTENT TO FIND THE
CITY OF MARATHON
COMPREHENSIVE PLAN AMENDMENTS
IN COMPLIANCE
DOCKET NO. 19-03ACSC-NOI-4406-(A)-(I)

The Department gives notice of its intent to find the Amendments to the Comprehensive Plan for the City of Marathon, adopted by Ordinance No. 2019-10 on October 8, 2019, IN COMPLIANCE, pursuant to Section 163.3184(4), F.S.

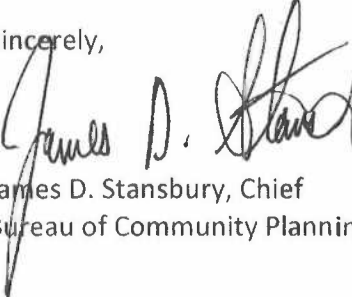
If a timely petition challenging the Amendments was not filed within thirty (30) days after the local government adopted the Amendments, the Amendments become effective upon the posting of this Notice of Intent on the Department's Internet Website. If a timely petition was filed, the Amendments do not become effective until the Department or the Administration Commission enters a final order determining that the Amendments are in compliance.



James D. Stansbury, Chief
Bureau of Community Planning and Growth
Division of Community Development
Department of Economic Opportunity
107 East Madison Street
Tallahassee, Florida 32399

If you have any questions related to this review, please contact Justin Stiehl, Planning Analyst, by telephone at (850) 717-8523 or by email at justin.stiehl@deo.myflorida.com.

Sincerely,

A handwritten signature in black ink, appearing to read "James D. Stansbury". The signature is fluid and cursive, with a large initial "J" and "S".

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

JDS/js

Enclosure: Notice of Intent

cc: Isabel Cosio Carballo, Executive Director, South Florida Regional Planning Council
George Garrett, Planning Director, City of Marathon