

Sponsored by: Garrett
Introduction Date: October 12, 2021
Public Hearing Dates: October 12, 2021
November 9, 2021
Enactment Date: November 9, 2021

**CITY OF MARATHON, FLORIDA
ORDINANCE 2021-24**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA AMENDING THE CODE OF ORDINANCES CHAPTER 6 ENTITLED “BUILDINGS AND BUILDING REGULATIONS” ARTICLE III ENTITLED “BUILDING CODE” SECTIONS 6-25 AND 6-26 ENTITLED “AMENDMENTS TO THE FLORIDA BUILDING CODE, BUILDING” AND “AMENDMENTS TO THE FLORIDA BUILDING CODE, EXISTING BUILDING” RESPECTIVELY, AMENDING THE CUMULATIVE PERIOD FOR SUBSTANTIAL DAMAGE AND SUBSTANTIAL IMPROVEMENT; AND AMENDING THE LAND DEVELOPMENT REGULATIONS CHAPTER 110 ENTITLED “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 STATE DEPARTMENT OF ECONOMIC OPPORTUNITY; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE FLORIDA BUILDING COMMISSION; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY.

WHEREAS, the Legislature of the State of Florida in Chapter 166 – Municipalities, Florida Statutes, confers upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the City of Marathon participates in the National Flood Insurance Program and participates in the NFIP’s Community Rating System, a voluntary incentive program that recognizes and encourages community floodplain management activities that exceed the minimum program requirements, achieving a CRS rating of Class 6; and

WHEREAS, the City Council determined that it is in the public interest to amend the floodplain management regulations to amend the substantial improvement code sections while maintain existing points in the Community Rating System at the current class rating.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are hereby confirmed and adopted.

Section 2. Code of Ordinances Chapter Six, Section 6-25 and Section 6-26 Amendments to the Florida Building Code, Building & Amendments to the Florida Building Code, Existing Building respectively are hereby amended by the following amendments:

Sec. 6-25. - Amendments to the Florida Building Code, Building.
Modify Sec. 107.3.5 as follows:

107.3.5 Minimum plan review criteria for buildings.

Commercial Buildings: Building

8. Structural requirements shall include:

Flood requirements in accordance with Section 1612, including lowest floor elevations, the City of Marathon's V-Zone Certification form, FEMA's Floodproofing Certification form (FEMA Form 086-0-34), enclosures, declaration of land restriction (non-conversion agreement), flood damage-resistant materials.

Residential (one- and two-family):

6. Structural requirements shall include:

Flood hazard areas, flood zones, design flood elevations, lowest floor elevations, enclosures, declaration of land restriction (non-conversion agreement), equipment, and flood damage-resistant materials.

Modify Sec. 110.3 as follows:

110.3 Required inspections.

Building [partial shown]

1. Foundation inspection.

1.1. In flood hazard areas, upon placement of the lowest floor, including basement, and prior to further vertical construction, the FEMA Elevation Certificate (FEMA Form 086-0-33) shall be submitted to the authority having jurisdiction.

5. Final inspection.

5.1. In flood hazard areas, as part of the final inspection, final FEMA Elevation Certificate (FEMA Form 086-0-33) of the lowest floor elevation shall be submitted to the authority having jurisdiction.

Modify Sec. 202 as follows:

SUBSTANTIAL IMPROVEMENT. Any combination of repair, reconstruction, rehabilitation, alteration, addition or other improvement of a building or structure taking place during a 31-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. The period of accumulation begins when the first improvement or repair of each building or structure is permitted subsequent to June 1, 2012. If the structure has sustained substantial damage, any repairs are

considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that is the minimum necessary to assure safe living conditions.
2. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

(Ord. No. 2018-05, § 5, 8-14-2018)

Sec. 6-26. - Amendments to the Florida Building Code, Existing Building.

Modify Sec. 202 as follows:

SUBSTANTIAL IMPROVEMENT. Any combination of repair, reconstruction, rehabilitation, alteration, addition or other improvement of a building or structure taking place during a 31-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. The period of accumulation begins when the first improvement or repair of each building or structure is permitted subsequent to June 1, 2012. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

3. Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that is the minimum necessary to assure safe living conditions.
4. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

(Ord. No. 2018-05, § 5, 8-14-2018)

Section 3. The Land Development Code, Chapter 110 Definitions, is hereby amended by the following amendments:

Chapter 110 - DEFINITIONS

ARTICLE 1. - GENERAL Section 110.00. - Construction of Words and Phrases.

ARTICLE 3. - DEFINED TERMS

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Substantial Damage: Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 50 percent of the market value of the building or structure before the damage occurred.

Substantial Improvement: Any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure taking place during a ~~three~~-one-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure, either; (1) before the improvement or repair is started; or (2) if the structure has been damaged and is being restored, before the damage occurred. The period of accumulation begins when the first improvement or repair of each building is permitted subsequent to June 1, 2012. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed.

The term does not, however, include either:

- A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- B. Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure".

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Section 4. The Provisions of the Marathon Code 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 section, sentence, clause or phrase of this Ordinance shall 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 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. This Ordinance shall become effective immediately upon adoption on second reading.

ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON,
FLORIDA, THIS 9th DAY OF NOVEMBER, 2021.

THE CITY OF MARATHON, FLORIDA



Mayor John Bartus

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

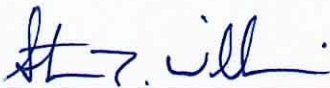
ATTEST:



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:



City Attorney, Steven T. Williams

Miscellaneous

DEPARTMENT OF ECONOMIC OPPORTUNITY

Division of Community Development

DEO Final Order No. DEO-22-002

STATE OF FLORIDA

DEPARTMENT OF ECONOMIC OPPORTUNITY

In re: A LAND DEVELOPMENT REGULATION
ADOPTED BY CITY OF MARATHON,
ORDINANCE NO. 2021-24

FINAL ORDER

APPROVING CITY OF MARATHON ORDINANCE NO. 2021-24

The Department of Economic Opportunity (the "Department") hereby issues its Final Order, pursuant to subsection 380.05(6), Florida Statutes, approving land development regulations adopted by the City of Marathon (the "City"), Ordinance No. 2021-24 (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 is a local government within the Florida Keys Area.
2. The Ordinance was adopted by the City on November 9, 2021 and rendered to the Department on November 18, 2021.
3. The Ordinance amends Chapter 6, Sections 6-25 and 6-26 of the City's Code of Ordinances relating to the *Florida Building Code* to reduce the accumulation period of substantial improvements from three years to one year. The Ordinance also amends the definition of *Substantial Improvement* within Chapter 110, Article 3 of the City's Land Development Code to similarly reflect the reduction in accumulation period.

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* Section 380.05(6), Florida Statutes.
5. "Land development regulations" include local zoning, subdivision, building, and other regulations controlling the development of land. Section 380.031(8), Florida Statutes. 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 4-1.22.5 Manage Redevelopment Activities.
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* Section 380.05(6), Florida Statutes. 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 in Section 380.0552(7), Florida Statutes 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.
 - (d) Ensuring the maximum well-being of the Florida Keys and its citizens through sound economic development.
 - (f) Enhancing natural scenic resources, promoting the aesthetic benefits of the natural environment, and ensuring that development is compatible with the unique historic character of the Florida Keys.

(n) Protecting the public health, safety, and welfare of the citizens of the Florida Keys and maintaining the Florida Keys as a unique Florida resource.

WHEREFORE, IT IS ORDERED that the Department finds that the City's Ordinance No. 2021-24 is consistent with the City's Comprehensive Plan and the Principles for Guiding Development for the Florida Keys Area of Critical State Concern and is hereby APPROVED.

This Final Order becomes final 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.

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

NOTICE OF ADMINISTRATIVE RIGHTS

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

FOR THE REQUIRED CONTENTS OF A PETITION CHALLENGING AGENCY ACTION, REFER TO SUBSECTIONS 28-106.104(2), 28-106.201(2), AND SECTION 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 SECTION 120.569 AND SUBSECTION 120.57(1), FLORIDA STATUTES, OR SECTION 120.569 AND SUBSECTION 120.57(2), FLORIDA STATUTES.

ANY PETITION MUST BE FILED WITH THE AGENCY CLERK OF THE DEPARTMENT OF ECONOMIC OPPORTUNITY WITHIN 21 CALENDAR DAYS OF THE FINAL ORDER 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

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

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 18th day of January 2022.

/s/ Jaiden Foss, Agency Clerk, Department of Economic Opportunity, 107 East Madison Street, MSC 110, Tallahassee, FL 32399-4128

By U.S. Mail:

The Honorable John Bartus, 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

Brian Shea, Planning Director, City of Marathon, Planning Department, 9805 Overseas Highway, Marathon, FL 33050