

Sponsored By: Council
City Council Public Hearing Date: February 08, 2022
March 8, 2022
Enactment Date: March 8, 2022

**CITY OF MARATHON, FLORIDA
ORDINANCE 2022-02**

AN ORDINANCE BY THE CITY OF MARATHON, FLORIDA, AMENDING CHAPTER 107, ARTICLE 7 (“SIGNS”) BY COMPLETELEY REPEALING THE CURRENT CODE AS WRITTEN AND REFORMING IT TO COMPORT WITH MODERN CONSTITUTIONAL CONSTRAINTS; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS THEREOF FOUND TO BE IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY AFTER FINAL ADOPTION BY THE CITY COUNCIL; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Local Government Comprehensive Planning and Land Development Regulations 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, pursuant to Sections 380.05 and 380.0552, Florida Statutes; and

WHEREAS, Florida 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, the City of Marathon (“City”) is a municipal corporation of the State of Florida with such power and authority as has been conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes, and

WHEREAS, on June 18, 2015, the Supreme Court decided the case of Reed v. Town of Gilbert, which set a new constitutional standard for what a municipal sign ordinance could and could not regulate; and

WHEREAS, because of the new regulations imposed by the Supreme Court, the current iteration of the City of Marathon’s sign ordinance has become outdated and in need of a complete overhaul; and

WHEREAS, in order to maintain an ordinance which regulates signs throughout the City of Marathon, the current sign code must be re-written in line with Reed ruling.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA THAT

SECTION 1. The above recitals are true, correct, and incorporated herein by this reference.

SECTION 2. Chapter 107, Article 7 is to be repealed in its entirety.

SECTION 3. Chapter 107 will be replaced by the Code Sections contained in Exhibit “A,” attached hereto.

SECTION 4. Any provisions of the Code of Ordinances of the City of Marathon, Florida or Ordinances or parts of Ordinances that are 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, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, or 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 that 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 “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 Economic Opportunity for approval pursuant to Section 380.05(6) and (11), Florida Statutes.

SECTION 8. This Ordinance shall become effective immediately upon approval.

**ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA,
THIS 8TH DAY OF MARCH, 2022.**

THE CITY OF MARATHON, FLORIDA



John Bartus, Mayor

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

ATTEST:



Diane Clavier
Diane Clavier, City Clerk
(City Seal)

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

St. Williams
Steven Williams, City Attorney

EXHIBIT "A"

Sec. 107.58 – Purpose and Intent

The purposes of this chapter are to promote the public health, safety and general welfare through reasonable, consistent, content neutral and non-discriminatory sign standards. The sign standards of this chapter are intended to meet the statutory requirement of F.S. § 163.3202(f), for City land development regulations that regulate signage. The sign regulations are especially intended to address the secondary effects of signage that may adversely impact aesthetics and safety. They are not intended to censor speech or to regulate viewpoints, but to serve substantial governmental interests and, in some cases, compelling governmental interests such as traffic safety and warning signs of threats to bodily injury or death.

Marathon is uniquely situated at the southernmost area of Florida in an historic and environmentally sensitive area. It is a designated Florida Area of Critical State Concern, and its major transportation corridor is U.S. Route 1, also designated the Florida Keys Scenic Highway and a Federal Scenic Highway Corridor. The economic base of the City is heavily dependent on visitors from all over the nation and the world. In order to preserve and promote the City of Marathon as a desirable place to live, work and play, a pleasing, visually attractive and safe environment is very important. The regulation of signs contributes significantly to achieving these ends.

It is further the purpose and intent of the sign regulations to:

- (1) Facilitate the implementation of goals, objectives and policies set forth in the comprehensive plan relating to sign control, community character and scenic resources and protection of areas from incompatible uses;
- (2) Promote and maintain convenience, safety, property values and aesthetics by establishing a set of standards for the erection, placement, use and maintenance of signs that will grant equal protection and fairness to all property owners in the City;
- (3) Provide a simple set of regulations that will minimize intricacies and facilitate efficiency of permitting functions and thus assist the regulated public;
- (4) Encourage signs that help to visually organize the activities of the City, and lend order and meaning to business identification and make it easier for the public to locate and identify their destinations;
- (5) Regulate the size, number and location of signs so that their purpose can be served without unduly interfering with motorists and causing unsafe conditions;
- (6) Promote the general welfare, including enhancement of property values and scenic resources, so as to create a more attractive business climate and make the City a more desirable place in which to visit, trade, work and live;

- (7) Improve pedestrian and traffic safety by regulating signs so as not to interfere with, distract, or obstruct the vision of motorists, bicyclists or pedestrians;
- (8) Provide standards regarding the non-content based aspects of signs which are consistent with state and federal law;
- (9) Assure that the benefits derived from the expenditure of public funds for the improvement and beautification of streets, sidewalks, public parks, public right-of-way, and other public places and spaces, are protected by exercising reasonable controls over the physical characteristics and structural design of signs;
- (10) Be fair in that everyone receives equal and adequate exposure to the public and no one is allowed to visually dominate his neighbor;
- (11) Authorize the use of signs in commercial and industrial areas that are:
 - a. Compatible with their surroundings;
 - b. Appropriate to the type of activity to which they pertain;
 - c. An expression of the identity of the individual proprietors and the community as a whole; and
 - d. Large enough to sufficiently convey a message about the owners or occupants of a particular premises, the commodities, products or devices available on such premises, or the business activities conducted on such premises, yet small enough to prevent excessive, overpowering advertising which would have a detrimental effect on the character and appearance of commercial and industrial areas, or which could unduly distract the motoring public, causing unsafe motoring conditions;
- (12) Limit the number, type and size of signs in noncommercial areas to protect the character and appearance of noncommercial areas.

Sec. 107.59 – Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Area of a sign. Refer to Section 107.62(1).

Banner means any suspended sign made of any flexible material such as, but not limited to, cloth, plastic or paper whether or not imprinted with words or characters.

Billboard means any sign that is required to be registered with the Florida Department of Transportation (FDOT) pursuant to F.S. ch. 479 and exceeds the size limitations set forth in Section 107.61 of this chapter.

Changeable copy sign means a sign with the capability of content change by means of manual or remote input, including the following types:

Manually activated. Changeable sign whose message copy can be changed manually on a display surface.

Electronic message center means an electronically activated changeable copy sign whose variable message capability can be electronically programmed.

Digital signs. (See below).

Clear sight triangle means a triangular-shaped area at any driveway connection to a public street and at all street intersections in which nothing is allowed to be erected, placed, planted or allowed to grow in such a manner as to limit or obstruct the sight of motorists entering or leaving the driveway or street intersection. Also referred to as clear vision triangle.

Copy means the text or graphic representations of a sign that depict the name of an establishment, products, services or other messages, whether in permanent or removable form.

Digital sign means any digital display using technologies such as LCD, LED, projection and e-paper to display digital images.

Erect means, in the context of this chapter, to build, construct, attach, hang, place, suspend, affix or paint a sign.

Facade means the face of a building or structure is most nearly parallel with the right-of-way line under consideration, including related architectural elements such as awnings, parapets and mansard roofs but excluding signs attached to a building that are not otherwise incorporated into such architectural elements.

Face of sign means the planes of a sign on which copy could be placed, including trim and background.

Flag means a piece of light weight, flexible material such as cloth or plastic with one side attached to a pole and the other end flying freely.

Frontage, business means the horizontal linear distance measured along the facade of an individual business. Also referred to as "business frontage."

Frontage, property means the distance measured along a public or private right-of-way or easement including canals, shorelines and runways that affords vehicular access to the property between the points of intersection of the side lot lines with such right-of-way or easement. Where a street or highway is divided, a parcel of land in the median of the street or highway shall be considered to have a frontage on each side. All parcels that abut U.S. 1 shall be considered to have a frontage on such roads regardless of whether a curb cut exists. Also referred to as "property frontage."

Government sign means any temporary or permanent sign erected by or on the order of a public official or quasi-public entity at the federal, state or local government level in the performance of any duty.

Ground-mounted sign means any sign that is mounted on or supported by an upright or brace in or upon the ground, such upright or brace being directly attached in or upon the ground and independent of any other structure. Signs affixed to fences shall be considered ground-mounted signs.

Illuminated sign means any sign that is illuminated by artificial light, either from an interior or exterior source, including outline, reflective or phosphorescent light, whether or not the source of light is directly affixed as part of the sign and includes, but is not limited to, digital signs.

Interior property information sign means signs located entirely on the property to which the sign pertains, are not readily visible from public rights-of-way, and which direct persons to prohibited or permitted activities, or conditions on the property.

Licensed sign contractor means any person holding a valid certificate of competency in sign erection issued by the county.

Off-premises commercial advertising means a nonaccessory billboard or sign which directs attention to a business, commodity, service, or attraction that is sold, offered or existing elsewhere than upon the same lot where such sign is displayed.

Off-premises sign means a nonaccessory billboard or sign that displays offsite commercial advertising. When in the right-of-way of or visible from U.S. 1, off-premises signs are required to be registered with the Florida Department of Transportation (FDOT) pursuant to F.S. Chapter 479.

Pennant means a series of small flag-like pieces of cloth or similar type of material attached and strung between two or more points.

Permanent sign means a sign which is intended to be and is so constructed as to be of lasting and enduring condition, remaining unchanged in character, condition (beyond normal wear and tear) and position and in a permanent manner affixed to the ground, wall or building.

Plane means any surface such as a rectangle, square, triangle, circle or sphere that is capable of carrying items of information; any area enclosed by an imaginary line describing a rectangle, square, triangle or circle which includes freestanding letters, numbers or symbols.

Portable sign means any sign or sign structure that is not permanently attached to the ground or to any other permanent structure or which is specifically designed to be transported. This definition shall include, but not be limited to, trailer signs, A-frame signs, and sandwich board signs.

Posted property sign means a sign for the purpose of warnings or prohibitions related to the property on which it is posted. State statutes may establish requirements for these signs.

Premises means any parcel of land owned, leased or controlled by the person actively engaged in business and so connected with the business as to form a contiguous component or integral part of it; or owned, leased or controlled by a person for living accommodations.

Rotating sign (or revolving sign) means a sign that revolves or turns or has external sign elements that revolve or turn. Such sign may be power-driven or propelled by the force of wind or air.

Rotating signs include multi-prism or tri-vision signs with a series of triangular sections that rotate and stop to show multiple images or messages in the same area at different times.

Sign means any object, device, display or structure, or part thereof, situated outdoors or indoors that is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product service event or location and by any means, including words, letters, figures, designs, symbols, fixtures, colors or projected images. Signs do not include:

- (1) Merchandise that is not otherwise incorporated into a sign structure;
- (2) Models or products incorporated in a window display;
- (3) Works of art that do not contain advertising messages and in no way identify a product, use or service; or
- (4) Scoreboards located on athletic fields.

Sign structure means any structure that supports, has supported or is capable of supporting a sign, including decorative cover.

Special event sign means a temporary sign erected by a nonprofit organization or organizations, holding a valid City public assembly permit, with a purpose to advertise a special event.

Temporary sign means any sign not permanently installed on property which is intended to be displayed for a limited period of time. A sign with an intended use for a period of time related to an event shall be deemed a temporary sign.

Vehicle sign means a sign mounted or painted on any vehicle, trailer, floating device, barge, raft, or boat, whether licensed or unlicensed, for the primary purpose of advertising commercial products or services, conveying commercial messages or directing people to a business or commercial activity.

Wall-mounted sign means any sign mounted on or painted on and parallel to the facade or wall of a building.

Window sign means any sign mounted to or painted on, or visible through a window for display to the public.

Sec. 107.60 – Applicability.

(a) **Generally.** This chapter shall apply to the erection, construction or alteration of any sign, unless exempted as provided herein. The procedure for variances is set forth in Section 107.62. The procedure for amendments to the text of this chapter is set forth in Article 7 “Land Development Regulation Text Amendments” of Chapter 102.

(b) **Activities not affected.** The following activities shall not be subject to regulation under this chapter. However, such activities shall nevertheless comply with the City building code and other applicable regulations of the county, state and federal governments.

- (1) Changing of the copy of a lawfully existing sign, whether manual or automatic, unless the change of copy changes the function of or purpose of the sign which as a result requires adherence to a different time, manner or location regulation as provided herein, or changes the style type, size or color not in compliance with this chapter;
- (2) Works of art that do not contain advertising messages, and which in no way identify a product, use, or service;
- (3) Maintenance of lawfully existing signs and sign structures that does not involve structural enlargement, reconstruction, or additions. Replacement of the damaged or deteriorated plastic face of a sign shall be considered maintenance. The necessity to obtain a building permit for maintenance work shall be governed by Chapter 6;
- (4) Any sign not visible from a public street, sidewalk or right-of-way or from a navigable waterway or body of water; except that the foregoing does not exempt a sign for a commercial use that is visible from an abutting residential use.

Sec. 107.61 – Prohibited signs.

The following types of signs shall not be erected or operated on any property in the City limits:

- (1) Off-premises signs; excluding off-premise signs identifying lawfully-established off-premises businesses as permitted in Section 107.623, visible from a designated scenic highway, unless and until the applicant provides documentation from the Florida Department of Transportation (FDOT) that the sign is permitted by or that a permit is not necessary from the FDOT;
- (2) Those erected in a clear sight triangle; or at any location where, by reason of the position, shape or color, they may interfere with or obstruct the view of any authorized traffic sign, signal or device;
- (3) Discontinued temporary signs that no longer correctly direct or exhort any person; or advertise a bona fide business, lessor, owner, product or activity conducted or available on the premises indicated on such sign;
- (4) Rotating signs, excluding electronic message centers and automatic changing signs whose operations shall be governed by Section 107.623;
- (5) Signs that emit smoke, vapor, particles, odor or sounds;
- (6) Signs using a video, digital means, or motion picture source in such a manner as to permit or allow the images or audio to be visible or audible from any public street, sidewalk or navigable waterway, including but not limited to vehicles displaying electronic signs;
- (7) Vehicle signs parked on any public property, including public rights-of-way, navigable waterways and beaches, or on private property so as to be clearly visible from any public right-of-way. This restriction is not intended to prohibit incidental signage on a functional, licensed vehicle which is displayed in a manner to primarily identify the vehicle with the business it serves. Such vehicles shall only park in a lawful parking space. Vehicle signs may not be an attachment that

extends or protrudes from the vehicle. However, commercial vehicles that provide delivery services, including taxis, shall be allowed an attached non-illuminated roof sign that identifies the delivery business. Such sign shall only be allowed on the vehicle while doing business and shall be no larger than 24 inches long, 12 inches tall and ten inches wide, including the base;

(8) Portable signs, except for temporary signs as permitted in Section 107.622 and A-frame signs as permitted in Section 107.623;

(9) Any sign that is affixed to any wall or structure and extends more than 24 inches perpendicularly from the plane of the building wall;

(10) Any sign attached to a building and projecting above the facade of a building, or any sign mounted on top of a flat roof or on top of any horizontal awning;

(11) Signs that cause radio or television or other communication, electrical, magnetic interference;

(12) Signs erected, constructed or maintained that obstruct any firefighting equipment, window, door or opening used as a means of ingress or egress or for firefighting purposes;

(13) Signs, except posted property signs, that are erected or maintained upon trees or painted or drawn upon rocks or other natural features or tacked, nailed or attached in any way to utility poles;

(14) Signs on public property or road rights-of-way including, but not limited to, signs placed on any curb, sidewalk, post, pole, hydrant, bridge, tree or other surface located on public property or over or across any public or private street except as may otherwise expressly be authorized by this chapter;

(15) Unshielded illuminated devices that produce glare or are a hazard or a nuisance to motorists or occupants of adjacent properties, or signs containing mirrors;

(16) Flashing signs;

(17) Floodlights or beacon lights, except when required by the Federal Aviation Administration;

(18) Signs attached to a seaway, dock, buoy, tie pole or pier, or in or upon any body of water other than warning signs, safety signs, or government regulatory signs;

(19) Signs that are an imitation of traffic control device signs and which are adjacent to the right-of-way of any road, street or highway; and

(20) Dangerous signs.

No person shall allow any sign that is in a dangerous or defective condition to be maintained on any premises owned or controlled by such person. Any such sign shall be removed or repaired by the owner of the sign or the owner of the premises, or as otherwise provided for in this chapter.

Sec. 107.62 – Sign permits.

(a) **Generally.** Except for temporary signs and signs specifically provided by this chapter, it shall be unlawful for any person or business to construct, alter or maintain a sign structure, as defined in the building code, without first obtaining a building permit from the City in accordance with the provisions of the building code and applicable law. Permit fees for a building permit shall be paid in accordance with applicable City fee schedules.

(b) **Sign permit decision and appeal.**

(1) A building permit for a sign shall be either approved, approved with any condition specifically described and set forth in the City code of ordinances, or disapproved, and the decision shall be reduced to writing within 30 calendar days following a complete application and payment of applicable fees. Any governmental declaration of emergency due to natural or manmade hazard events affecting the City shall extend the time frame for a decision until the City Council by resolution establishes an alternative emergency time frame. Whenever required by state statute, the explanation for a denial of a sign permit shall include a citation to the applicable portions of an ordinance, rule, statute, or other legal authority for the denial of the permit: in the event that the applicant fails to receive a statutorily required explanation, the applicant shall submit a written request for the explanation to the Building Official via certified mail.

(2) A decision of approval with conditions or a denial shall be a final decision of the City if the applicant chooses not to seek reconsideration, by writing, within ten calendar days of the denial. The applicant may seek no more than one reconsideration. A decision of reconsideration shall be rendered within 20 calendar days of receipt of the written application for reconsideration.

(3) A written appeal of the final sign permit decision or reconsideration shall be taken to the Planning Commission within 30 calendar days from the rendering of the building permit decision or reconsideration.

(c) **Administrative sign area variance.** The Planning Director is authorized to grant administrative variances to the maximum area per face requirements set forth in Section 107.623 for ground-mounted signs that accommodate more than a single user (i.e. tenant, business, organization).

(1) *Application.* An application shall be submitted to the Planning Department on a form approved by the Department.

(2) *Standards.* The Planning Director shall grant an administrative variance to the maximum area per face requirements for ground-mounted signs that accommodate more than a single user only if the applicant demonstrates that all of the following standards are met:

a. The granting of the administrative variance shall not be materially detrimental to other property owners in the immediate vicinity;

b. The administrative variance shall be the minimum necessary to provide relief to the applicant;

- c. Each user shall be permitted only a single identification sign per each face/side of the ground-mounted sign;
- d. The area of each user's identification sign shall not exceed 100 square feet per each face/side of the ground-mounted sign;
- e. The total maximum area per face for the ground-mounted sign shall not exceed 400 square feet in area unless a variance is granted by the Planning Commission in accordance with Section 107.62(e);
- f. The total face area for the ground-mounted sign shall not exceed 800 square feet on double-sided signs unless a variance is granted by the Planning Commission in accordance with Section 107.62(e);
- g. Such a ground-mounted sign shall not be constructed within 40 linear feet of another ground-mounted sign; and
- h. The sign shall be designed in accordance with the size of lettering guidelines set forth in Section 107.627.

(3) *Procedures.* The Planning Director shall determine within 15 calendar days if an application is complete. The Planning Director shall make a preliminary determination of whether an application complies with the standards of Section 107.62(d)(2) within 60 days of the Planning Department's receipt of a complete application and payment of applicable fees. If the Planning Director determines preliminarily that the application complies with the standards, the Planning Department shall provide public notification in accordance with Section 107.62(d)(4). If the Planning Director determines that the application does not comply with the standards, the Planning Director shall issue a written decision of denial to the applicant with an explanation of reasons for the denial.

(4) *Surrounding property owner notification of application.* Only after preliminarily determining that an application for a variance complies with the standards, the Planning Director shall provide written notice by regular mail to owners of real property located within 600 feet of the property that is the subject of the application. The notice shall provide a brief description of the proposed administrative variance and indicate where the application may be examined. The cost of providing notice shall be borne by the applicant.

(5) *Decision by the Planning Director.* After 30 calendar days of the date in which the written notification was sent per Section 107.62(d)(4), the Planning Director shall review all public responses to the application. Upon a finding that the application has or has not complied with the requirements and standards of this section, the Planning Director shall issue a written administrative variance decision.

(6) *Public hearing by the Planning Commission.* If requested in writing by the applicant, or an adversely affected owner or resident of real property located in the City during the required 30-day notification period, a public hearing by the Planning Commission shall be scheduled on the application. All costs of the public hearing shall be the responsibility of the applicant for the

administrative variance. The public hearing shall be conducted and noticed in accordance with the procedures set forth in Article 4, "Notice of Public Meetings and Hearings" of Chapter 102.

(e) **Variations granted by the Planning Commission.** The Planning Commission is authorized to grant variations to this chapter.

(1) *Application.* An application shall be submitted to the Planning Department on a form approved by the Department.

(2) *Standards.* The Planning Commission shall grant a variance only if the applicant demonstrates that all of the following standards are met:

a. The literal interpretation and strict application of the provision and requirements of this chapter would cause undue and unnecessary hardship to the sign owner because of unique or unusual conditions pertaining to the specific building or parcel or property in question;

b. The granting of the requested variance would not be materially detrimental to the property owners in the immediate vicinity;

c. The unusual conditions applying to the specific property do not apply generally to other properties in the City;

d. The granting of the variance will not be contrary to the general objective of this chapter of moderating the size, number and obtrusive placement of signs and the reduction of clutter;

e. The variance is not requested solely on the basis of economic hardship of the sign user;

f. The variance shall be the minimum necessary to provide relief to the applicant; and

g. The variance shall not permit a sign expressly prohibited by this Chapter.

(3) *Procedures.* The Planning Director shall determine within 15 calendar days if an application is complete. Within 60 calendar days of the Planning Department's receipt of a complete application and payment of applicable fees, the Planning Department shall schedule the application for review and decision by the Planning Commission. The Planning Director shall review the entire application and all public responses thereto and prepare a staff report with recommendations for the Planning Commission. The application shall be heard at a regularly scheduled meeting of the Planning Commission. Notice, posting and hearing requirements shall be in accordance with the procedures set forth in Article 4, "Notice of Public Meetings and Hearings" of Chapter 102.

(4) *Decision by the Planning Commission.* Within 30 calendar days of the date of the public hearing, upon a finding that the application has or has not complied with the requirements and standards of this section, the Planning Commission shall issue a written variance decision. If the variance is denied, the written decision shall provide reasons for the denial.

Sec. 107.621 – General provisions for signs.

The requirements of this section shall apply to all signs whether or not a permit is required, unless otherwise noted below:

(a) **Measurements.**

(1) *Measurement of sign area.*

a. The sign area shall be measured from the outside edges of the sign or sign frame, whichever is greater, excluding the area of the supporting structures, provided that the supporting structures are not used for advertising purposes and are of an area equal to or less than the permitted sign area. In the case of wall-mounted signs without border or frame, the surface area shall include such reasonable and proportionate space as would be required if a border or frame were used.

b. When a single sign structure is used to support two or more signs, or unconnected elements of a single sign, the surface area shall comprise the square footage within the perimeter of a regular geometric form enclosing the outer edges of all the separate signs or sign elements. However, undecorated space of up to 12 inches between separate sign panels may be excluded from the sign area measurement where necessary to provide structural support members or to provide visual separation between sign panels.

c. Where signs are installed back-to-back, both faces shall be counted as sign area.

(2) *Measurement of sign height.* The height of a sign shall be considered to be the vertical distance measured from the top of the structure to the finished ground elevation of the site at the base of the sign. In no event shall excess fill be used to raise a sign.

(b) **Consent of property owner and responsibility.** No sign requiring a permit may be displayed without the consent of the party or parties with legal title to the property on which the sign is mounted or displayed. The sign owner(s), the property owner(s) of the property on which the sign is placed and the sign contractor shall each be held responsible for adherence to this chapter and Chapter 6. In order for a sign application to be approved, the property owner must grant access to the property for inspection purposes, for the life of the sign.

(c) **City sign number.** All signs for which a permit is required by this chapter shall not be erected, displayed, rebuilt, repaired, the copy changed, painted or otherwise maintained until and unless the City sign permit number is painted or otherwise affixed to the sign or sign structure in such a manner as to be plainly visible from grade.

(d) **Location restrictions.**

(1) *Clear sight triangle.* No sign shall be erected that would impair visibility at a street intersection or driveway entrance.

(2) *Clearance from high-voltage power lines.* Signs shall be located in such a way that they maintain a clearance of ten feet to all overhead electrical conductors and a three-foot clearance on all secondary voltage service drops.

(3) *Setbacks from property lines.* The minimum setback for signs shall be five feet, setbacks shall be measured from the property line to the farthest extension of the sign, including any overhangs, guy wires and supports.

(4) *Scenic corridor bufferyard.* Where a scenic corridor bufferyard is required, ground-mounted signs shall only be erected in the immediate vicinity of a driveway.

(5) *Fences.* The authorized ground-mounted sign not requiring a permit may be placed on a fence regardless of setbacks provided the sign does not extend above the fence or project more than four inches outward from the fence.

(e) **Structure design, engineering and construction.**

(1) *Compliance with Florida Building Code.* All signs shall comply with the appropriate detailed provisions of the Florida Building Code relating to design, structural members and connections.

(2) *Licensed contractor.* Signs shall only be erected by entities authorized by Chapter 6.

(3) *Structure design.* All signs that contain more than 40 square feet in area or are erected over 20 feet in height shall be designed by an engineer registered in the state. Structural drawings shall be prepared by the engineer and submitted prior to a permit being issued. Wind load calculations shall be contained in the engineering drawings. The building official may set wind load requirements greater than the Florida Building Code if deemed necessary to protect the health, safety and welfare of the public or property owners surrounding the sign. The building official may request wind load calculations for signs of less than 40 square feet in area prior to issuing a permit.

(4) *Supports and braces.* Supports and braces shall be adequate for wind loading. Wire or cable supports shall have a safety factor of four times the required strength. All metal, wire cable supports and braces and all bolts used to attach signs to a bracket or brackets and signs to the supporting building or structure shall be of galvanized steel or of an equivalent corrosive-resistant material. All such sign supports shall be an integral part of the sign.

(5) *Sign anchoring.* No sign shall be suspended by chains or other devices that will allow the sign to swing due to wind action. Signs shall be anchored to prevent any lateral movement that would cause wear on supporting members or connections.

(6) *Double-faced signs.* Double-faced signs with opposing faces may not have an interior angle greater than 45.

(f) **Electric signs, digital signs and illuminated signs.**

(1) All electric signs shall require a permit and shall be Underwriter's Laboratory approved or certified by a sign electrician specialty contractor or licensed master sign contractor, or an electrical contractor, that the sign meets the standards established by the National Electrical Code, current edition. All electric signs shall be erected and installed by an entity authorized to do so by Chapter 6 and shall be in conformance with the National Electrical Code, current edition. The provision of electrical power to a power source or connection of a sign to existing electrical service shall be by an entity authorized by Chapter 6.

(2) Artificial light used to illuminate any sign from outside the boundaries of such sign shall be screened in a manner that prevents the light source from being visible from any right-of-way or adjacent property.

(3) Electronic message centers and digital signs shall comply with the following:

a. Electronic message centers and digital signs shall contain static, motionless messages only;

b. Displaying any form of motion, or the optical illusion of movement, video or varying light intensity is prohibited;

c. Each message on a digital sign must be individually complete and shall not continue on a subsequently displayed message;

d. Audio mechanisms, producing sounds, messages or music are prohibited.

e. Brightness. Digital signs shall not operate at brightness levels of more than 0.3 foot candles above ambient light, as measured using a foot candle meter at a pre-set distance. This requirement is based on levels established by the Illuminating Engineering Society of North America (IESNA) for Light Emitting Diode (LED) signage as amended from time to time.

f. Each digital sign must have a light sensing device that will adjust the display brightness in real-time as ambient light conditions change so that at no time a sign shall exceed a brightness level of three-tenths (0.3) footcandles above ambient light.

g. Photometric plan. Each building permit application for a digital sign shall be accompanied by a photometric plan. The photometric plan shall demonstrate the digital sign's maximum light intensity, in foot candles above ambient light, shall not impact neighboring properties, maximum illumination measured in footcandles at the property line shall not exceed 0.3 footcandles.

h. Malfunction. Digital signage shall have a default mechanism installed to either turn the display off or only show black on the display in the event of a malfunction.

(g) **Maintenance.** All signs for which a permit is required by this chapter, including their braces, supports, guys and anchors, shall be maintained so as to present a neat, clean appearance. Painted areas and sign surfaces shall be kept in good condition, and illumination, if provided, shall be maintained in safe and good working order.

(h) **Discontinued signs.** Beginning January 1, 2022, discontinued signs shall be regulated as follows:

(1) Sign structures that remain vacant, unoccupied, or devoid of any message, or display a message pertaining to a time, event or purpose that no longer applies shall be deemed to be discontinued.

(2) A nonconforming sign deemed discontinued shall immediately terminate the right to maintain such sign.

(3) Within 60 days after a sign structure has been discontinued, it shall be the responsibility of the property owner to remove the discontinued sign and conceal any and all damage to any other structure resulting from removal of the sign. ON A CASE BY CASE BASIS

(4) Removal of a discontinued sign shall include all sign support components, angle irons, poles and other remnants of the discontinued sign that are not currently in use or proposed for immediate reuse as evidenced by a sign permit application.

(i) **Sign programs for special identification signs.**

(1) *Community business directory signs.* The City may work with FDOT District 6 and local communities to develop a sign program that promotes businesses within specific communities throughout Marathon through the use of centrally located multiple user business identification signs on U.S. 1.

(2) *Community identification signs.* The City may work with FDOT District 6 to develop a sign program that identifies specific communities throughout Marathon. The City shall coordinate with local communities to incorporate a theme which promotes the unique character of the local community.

(3) *Off-premises special feature identification signs.* The City may work with FDOT District 6 to develop a sign program that identifies special features, tourist sites and business districts. The City shall coordinate with local communities to select appropriate landmarks to be identified.

(j) **Substitution of noncommercial speech for commercial speech.** Any sign erected pursuant to the provisions of this code may, at the option of the applicant, contain either a noncommercial message unrelated to the business located on the premises where the sign is erected, or a commercial message related to the business and located on the business premises pursuant to the following regulations:

(1) The noncommercial message may occupy the entire sign face or portion thereof.

(2) The sign face may be changed from commercial to noncommercial messages as frequently as desired by the owner of the sign, provided:

a. The size and design criteria conform to the applicable portions of this code;

b. The sign is allowed by this code;

c. The sign conforms to the requirements of the applicable zoning designation; and

d. The appropriate permits are obtained.

(3) For the purpose of this sign code, noncommercial messages shall never be deemed off-premises signs.

(k) **Viewpoint neutrality.** Notwithstanding anything contained in the chapter to the contrary, no sign or sign structure shall be subject to any limitation based upon the viewpoint of the message contained on such sign or displayed on such sign structure.

Sec. 107.622 – Temporary signs.

Subject to any applicable provisions within Section 107.621 (general provisions for signs), temporary signs that meet the criteria and limitations set forth below shall be allowed, and shall not require a sign permit unless specifically required below.

- (a) A temporary government sign shall not require a sign permit and shall be allowed in all zoning districts on public property and public rights-of-way.
- (b) A temporary sign displayed on a window surface must be displayed on the inside of the window surface, shall cover no more than 50 percent of the window surface, and shall not be illuminated.
- (c) Temporary signs on residentially zoned property utilized for residential or institutional uses shall be permitted subject to the following limitations:
 - (1) No more than four temporary sign(s) not exceeding six square feet. (Note: If more than one sign is allowed, the square footage should be cumulative)
 - (2) These temporary signs shall not be illuminated and shall contain only static messages.
 - (3) Signs shall not exceed three feet in height.
 - (4) Signs shall not be utilized for more than 60 days per year.
- (d) Temporary signs on non residentially zoned property shall be allowed subject to the following limitations:
 - (1) No more than three temporary sign(s) not exceeding 12 square feet. (Note: If more than one sign is allowed, the square footage should be cumulative).
 - (2) These temporary signs shall not be illuminated and shall contain only static messages.
 - (3) Signs shall not exceed six feet in height.
 - (4) Signs shall not be utilized for more than 60 days per year.
 - (5) One Pennant, flutter sign, wind activated banner, streamer, balloon, or other fixed aerial signage used for commercial advertising per business;

Sec. 107.623 – Permanent signs.

- (a) Generally the following signs shall not require a permit but must comply with Section 107.621 and additional standards of this subsection, unless otherwise provided below:
 - (1) Bench signs. Bench signs shall be allowed, upon approval of the City Council, at any designated bus stops subject to the following limitations:
 - a. Benches in residential areas shall not have signs, except a bench donor sign containing the donor's logo or symbol, not exceeding two inches by 16 inches in size;

b. Benches in commercial areas shall be allowed to have signs on the back rest not to exceed a total of six square feet; and

c. Bench signs shall be limited to one per designated bus stop.

(2) Business affiliation and law enforcement signs. Signs displayed upon the premises denoting professional and trade associations with which the occupant is affiliated, and including, but not limited to, forms of payment accepted by the occupant, and other signs pertaining to public safety and law enforcement, provided the total of such signs does not exceed four square feet;

(3) Business information signs. Signs providing information to customers related to the conduct of the business, provided that such signs are posted on or near the entrance doors and the total of such signs does not exceed six square feet;

(4) Commemorative plaques. Signs of recognized historical nature, provided no plaque exceeds 16 square feet per face.

(5) Directional signs.

(6) Flags.

a. Each business frontage shall be allowed to display two flags containing any commercial graphic, symbol, logo or other advertising message, provided that no such flag shall exceed 50 square feet in size. Flag poles must comply with side and rear yard setbacks. In no instance shall a flag extend beyond the property line.

b. For each parcel and development site in residential use, two flagpoles may be installed and no more than two flags displayed on a flagpole. Flag poles must comply with side and rear yard setbacks. In no instance shall a flag extend beyond the property line. For each principal structure on a parcel in residential use, up to two flag brackets or stanchions may be attached or placed for the display of flags.

c. Where a scenic corridor or major street buffer yard is required, flagpoles shall only be erected in the immediate vicinity of a driveway.

(7) Hospitals or other emergency facilities. In addition to other signage allowed under this chapter, hospitals or other emergency medical facilities, excluding individual medical offices, shall be allowed one additional illuminated ground-mounted or wall-mounted sign not exceeding 32 square feet per face to identify each emergency entrance.

(8) Interior property information signs as defined in Section 107.59.

(9) Memorial signs or tablets. Signs including, but not limited to, names of buildings and date of erection when cut into any masonry surface or when constructed of bronze or other noncombustible materials, provided the total of such signs does not exceed eight square feet. Signs recognizing persons or points of historic interest may be placed on any parcel, if applicable to the parcel, but shall not exceed four square feet.

(10) Nameplates. Signs bearing only property numbers, street addresses, mailbox numbers, estate names, the occupation of the occupant or names of occupants of the premises, provided the signs do not exceed two square feet per sign face.

(11) Posted property signs. Posted property signs provided they individually do not exceed 1.5 square feet in area per sign and not exceeding four in number per lot, or of such number, spacing, and size as is required per state statutes. Such signs shall not be illuminated, nor shall they project over any public right-of-way.

(12) Window signs. Window signs that collectively cover 50 percent or less of the window glass surface area. Note: The abovementioned business information and business affiliation signs shall be excluded from the computation of the window sign area.

(b) Permanent signs in residential areas and areas of low intensity (C-NA, C-OI, PR, RL, RL-C, RM, R-MH, RH) shall require a permit and are restricted as follows:

(1) *Commercial and other nonresidential uses.* Commercial and other nonresidential uses within the land use (zoning) districts, C-NA, C-OI, PR, RL, RL-C, RM, R-MH, RH, which are adjacent to U.S. 1 shall be regulated pursuant to Section 107.623(8)(b)(3) below. Unless otherwise provided for in this chapter, all other commercial and nonresidential uses in these land use (zoning) districts shall be allowed one ground-mounted sign and wall-mounted signage which shall be limited as follows:

a. The ground-mounted sign shall be limited to 32 square feet in area per face and eight feet in height; and

b. Wall-mounted signage shall be limited to a total of 32 square feet.

(2) *Residential subdivision or condominium sign.*

a. One permanent, wall-mounted or ground-mounted sign, for identification of the subdivision or residential development only, may be granted a permit at each main entrance into such subdivision or development from each abutting street.

b. The following limitations shall apply:

1. The subdivision or development shall have a homeowner's association or similar entity that will be responsible for permits and maintenance of the signs;

2. The face of each sign shall not exceed 32 square feet;

3. The maximum permitted height shall be eight feet; and

4. The sign may incorporate, or be incorporated into, accessory entrance structural features such as a project wall or landscaping.

(3) *Institutional uses and private parks.* Institutional uses, private parks and similar uses shall be allowed one ground-mounted sign and wall-mounted signage that shall be limited as follows:

- a. The ground-mounted sign shall be limited to 32 square feet in area per face (a maximum of 64 square feet for all faces) and eight feet in height;
- b. Wall-mounted signage shall be limited to a total of 32 square feet; and
- c. An additional 16 square feet in area per face may be added to the ground-mounted sign for the exclusive use of a changeable copy sign.

(4) *Electronic message centers and automatic changing signs.* Electronic message centers and automatic changing signs shall be prohibited in residential areas and areas of low intensity (C-NA, C-OI, PR, RL, RL-C, RM, R-MH, RH

(c) Permanent signs in commercial/nonresidential areas (A, I-G, I-M, MU, MU-M) shall require a permit and whose size and number shall be permitted based on the amount of property frontage and business frontage as follows:

(1) *Ground-mounted single-tenant/occupant signs.* Every developed parcel of land with a commercial or other nonresidential use shall be allowed the following ground-mounted signage:

a. One illuminated or non-illuminated, ground-mounted sign of a height not more than 24 feet shall be allowed for each frontage as indicated in the following table:

Permitted Size of Nonresidential Signs per Property Frontage		
Street Frontage (linear feet)	Maximum Area Per Face (square feet)	Total Face Area (square feet)
Frontage on U.S. 1 or a frontage road adjacent to U.S. 1:		
1 ft. to 150 ft.	75 sq. ft.	150 sq. ft.
151 ft. to 300 ft	100 sq. ft.	200 sq. ft.
Over 301 ft. or more	200 sq. ft.	400 sq. ft.
Frontage on city roads, shorelines or runways:		
1 ft. to 150 ft.	40 sq. ft.	80 sq. ft.
151 ft. to 300 ft.	60 sq. ft.	120 sq. ft.
Over 301 ft. or more	80 sq. ft.	160 sq. ft.

- b. Parcels that are on a corner of two public streets shall be allowed either:
 - 1. One ground-mounted sign for each property frontage; or

2. One ground-mounted sign with exposure to both streets with up 1.5 times the maximum amount of area allowed on any one property frontage.

c. Where a street or highway is divided, which results in a parcel of land in the median of the street or highway then the property shall be considered to have a frontage on each side.

d. Service stations, convenience stores, marinas, or other facilities dispensing fuel to the public shall be allowed to add to each authorized ground-mounted sign, an additional 40 square feet or 20 square feet per face of signage for the exclusive use of a changeable copy sign.

e. A school, church, day-care center or other similar use shall be allowed to add an additional 64 square feet or 32 square feet per face of signage to the ground-mounted or wall-mounted sign for the exclusive use of a changeable copy sign.

f. Individual charter boats shall be allowed a ground-mounted sign at the charter boat's dock slip, provided the sign does not exceed a total of 40 square feet and there is no more than one fish replica. Signs allowed under this provision shall be exempt from shoreline setback requirements.

g. Drive-through or carry-out services shall be allowed up to two ground-mounted signs per lane not viewable from any right-of-way and provided that the total sign area is limited to a maximum of 40 square feet.

h. Any parcel that does not have a ground-mounted sign as defined in Section 107.59 shall be allowed a single A-frame sign in place of the ground-mounted sign. Such A-frame signs shall meet all of the following standards:

1. The sign shall be of A-frame-type construction, with only two sign faces that are joined at the top;

2. The sign shall be portable and not permanently affixed to the ground;

3. The sign shall be located on the private parcel of land on which the business is also located. The sign may not be located on a public right-of-way or walkway;

4. The sign shall not be located in a clear sight triangle;

5. The sign shall not be illuminated or electric and shall not have any electric devices attached thereto; and

6. The sign shall be stored indoors during tropical storm/hurricane watches and warnings and other severe weather advisories;

i. Ground-mounted multi-tenant/occupant signs. Every developed parcel of land with greater than one commercial or other nonresidential use shall be allowed additional ground-mounted signage area if granted an administrative variance pursuant to Section 107.62.

(2) *Wall-mounted signs.*

a. Signs painted or attached to the surface of awnings, parapets, mansards and similar roof and building elements shall be considered wall-mounted signs for purposes of determining compliance with the requirements of this chapter.

b. Wall-mounted signs shall not extend above the facade of a building or project outward more than 24 inches from the facade or wall to which it is attached.

c. Each individual business frontage shall be allowed wall-mounted signage equal in area to two square feet times the length of the individual business frontage.

d. A commercial or other nonresidential building located on a corner of two public streets shall be allowed wall-mounted signage on the wall not considered to be the front (i.e., a side street) equal in area to one square foot times the length of such wall.

e. The side of a commercial or other nonresidential building not on a corner of two public streets shall be allowed wall-mounted signage on the side walls equal in area to one-half square foot times the length of the side of the building.

f. If the rear of a commercial or other nonresidential building faces a public street or public parking lot, a wall-mounted sign up to a maximum of eight square feet shall be allowed per individual business.

g. On a multistory commercial or other nonresidential building, wall-mounted signage shall be permitted for each additional floor as outlined in subsection (b)(2).c. of this section.

h. Theaters, museums, auditoriums and fairgrounds and similar uses providing regular shows shall be permitted an additional 50 square feet of a changeable copy wall-mounted sign. Along the wall adjacent to the ticket windows, a theater may display, without requiring a sign permit, one poster up to 12 square feet for each movie being shown.

i. Drive-through or carry-out services shall be allowed one wall-mounted not viewable from any right-of-way and provided that the sign is limited to a maximum of 40 square feet.

(3) *Canopy signs.* One sign per business entrance shall be allowed to be erected underneath, and extending downward from, a canopy along the front of a building, provided:

a. The sign does not exceed eight square feet per face;

b. The sign is permanently attached and does not swing;

c. The sign is perpendicular to the facade of the building; and

d. The sign is located above a walkway.

(d) Off-premises signs. Any nonresidential, lawfully-established business located on U.S. 1 shall be allowed to dedicate any portion of its allowance for one ground-mounted sign to another nonresidential, lawfully-established business not located on U.S. 1. The side street intersecting U.S. 1 used to access the other nonresidential business shall be located within one-half mile of the property on U.S. 1 providing the off premises signage. Such off-premises signage shall be limited

to one sign face per direction on U.S. 1. Off-premises advertising is also subject to subsections (c)1. and (c)2. of this section and to regulations pursuant to F.S. Chapter 479.

A permit must be obtained from the Florida Department of Transportation (FDOT) Outdoor Advertising office for any off-premises sign that is within 600 feet of the nearest edge of the U.S. 1 right-of-way and/or is visible from U.S. 1. New permits will not be issued for off-premises signs visible from a designated scenic highway (Rule 14-10(4)(c) Florida Administrative Code). The Building Department shall not issue any building permit for an off-premises sign until the applicant provides documentation from the FDOT indicating that a proposed off-premises sign is permitted by the FDOT or that a permit is not necessary from the FDOT. It is the responsibility of the applicant to obtain all federal, state and local permits for any off-premises sign.

Sec. 107.624 – Government signs.

(a) Signs required or provided at the direction of City, county, state or federal government shall be allowed on public right-of-way without a sign permit but shall comply with the City building code and other applicable regulations of the county, state or federal government. Such signs may include:

(1) The erection of government signs in the right-of-way of U.S. 1 as are otherwise allowable pursuant to state or federal law. Examples of government signs shall include, but not be limited to, "Welcome to Marathon," "Thank You for Visiting Marathon," and signs that identify recognized communities or municipalities; and

(2) Traffic control signs erected by the City, county, state or federal government.

(b) Any sign erected by or at the direction of the federal, state, or county government as required by statute. Such signs shall not reduce the authorized size or number of signs otherwise allowed by this chapter. All signs allowed pursuant to this paragraph shall be the minimum necessary to comply with the applicable law.

Sec. 107.625 – Nonconforming signs.

Lawfully established signs which become non-compliant and or nonconforming to the current regulations as a result of any amendment to this chapter may continue only as follows:

(a) For nonconforming ground-mounted signs, changes of type style, size or color changes may be performed, provided that a permit is obtained in compliance with the requirements of this chapter.

(b) No permit shall be issued for repair or reconstruction of any nonconforming sign structure where such work would be more than 50 percent of the replacement cost of the sign, unless the sign is brought into compliance with the requirements of this chapter. Neither shall the cumulative costs of repair or reconstruction exceed 50 percent of the replacement cost of any nonconforming sign. The Planning Department shall maintain an independently verified schedule of the replacement cost of signs.

(c) Determinations of nonconforming signs shall be made such that ground-mounted signs are treated separately from wall-mounted and all other signage. For example, where both the ground-mounted and wall-mounted signs of a particular parcel are nonconforming, the change of type style, size or color of copy of a wall-mounted sign shall not require that the ground-mounted signage be brought into compliance. However, where a sign other than a ground-mounted sign is required to be brought into compliance, all of the signs of an establishment other than the ground-mounted signs shall be brought into full compliance with this chapter.

(c) Signs that cannot comply with the requirements of this chapter may be allowed to continue if designated as a historical or cultural landmark pursuant to Article 5, “Historic Structures and Sites” of Chapter 106. The specific conditions under which a designated sign is allowed to continue shall be set forth in the resolution of the City Council.

Sec. 107.626 – Penalties.

Penalties for violation of this chapter shall be as provided in Chapter 10 of the City Code.

Sec. 107.627 – Severability.

(a) **Generally.** It is the declared legislative intent of the City that if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this sign code is declared unconstitutional by the final and valid judgment or decree of any court of competent jurisdiction, this declaration of unconstitutionality or invalidity shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this code.

(b) **Severability where less speech results.** This subsection shall not be interpreted to limit the effect of subsection (a) above, or any other applicable severability provisions in the land development code or any adopting ordinance. The City specifically intends that severability shall be applied to these sign regulations even if the result would be to allow less speech in the City, whether by subjecting currently exempt signs to permitting or by some other means.

(c) **Severability of provisions pertaining to prohibited signs.** This subsection shall not be interpreted to limit the effect of subsection (a) above, or any other applicable severability provisions in the land development code or any adopting ordinance. The City specifically intends that severability shall be applied to prohibited signs and prohibited sign locations, so that each of the prohibited sign types listed in that section shall continue to be prohibited irrespective of whether another sign prohibition is declared unconstitutional or invalid.

(d) **Severability of prohibition on off-premises signs.** This subsection shall not be interpreted to limit the effect of subsection (a) above, or any other applicable severability provisions in the land development code or any adopting ordinance. If any or all of the sign code, or any other provision of the City's land development code is declared unconstitutional or invalid by the final and valid judgment of any court of competent jurisdiction, the City specifically intends that that declaration shall not affect the prohibition on off-premises signs.

Miscellaneous

DEPARTMENT OF ECONOMIC OPPORTUNITY

Division of Community Development

DEO Final Order No. DEO-22-019

STATE OF FLORIDA

DEPARTMENT OF ECONOMIC OPPORTUNITY

In re: A LAND DEVELOPMENT REGULATION
ADOPTED BY CITY OF MARATHON,
ORDINANCE NO. 2022-02

FINAL ORDER
APPROVING CITY OF MARATHON ORDINANCE NO. 2022-02

The Department of Economic Opportunity (the "Department") hereby issues its Final Order, pursuant to Section 380.05(6), Florida Statutes, approving land development regulations adopted by the City of Marathon (the "City"), Ordinance No. 2022-02 (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 March 8, 2022 and rendered to the Department on April 20, 2022.
3. The Ordinance amends Chapter 107, Article 7 of the City's Code of Ordinances by repealing it as written and reforming it to comport with the United States Constitution and the United States Supreme Court case law concerning municipal regulation of signs.

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 1-1.1.2 *Adopt Compatibility for Residential and Non-Residential Review Criteria*.
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 of Marathon Ordinance No. 2022-02 is consistent with the City of Marathon'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/ Benjamin Melnick, Benjamin Melnick, Deputy Secretary, Division of Community Development, 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 7th day of July 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