

Sponsored by: Garrett
Introduction Date: July 17, 2023
Public Hearing Dates: July 17, 2023
March 12, 2024
April 9, 2024
Enactment date: April 9, 2024

**CITY OF MARATHON, FLORIDA
ORDINANCE 2023-15**

**AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA,
AMENDING CHAPTER 104 “SPECIFIC USE REGULATIONS”,
ARTICLE 1 “GENERAL PROVISIONS”, UPDATING SECTION 104.25
“HOTELS OR MOTELS”; PROVIDING FOR THE REPEAL OF ALL
CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS
ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR
INCLUSION IN THE CODE OF ORDINANCES, CITY OF MARATHON,
FLORIDA; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the Local Government Comprehensive Planning and Land Development Regulation Act, Chapter 163, Florida Statutes, provides for comprehensive plan implementation through the enactment of certain ordinances; and

WHEREAS, the City of Marathon is located within an Area of Critical State Concern (ACSC), pursuant to Sections 380.05 and 380.0552, Florida Statutes, hereinafter referred to the “Keys ACSCs;” and

WHEREAS, Keys’ Local Governments have adopted state-mandated Comprehensive Plans and Land Development Regulations pursuant to both Chapters 163 and 380.055, Florida Statutes, which have been approved by the State, as required by law, and

WHEREAS, Chapter 166, *Florida Statutes*, grants the City of Marathon (the “City”) broad municipal home rule powers to provide for the health, safety and welfare of its residents, business owners and visitors by enacting business regulations for the protection of the public; and

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

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

SECTION 2. Amend the Land Development Regulations, Chapter 104, Section 104.25 “Hotels or Motels” as shown in Exhibit A

SECTION 3. The Provisions of the Code of Ordinances, City of Marathon, Florida and all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.


SECTION 4. The provisions of this Ordinance are declared to be severable, and if any sentence, section, clause or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sentences, sections, clauses or phrases of the Ordinance, but they shall remain in effect it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 5. The provisions of this Ordinance constitute a “land development regulation” as state law defines that term. Accordingly, the City Clerk is authorized and directed to forward a copy of this Ordinance to the State Department of Economic Opportunity for approval pursuant to Sections 380.05(6) and (11), Florida Statutes.

SECTION 6. This Ordinance shall be effective immediately upon approval by the State Department of Economic Opportunity pursuant to Chapter 380, Florida Statutes.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 9th DAY OF APRIL 2024.

THE CITY OF MARATHON, FLORIDA



Robyn Still, Mayor

AYES: Matlock, Gonzalez, Smith, Landry, Still
NOES: None
ABSENT: None
ABSTAIN: None


ATTEST:



Hillary Palmer, Deputy City Clerk

(City Seal)

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



Steven Williams, City Attorney

STATE OF FLORIDA
DEPARTMENT OF COMMERCE

In re: A LAND DEVELOPMENT REGULATION
ADOPTED BY CITY OF MARATHON,
ORDINANCE NO. 2023-15

FINAL ORDER
APPROVING CITY OF MARATHON ORDINANCE NO. 2023-15

The Florida Department of Commerce (“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. 2023-15 (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 April 9, 2024, and rendered to the Department on April 22, 2024.
3. The Ordinance makes various modification to Section 104.25 titled, *Hotels or Motels*. The modifications include, but are not limited to the following:
 - a. Changes the minimum percentage of on- or off-site employee housing living space that hotel or motels must provide from 20 percent to 25 percent;
 - b. Changes the rate of development of a one (1) bedroom to a three (3) bedroom from 85 percent to 80 percent;
 - c. Adds language that requires redevelopment to be clustered to the least environmentally sensitive portion of the property, in accordance with section 106.16, to protect existing habitat on site;

- d. Adds Community Workforce Housing Unit as the housing type allowed for on- or off-site employee housing living space; and
- e. Adds language requiring all hotels or motels to provide a lobby area.

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 1-3.2.6, Policy 1-3.3.4, and Policy 1-3.5.13.

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.

8. The Principles for Guiding Development for the Florida Keys Area of Critical State Concern are set forth in Section 380.0552(7), Florida Statutes.

9. 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:

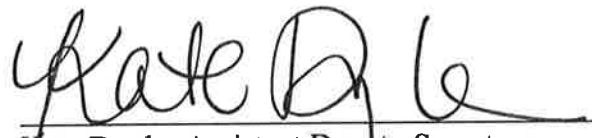
- (a) Strengthening local government capabilities for managing land use and development so that local government is able to achieve these objectives without continuing the area of critical state concern designation.
- (d) Ensuring the maximum well-being of the Florida Keys and its citizens through sound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

- (l) Making available adequate affordable housing for all sectors of the population of the Florida Keys.

WHEREFORE, IT IS ORDERED that the Department finds that the City of Marathon Ordinance No. 2023-15 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.

A handwritten signature in black ink, appearing to read "Kate Doyle", written over a horizontal line.

Kate Doyle, Assistant Deputy Secretary
Division of Community Development
Florida Department of Commerce

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 RULES 28-106.104(2), 28-106.201(2), AND 28-106.301, FLORIDA ADMINISTRATIVE CODE.

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

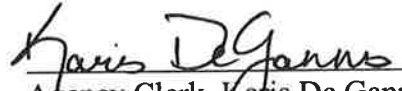
ANY PETITION MUST BE FILED WITH THE AGENCY CLERK OF THE FLORIDA DEPARTMENT OF COMMERCE WITHIN 21 CALENDAR DAYS OF THE FINAL ORDER BEING PUBLISHED IN THE FLORIDA ADMINISTRATIVE REGISTER. A PETITION IS FILED WHEN IT IS RECEIVED BY:

AGENCY CLERK
FLORIDA DEPARTMENT OF COMMERCE
OFFICE OF THE GENERAL COUNSEL
107 EAST MADISON ST., MSC 110
TALLAHASSEE, FLORIDA 32399-4128
FAX 850-921-3230
AGENCY.CLERK@COMMERCE.FL.GOV

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 20th day of June 2024.


Agency Clerk, Karis De Gannes
Florida Department of Commerce
107 East Madison Street, MSC 110
Tallahassee, FL 32399-4128

By U.S. Mail:

The Robyn Still, 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

[Section 104.25.] Hotels or Motels.

An existing hotel or motel may be redeveloped pursuant to Table 103.15.1, subject to the following standards:

A. General Provisions:

~~1. Reserved.~~

~~12.~~ Each hotel or motel shall comply with all mandatory hurricane evacuation requirements set forth by the City for hotel, motel, and other transient uses.

~~23.~~ Each hotel or motel shall establish and maintain shuttle transport services to airports and tourist attractions individually or in conjunction with other hotel or motel operators.

~~34.~~ Except as provided in Subsection (a), all hotel or motels shall provide on- or off-site employee housing living space in an amount equal to a minimum of ~~20~~25 percent (as may be adjusted from time to time by Council policy to reflect economic conditions) of the approved floor area in guest units; and such housing shall be of any of the following types as outlined in (b) below:

(a) An exception to the requirement for on- or off-site employee housing living space for hotel/motel redevelopment may be recommended by the Planning Director, the Planning Commission, and approved by the City Council as part of a conditional use and/or development agreement when the following criteria are met:

1. No increase in the number of hotel/motel transient units (unit as described in Subsection 104.25A.54. of the LDRs) ~~if existing hotel/motel unit density is non-conforming as defined in Chapter 108, Article 3 of the LDRs and as specifically outlined in Section 108.12 of the LDRs;~~
2. No use of transferable building rights (TBRs) (as described specifically in Subsection 107.14B. of the LDRs;
3. No significant change (+ or – 10%) in the current project floor area (Floor area as defined in Chapter 110, Article 3 of the LDRs);
4. No significant difference between the current and proposed uses of floor area;
5. No effort to move units off-site through TBRs as part of the proposed project, though they may be documented and preserved for future use; and
6. No significant change or increase in the size or type of project site amenities.

(b) Housing types:

1. Dormitory pursuant to Section 104.15;
2. Community Workforce Housing Unit pursuant to Section 104.13. ~~Studio; or~~
- ~~3. One (1) or two (2) bedroom units.~~

~~45.~~ All entrances to a hotel or motel unit shall share the same key or means of controlling access so that the hotel or motel room as defined herein is not divisible into separately rentable units.

~~5.~~ All hotels or motels must provide a lobby for guests to check in/out.

B. Redevelopment Criteria:

-
1. An existing hotel or motel room may be redeveloped to a unit not exceeding 1,500 square feet consisting of no more than two and one-half (2½) bathrooms, three (3) bedrooms and one (1) other living area, subject to the following rates of redevelopment:
 - (a) A one (1) bedroom unit may redevelop as a one (1) bedroom unit, without a reduction in the number of units; and
 - (b) A one (1) bedroom unit may redevelop as a two (2) bedroom unit at the rate of 90 percent of the one (1) bedroom units being redeveloped as two (2) bedroom units; and
 - (c) A one (1) bedroom unit may redevelop as a three (3) bedroom unit at the rate of ~~85~~ 80 percent of the one (1) bedroom units being redeveloped as three (3) bedroom units.
 2. The number of units reduced and not included in the redevelopment shall be tracked over time and registered with the City as Conditional Redevelopment Units and reflected in the data and analysis of the Comprehensive Plan as it is amended.
 3. Existing hotel units, which exceed allocated densities, may redevelop provided: (1) the parcel has a stormwater management system which meets the requirements of Article 11, of Chapter 107; (2) the wastewater treatment system meets Best Available Treatment wastewater standards; and (3) the structures meet the shoreline setback criteria as established in Article 4 "Open Water, Surface Waters and Wetlands" of Chapter 106.
 4. As a condition of redevelopment, the developer and the City shall enter into a Development Agreement, in addition to compliance with all other provisions of the Code.
 5. Redevelopment shall be clustered to the least environmentally sensitive portion of the property pursuant to Section 106.16 to protect existing habitat on site.
 65. The City may consider, at a future time, proposed amendments to the LDRs to authorize the construction of Conditional Redevelopment Units. Prior to the consideration of such amendment, the City must demonstrate that: (1) a significant reduction in Hurricane Clearance Time has been achieved for the mandatory evacuation of permanent residents; (2) the Conditional Redevelopment Units have been tracked; and (3) other environmental and land use issues have been addressed.
 76. Notwithstanding the foregoing, the developer of a hotel or motel containing less than 12 units may convert existing, lawfully established accessory floor area in the hotel or motel to a second bedroom or third bedroom, as the case may be, to an adjacent existing hotel or motel unit without triggering the requirements of Subsections B.1 or B.4 above; provided, however, that the additional floor area hereunder shall not exceed 425 square feet per unit or 850 square feet in the aggregate per property.

(Ord. No. 2009-13, § 2, 3-31-2009; Ord. No. 2012-07, § 2, 8-14-2012)