

**Sponsored By:** Garrett  
**Public Hearing Dates:** February 26, 2024  
March 12, 2024  
April 9, 2024  
**Enactment Date:** April 9, 2024

**CITY OF MARATHON, FLORIDA  
ORDINANCE 2024-04**

**AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA;  
CREATING CHAPTER 107, ARTICLE 15, “LIGHTING”; PROVIDING  
CRITERIA FOR BOTH RESIDENTIAL AND COMMERCIAL LIGHTING  
STANDARDS; AMENDING CHAPTER 110 DEFINITIONS; PROVIDING  
FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF  
CONFLICTING PROVISIONS; PROVIDING FOR THE TRANSMITTAL  
OF THIS ORDINANCE TO THE DEPARTMENT OF COMMERCE  
AFTER FINAL ADOPTION BY THE CITY COUNCIL; 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**, it is the intent of the City Council to have consistent lighting regulations for both residential and commercial uses; and

**WHEREAS**, The City Council intends to adopt the language and further the policies of the Comprehensive Plan.

**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 15, entitled "Lighting" is hereby adopted as attached in Exhibit A.

**SECTION 3.** 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Florida or Ordinances or parts of Ordinances that are in conflict with the provisions of this Ordinance are hereby repealed.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 4.** 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 5.** 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 6.** This Ordinance shall become effective immediately upon approval.

**ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 9TH DAY OF APRIL, 2024.**

**THE CITY OF MARATHON, FLORIDA**

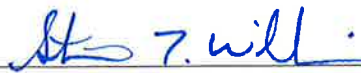
  
\_\_\_\_\_  
Robyn Still, Mayor

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

**ATTEST:**

  
\_\_\_\_\_  
Hillary Palmer, City Clerk  
(City Seal) *DEATH*

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

  
\_\_\_\_\_  
Steven Williams, City Attorney

## ARTICLE 107-15 OUTDOOR LIGHTING

### Sec 107.125 Definitions

### Sec 107.126 Outdoor Lighting Generally

### Sec 107.127 Interpretation

#### Sec 107.125 Definitions

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

*Ambient light* means light not originating from the site, such as moonlight.

*Artificial light* or *artificial lighting* means the light emanating from any manmade device. "Bug" type bulb means any yellow light bulb specifically designed to reduce the attraction of insects to the light.

*Cumulatively illuminated* means illuminated by numerous artificial light sources.

*Direct light* means light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminaire.

*Fixture* means the assembly that houses the lamp or lamps and can include all or some of the following parts: A housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.

*Flood or spot light* means any light fixture or lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam.

*Full cutoff fixture* means a luminaire that does not emit any light, either directly or by reflection or diffusion, above a horizontal plane running through the lowest part of the luminaire's feature containing the lamp or lamps that produces the actual light, including any attached reflectors or diffusers.

*Glare* means light emitting from a luminaire that interferes with visibility.

*Ground-level barrier* means any vegetation, natural feature or artificial structure rising from the ground which prevents lighting from shining directly onto other properties.

*Hatchling* means any species of marine turtle, within or outside of a nest, that has recently hatched from an egg.

*Indirect light* means direct light that has been reflected or has scattered off of other surfaces.

*Lamp* means the component of a luminaire that produces the actual light.

*Landscaping lighting* means lighting used to emphasize or draw attention to a landscape feature.

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Underline = addition

Light trespass means light from an artificial light source that is intruding into an area where it does not belong, such as an adjoining or nearby property, or the beach.

Luminaire means a complete lighting system, including a lamp or lamps and a fixture.

Marine turtle means any marine-dwelling reptile of the families Cheloniidae or Dermochelyidae found in state waters or using the beach as nesting habitat, including the species: *Caretta caretta* (loggerhead), *Chelonia mydas* (green), *Dermochelys coriacea* (leatherback), *Eretmochelys imbricata* (hawksbill), and *Lepidochelys kemp* (Kemp's ridley).

Marine turtle nesting season means the period from April 15 through October 31 of each year.

Nest means an area where marine turtle eggs have been naturally deposited or subsequently relocated.

Outdoor lighting means the nighttime illumination of an outside area or object by any fixed luminaire. Vehicle lights and flashlights are not included in this definition.

Pathway lighting means lighting used to illuminate a walkway or pathway.

Point source of light means any artificial light or lighting that directly radiates visible light.

Pole-mounted lighting means any luminaire set on a base or a pole which raises the source of light off of the ground.

Recessed luminaire means a luminaire recessed into an outdoor ceiling or canopy so that its bottom is flush with the underside of the structure.

Skyglow means illumination of the sky from artificial sources.

Tinted glass means any glass treated to achieve an industry-approved, inside-to-outside light transmittance value of 45 percent or less. Such transmittance is limited to the visible spectrum (400 to 700 nanometers) and is measured as the percentage of light that is transmitted through the glass.

Unshielded lighting means any artificial light emitted, either directly or by reflection or diffusion, above a horizontal plane running through the lowest part of the luminaire's full cutoff feature. See [Appendix A](#).

Wallpacks means luminaires placed along the outer walls of buildings.

## Sec 107.126 Outdoor Lighting Generally

- (a) Purpose and intent. The purpose of this section is to set outdoor lighting standards that will minimize glare, light trespass, and skyglow; conserve energy while maintaining nighttime safety, security, and productivity; protect the privacy of residents; minimize

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Underline = addition



disturbance of wildlife; enhance the ambiance of the community; and ensure optimal viewing of night skies.

It is the intent of this section that all luminaires in the city be brought into compliance with the standards of this section in accordance with the timetable established in subsection (d).

To encourage the replacement of nonconforming outdoor lights, the issuance of a development permit, solely for outdoor lights, does not trigger compliance with code requirements unrelated to outdoor lighting.

Further, the issuance of a development permit for any purpose other than outdoor lighting will not require the replacement or removal of existing nonconforming outdoor lighting as a condition of authorizing such development permit, except in accordance with the timetable in subsection (d).

- (b) Applicability. New or replacement luminaires and new construction must comply with the standards of Section 107.126(b). Existing luminaires shall comply with the timetable in Section 107.126(d).
- (1) All land uses. A development permit is required to add or replace outdoor lights.
  - (2) All exterior lighting shall be designed and installed to prevent glare and light trespass. Light shall not be allowed to cause glare affecting motorists, bicyclists, or other users of roads, driveways, and bicycle paths. Light shall not trespass over property lines.
  - (3) Full cutoff fixtures must be used. All outdoor lighting, including display, sign, building, parking lot, and aesthetic lighting, must use full cutoff fixtures, which shine light downward.
  - (4) Functional equivalents allowed. Lights that are properly installed within or under an architectural space or feature (such as under a porch roof or a roof overhang) shall be considered a functional equivalent to a full cutoff fixture and need not use full cutoff fixtures.
  - (5) The illustrations contained in Appendix A to this section are intended to provide examples of fixtures that comply and that do not comply with these standards and are part of these regulations.
  - (6) Mercury vapor lighting is prohibited. High- or low-pressure sodium lighting or other energy efficient and less environmentally hazardous types of lighting are permitted and encouraged. The City Council may approve, by resolution, new lighting technologies as they become available.
  - (7) In residential settings, motion-detecting security lighting is permitted and encouraged in order to maximize safety, minimize overall illumination, and conserve energy.
  - (8) Unshielded pole-mounted lighting is prohibited.
  - (9) All commercial parking lot lighting shall also comply with the provisions of Section 107.54.
- (c) Exemptions. The following are exempt from the requirements of this section:

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- (1) All temporary emergency lighting needed by the police or fire departments or other emergency services, as well as all vehicular luminaires.
- (2) Lighting for public streets, roads, and rights-of-way.
- (3) All hazard warning luminaires required by federal or state regulatory agencies are exempt from the requirements of this subsection. Unless otherwise mandated, all luminaires used must be yellow/amber and must be shown to be as close as possible to the federally or state required minimum lumen output requirement for the specific task.
- (d) Existing nonconforming luminaires.
  - (1) Any lawfully existing luminaire, with the exception of unshielded pole lighting (except as described in subsection (d)(4) below), that currently exists at the time of this division that is not in conformance with the standards set forth in Section 107.126(b) shall be replaced within one (1) year of the effective date of this ordinance. Lights that are properly installed within or under an architectural space or feature (such as a porch roof, roof overhang, eave or similar architectural feature) shall be permitted to remain until such time as they are either replaced or relocated.
  - (2) Any luminaire that replaces a lawfully existing luminaire, or any lawfully existing luminaire that is moved, must meet the standards of Section 107.126(b) at the time of its replacement or relocation.
  - (3) All lawfully existing unshielded pole-mounted lighting (except as described in subsection (d)(4) below) shall be strictly prohibited.
  - (4) Notwithstanding the above provisions of this section, a pole light where the fixture has an opaque cover, cap or top constructed as part of the fixture assembly shall be permitted to remain until such time as it is replaced or relocated.
- (e) Prohibition of luminaires causing glare to motorists, cyclists, and adjacent properties. Notwithstanding any other provision of this division of the Code, all luminaires that direct light toward streets, shared use paths or parking lots that cause glare to motorists or cyclists, or that direct light towards adjacent properties that cause glare to the occupants of such properties, shall be either shielded or redirected so that the luminaires do not continue to cause a potential hazard.

#### Sec 107.128 Interpretation

- (a) Where any of the provisions of this section appear to be in conflict with state laws preempting local authority, they shall not take effect until such time as the preemption is withdrawn.
- (b) Where any of the provisions appear to be in conflict with another provision of this division or another provision of this Land Development Regulations, the provision providing the greatest protection against glare, light trespass and sky glow shall apply.

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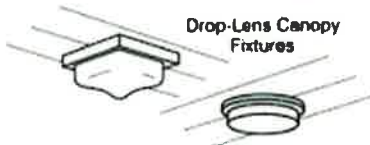
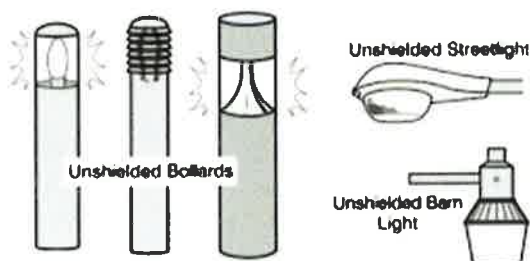
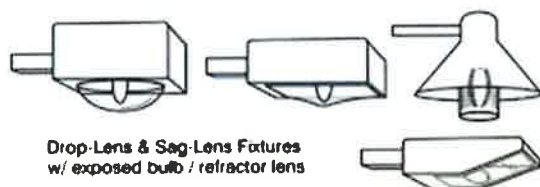
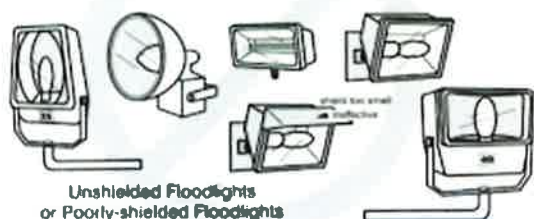
## Appendix A Examples of Acceptable / Unacceptable Lighting Fixtures

### APPENDIX A

## Examples of Acceptable / Unacceptable Lighting Fixtures

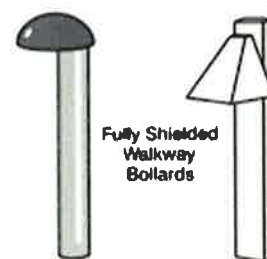
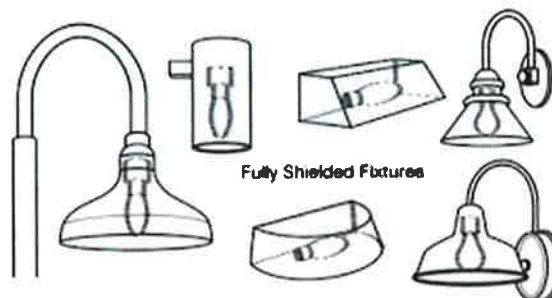
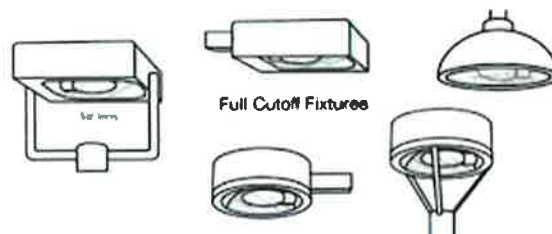
### Unacceptable / Discouraged

Fixtures that produce glare and light trespass



### Acceptable

Fixtures that shield the light source to minimize glare and light trespass and to facilitate better vision at night



Illustrations by Bob Crelin-G 2005. Rendered for the Town of Southampton, NY. Used with permission.

Strikethrough = deletion

Underline = addition



STATE OF FLORIDA  
DEPARTMENT OF COMMERCE

In re: A LAND DEVELOPMENT REGULATION  
ADOPTED BY CITY OF MARATHON,  
ORDINANCE NO. 2024-04

**FINAL ORDER**  
**APPROVING CITY OF MARATHON ORDINANCE NO. 2024-04**

The Department of Commerce (“Commerce”) 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. 2024-04 (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 Commerce on April 22, 2024.
3. The Ordinance amends Chapter 107, Article 15, of the City’s Code of Ordinances to provide outdoor lighting regulations.

**CONCLUSIONS OF LAW**

4. Commerce 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 Goal 1-1, Objective 1-1.1, and Policy 1-1.1.4.

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.
- (b) Protecting shoreline and marine resources, including mangroves, coral reef formations, seagrass beds, wetlands, fish and wildlife, and their habitat.
- (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.

WHEREFORE, IT IS ORDERED that Commerce finds that the City of Marathon Ordinance No. 2024-04 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.

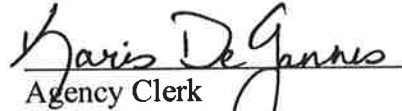
ANY PETITION MUST BE FILED WITH THE AGENCY CLERK OF THE FLORIDA DEPARTMENT OF COMMERCE WITHIN 21 CALENDAR DAYS OF THE FINAL ORDER BEING PUBLISHED IN THE FLORIDA ADMINISTRATIVE REGISTER. A PETITION IS FILED WHEN IT IS RECEIVED BY:

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 20<sup>th</sup> day of June 2024.

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

By U.S. Mail:

The Honorable 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