

Sponsored by: Garrett
Introduction Date: February 26, 2024
Public Hearing Dates: February 26, 2024
March 12, 2024
April 9, 2024
Enactment date: April 9, 2024

**CITY OF MARATHON, FLORIDA
ORDINANCE 2024-05**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING CHAPTER 103 “ZONING DISTRICTS,” ARTICLE 3 “USE AND INTENSITY TABLES”, “STANDARDS,” 103.15 “STANDARDS”, AND CHAPTER 110, “DEFINITIONS,” ARTICLE 3, “DEFINED TERMS;” MODIFYING ACCESSORY STRUCTURES AND ACCESSORY USES; 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 103 “Zoning Districts,” Article 3 “Use And Intensity Tables”, “Standards,” 103.15 “Standards”, And Chapter 110, “Definitions,” Article 3, “Defined Terms” 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Florida and all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.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: Gonzalez, Landry, Matlock, Smith, Still
NOES: None
ABSENT: None
ABSTAIN: None

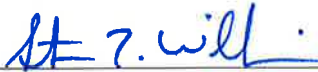
ATTEST:



Hillary Palmer, City Clerk Deputy

(City Seal)

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

A handwritten signature in blue ink, appearing to read "St. Williams", is written over a horizontal line.

Steven Williams, City Attorney

Exhibit "A"

STATE OF FLORIDA
DEPARTMENT OF COMMERCE

In re: A LAND DEVELOPMENT REGULATION
ADOPTED BY CITY OF MARATHON,
ORDINANCE NO. 2024-05

FINAL ORDER
APPROVING CITY OF MARATHON ORDINANCE NO. 2024-05

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. 2024-05 (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 103 (Zoning Districts), Article 3 (Use and Intensity Tables), Section 103.15 (Standards) and Chapter 110 (Definitions), Article 3 (Defined Terms) to include language exempting adjacent or contiguous properties held in common with accessory structures from being combined into one property. Should the ownership of the two properties be divided, the accessory structure shall cease, and any accessory structures shall be demolished until a principal structure is approved and placed on the property.

CONCLUSIONS OF LAW

1. 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.

2. “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.

3. 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.

4. 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.

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

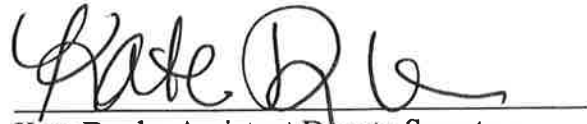
6. The Ordinance is consistent with the Principles for Guiding Development in Section 380.0552(7), Florida Statutes and is specifically consistent with the following Principles:

- (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.

WHEREFORE, IT IS ORDERED that Commerce finds that the City of Marathon Ordinance No. 2024-05 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.

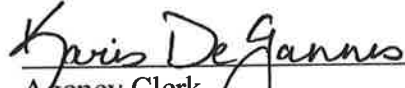
ANY PETITION MUST BE FILED WITH THE AGENCY CLERK OF THE FLORIDA DEPARTMENT OF COMMERCE WITHIN 21 CALENDAR DAYS OF THE FINAL ORDER BEING PUBLISHED IN THE FLORIDA ADMINISTRATIVE REGISTER. A PETITION IS FILED WHEN IT IS RECEIVED BY:

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
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

Sec 103.15 Standards

1. *Uses.* Certain uses, whether permitted as of right, limited, accessory or conditional uses may affect adjacent properties, the neighborhood, or community, even if the site planning and development standards of the applicable zoning district are satisfied. Uses in bold on Table 103.15.1 have special criteria contained in [Article 1 of Chapter 104](#) "Specific Use Regulations", which are intended to mitigate potential problems and hazards, and to ensure consistency with the Plan.
2. *Zoning Districts.* The density, intensity, setbacks, and dimensional standards relative to each parcel are subject to the limitations of the zoning district as reflected in Tables 103.15.1 and 103.15.2.

Table 103.15.1

Uses by Zoning District

Uses in bold have specific conditions listed in Chapter 104																
ZONING DISTRICT	C-NA	C-OI	RL-C	RL	RM	RM-1	RM-2	R-MH	RH	MU	MU-M*	I-G	I-M*	A	P	PR
Accessory buildings and accessory uses *****			P	P	P	P	P	P	P	P	P	P	P	P	P	P

*Permitted uses are limited to those which are related to the maritime industry

**Submerged Mooring Facilities may only be permitted in association with upland areas whose zoning is shown as having a "C"

***Existing Single-Family Residences may be repaired, modified, or replaced. Individual vacant Lots within Blocks defined within the Plat subject to RL-C zoning may be built upon IF the sum of all Lots within an individual Block are over 90 percent developed with single family residences as of the date that DEO accepts the Ordinance.

**** Limited to Florida Registered Beekeepers with the Florida Department of Agriculture and Consumer Services (FDACS).

***** In the event that an accessory structure and associated use is located or proposed to be located on one of two adjacent or contiguous properties in common ownership one of which contains a principal structure and use, the other of which contains or will contain the accessory structure and use, the two properties do not need to be combined into one property (specifically excluding pools on adjacent properties). However, should the ownership of the two properties be divided into two different ownerships, the accessory structure and use shall cease, and any accessory structures shall be demolished until such time that a principal structure is approved and placed on the property.

Note: Uses may be subject to additional requirements, see [Chapter 104, Specific Use Regulations](#).

ARTICLE 110-3 DEFINED TERMS

Accessory structure (Appurtenant structure). A structure that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, and storage sheds. In the event that an accessory structure and associated use is located or proposed to be located on one of two adjacent or contiguous properties in common ownership one of which contains a principal structure and use, the other of which contains or will contain the accessory structure and use, the two properties do not need to be combined into one property (specifically excluding pools on adjacent properties). However, should the ownership of the two properties be divided into two different ownerships, the accessory structure and use shall cease, and any accessory structures shall be demolished until such time that a principal structure is approved and placed on the property.

Use, Accessory. Activities established as secondary, in support of, and dependent upon the principal use. In the event that an accessory structure and associated use is located or proposed to be located on one of two adjacent or contiguous properties in common ownership one of which contains a principal structure and use, the other of which contains or will contain the accessory structure and use, the two properties do not need to be combined into one property (specifically excluding pools on adjacent properties). However, should the ownership of the two properties be divided into two different ownerships, the accessory structure and use shall cease, and any accessory structures shall be demolished until such time that a principal structure is approved and placed on the property.