

Sponsored By: Garrett
Planning Commission Public Hearing Date: February 26, 2024
City Council Public Hearing Date: March 12, 2024
April 9, 2024
Enactment Date: April 9, 2024

**CITY OF MARATHON, FLORIDA
ORDINANCE 2024-06**

**AN ORDINANCE BY THE CITY OF MARATHON, FLORIDA,
AMENDING CHAPTER 101, ARTICLE 3 (“PLANNING COMMISSION”)
BY AMENDING SECTION 101.04 TITLED “GENERAL” TO DELETE A
PORTION REGARDING A MAILING LIST; 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 COMMERCE 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, Chapter 101, Article 3, Section 101.04 of the Marathon Code of Ordinances contains a provision for the recording secretary for the Planning Commission to keep of a mailing list of persons wishing to receive notices of meetings, agendas or minutes who have paid an annual fee; and

WHEREAS, such a mailing list of persons does not exist and is moot since notices, agendas and minutes are posted on the City of Marathon’s website.

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

~~Strikethrough~~ = deletion

Bold underline = addition

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

SECTION 2. Sec. 101.04 "General" is hereby amended to read as follows:

Sec 101.04 General

- A. *Number of Members.* The PC shall be comprised of five (5) voting members.
- B. *Appointment.* Each member of the City Council, at his or her discretion, shall appoint one (1) member of the Planning Commission to a term running concurrently with the appointing City Council Member's term. Where required by state statute, by majority vote, the Council may appoint a representative of the Monroe County School Board to serve in an advisory capacity as a nonvoting member of the Planning Commission.
- C. *Terms, Chair and Vice-Chair.*
 - 1. At an annual organizational meeting, the members of the Planning Commission shall elect one of their members as chair and one as vice-chair. In the absence of the chair, the vice-chair shall act as the chair and shall have all the powers of the chair. The chair shall serve a term of one (1) year. No member shall serve as chair for more than two (2) consecutive terms unless the PC votes by super-majority four-fifths (4/5) votes to approve reappointment for additional consecutive terms.
 - 2. The chair (or vice-chair acting in the capacity of chair) shall serve as the presiding officer of any meeting of the Planning Commission. The presiding officer or designee shall be in charge of all proceedings before the Planning Commission and shall take such action as shall be necessary to preserve order and the integrity of all proceedings before the Planning Commission. In the event that the chair or vice-chair is unavailable, the voting members of the Planning Commission who are present shall by majority vote select a voting member to act as presiding officer for the meeting in question.
- D. *Removal.* A member of the Planning Commission may be removed from the Planning Commission by vote of a majority of those members of the City Council present at the time of the removal vote, or as otherwise allowed by law.
- E. *Vacancies.* If any voting member of the Planning Commission shall fail to attend three (3) regular meetings of the Planning Commission within a three-month period, the voting member's appointment shall automatically be revoked. Thereafter, the Council shall fill the vacancy as soon as practicable in accordance with this section.

- F. *Recording Secretary.* The City Manager shall appoint a recording secretary to serve the Planning Commission. The secretary shall keep minutes of all proceedings, which minutes shall be a summary of all proceedings before the Planning Commission attested to by the secretary, and which shall include the vote of each member upon every question. The minutes shall be approved by a majority of the members voting. In addition, the secretary shall maintain all records of meetings, hearings and proceedings, and the correspondence of the Planning Commission, ~~and a mailing list of persons wishing to receive notices of meetings, agendas or minutes and who have paid an annual fee set by the Council to cover copying and mailing costs.~~
- G. *Staff.* The City Manager or designee shall appoint or assign such staff as may be necessary for the Planning Commission to conduct its business.

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.

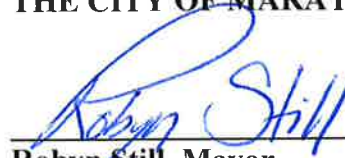
SECTION 4. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, or phrases 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, Smith, Matlock, Landry, Still
NOES: None
ABSENT: None
ABSTAIN: None

ATTEST:


Hillary Palmer, Deputy City Clerk


(City Seal)

**APPROVED AS TO FORM AND LEGALITY 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. 2024-06

FINAL ORDER
APPROVING CITY OF MARATHON ORDINANCE NO. 2024-06

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. 2024-06 (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 removes provisions in Chapter 101, Article 3, Section 101.04 of the Marathon Code of Ordinances pertaining to the City’s mailing list of persons wishing to receive notices of meetings, agendas, or minutes and who have paid an annual fee set by Council to cover copying and mailing costs. The provisions are removed because they reference a process that no longer exists and because notices, agendas, and minutes are posted on the City of Marathon’s website for all individuals to access.

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 1-3 and Objective 1-3.1.

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.

WHEREFORE, IT IS ORDERED that Commerce finds that the City of Marathon Ordinance No. 2024-06 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