

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 2024-08**

AN ORDINANCE BY THE CITY OF MARATHON, FLORIDA, AMENDING CHAPTER 107, ARTICLE 13 (“CONCURRENCY MANAGEMENT”) BY AMENDING SECTION 107.113 TITLED “ENFORCEMENT” TO CLARIFY THE PENALTIES; 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 107, Article 13, Section 107.113 of the Marathon Code of Ordinances is ambiguous as to the penalties that may be imposed for violations of the section; and

WHEREAS, in order to make clear this ambiguity, the section needs to reflect the maximum penalties for same.

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. “Enforcement.” is hereby amended to read as follows:

Section 107.113. – Enforcement.

A violation of this Chapter shall be a ~~misdemeanor~~ punishable **by up to a \$500 fine and / or imprisonment for up to 60 days, consistent with Florida Statutes** ~~according to law; and shall be prosecuted in the same manner as misdemeanors are prosecuted in a court having jurisdiction of misdemeanors.~~ ~~however,~~ In addition to or in lieu of any ~~criminal~~ prosecution, the City shall have the power to sue in civil court to enforce the provisions of this Chapter. Violations of this Chapter may also be referred to the City of Marathon Code Compliance Board for enforcement in accordance with Fla. Stat. ch. 162, and Chapter 10 of the City of Marathon Code of Ordinances, which relate to the Code Compliance Board.

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.

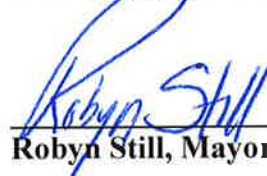
SECTION 4. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, or phrases 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: Landry, Smith, Gonzalez, Mattlock, 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. 2024-08

FINAL ORDER
APPROVING CITY OF MARATHON ORDINANCE NO. 2024-08

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. 2024-08 (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 modifies Section 107.113, titled "Enforcement," to clarify the penalties associated with violating the Code’s provisions regulating concurrency management. The Ordinance adds language that specifies a violation could result in a fine of up to \$500 and/or imprisonment for up to 60 days, consistent with Florida Statutes.

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 Goal 1-1, Objective 1-2.1, Policy 1-2.1.1.

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.
- (e) Limiting the adverse impacts of development on the quality of water throughout the Florida Keys.

WHEREFORE, IT IS ORDERED that the Department finds that the City of Marathon Ordinance No. 2024-08 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.



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