

Sponsored by: Hernstadt
Planning Commission Date: May 21st, 2012
Public Hearing Date: June 12th, 2012
Enactment date: September 11, 2012

CITY OF MARATHON, FLORIDA
ORDINANCE 2012-06

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING THE CITY'S COMPREHENSIVE PLAN POLICY 1-3.2.6, "RESTRICT DEVELOPMENT OF NEW TRANSIENT UNITS;" AMENDING OBJECTIVE 4-1.19, "LIMIT PUBLIC SUBSIDIES IN THE COASTAL HIGH HAZARD AREA (CHHA);" ADDING POLICY 4-1.19.1, "COASTAL HIGH HAZARD AREA MAPS ADOPTED HEREIN;" PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR INCLUSION IN THE COMPREHENSIVE PLAN; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY.

WHEREAS, the City of Marathon, Florida (the "City") is located within the Florida Keys Area of Critical State Concern (the "FKACSC"), as established pursuant to Chapter 380, *Florida Statutes*; and

WHEREAS, Section 380.552, *Florida Statutes*, establishes Principles for Guiding Development in the FKACSC; and

WHEREAS, the Principles for Guiding Development provide that the Comprehensive Plan (the "Plan") and Land Development Regulations (the "LDRs") of the City shall protect the maximum well being of its residents through sound economic development; and

WHEREAS, the Plan was adopted and became effective on July 7, 2005; and

WHEREAS, Policy 1-3.2.6 of the Plan currently has a blanket restriction on the allocation of all new transient units; and

WHEREAS, the City of Marathon seeks to establish a system through which new transient units may be awarded; and

WHEREAS, City Planning staff recommends amending Policy 1-3.2.6 to reflect the Plan's stated goals of allowing the City to manage growth; and

WHEREAS, based on the Plan, the proposed changes to Policy 1-3.2.6 are consistent with the other goals, objectives, and policies set forth in the Plan; and

WHEREAS, on August 17, 2012 the Florida Department of Economic Opportunity (DEO) sent an Objection, Recommendation, and Comment Report (the "ORC Report") to the City of Marathon concerning Ordinance 2012-06 as transmitted to DEO in July of 2012; and

WHEREAS, this revised Ordinance addresses two objections identified in the ORC report concerning the identification and mapping of Coastal High Hazard Areas and the elimination of Policy 1-3.5.2 noted in the ORC Report as being in conflict Rule 28-18-400, *Florida Administrative Code* and Policy 1-3.5.18 adopted therein; and

WHEREAS, pursuant to Section 163.3174, *Florida Statutes*, and Section 102, Article 6 of the LDRs, the City's Planning Commission sitting as the Local Planning Agency has publicly considered the amendments to the Plan set forth in this Ordinance (the "Amendment") at a properly noticed public hearing and recommended to the City Council the adoption of the Amendment with changes recommended in the ORC Report; and

WHEREAS, in accordance with Sections 163.3184 and 166.041, *Florida Statutes*, public notice has been given of the public hearings for the proposed adoption of this Amendment; and

WHEREAS, the City Council finds the adoption of the Amendment, in substantially the form attached hereto, is in the best interest of the City and complies with applicable State laws and rules.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA AS FOLLOWS:¹

Section 1. The above recitals are hereby confirmed and adopted.

Section 2. Policy 1-3.2.6 of the Plan is hereby amended to read as follows:

Policy 1-3.2.6 Restrict Manage Development of New Transient Units

Transient uses shall be defined as any use of any structure for a tenancy of 28 days or less or the use of any Recreational Vehicle site (except those defined for permanent RVs) for tenancies less than 180 days. ~~The City of Marathon shall cap the number of new transient units at~~ is defined as the number of current and vested hotel and motel rooms, campground, and recreational vehicle spaces (non-permanent) existing within the City, ~~until such time as the City revises the Residential or Non-Residential Building Permit Allocation System to allocate a percentage of the development growth to transient units and any additional transient units approved by the Governor and Cabinet - sitting as the Administration Commission - such as but limited to the 100 transient units so approved on January 18, 2012, and up to an additional 100 transient units which the City may allocate at its discretion from the Administrative Relief and/or Residential BPAS pools. Prior to the allocation of any such transient units the City shall adopt Land Development Regulations that establishes an allocation process that:~~

- a. Provides a Building Permit Allocation System (BPAS) ranking system; and
- b. Provides disincentives for development in environmentally sensitive lands; and
- c. Provides disincentives for development in offshore islands, COBRA, Coastal High Hazard Areas, and High Velocity Zones; and
- d. Provides incentives for in-fill development; and

¹ / Additions to existing text are shown by underline, changes to existing text on second reading are shown by double underline, and deletions are shown as ~~strikethrough~~.

- e. Maintains an up-to-date hurricane evacuation plan and meet the required 24 hour hurricane evacuation time or other applicable state standard for hurricane evacuation; and
- f. Provides incentives for mixed-income (affordable and employee housing within one development) developments; and
- g. Provides means of replacement & accounting mechanism if TRUs are borrowed forward.

Section 3. Chapter 4, Goal 4-1, Objective 4-1.19 of the Plan is hereby amended to read as follows:

Objective 4-1.19 Limit Public Subsidies in the Coastal High Hazard Area (CHHA)

The definition of Coastal High Hazard Area is hereby established as that area below the elevation of the Category 1 storm surge line as established in the latest Sea, Lake, and Overland Surges from Hurricanes (SLOSH) computerized storm surge model developed for use originally by the National Hurricane Center South (Statewide Regional Evacuation Study Program, Volume 7-11, Book 3 of 3). The City shall, whenever possible, limit public expenditures that subsidize private development in the CHHA including the high velocity storm surge areas. However, public funds for improved public facilities, such as improvements to roads, potable water, wastewater or drainage included in the Capital Improvements Element and water dependent structures, such as beach access ways, piers and beach re-nourishment activities, may be permitted when required by this Plan, the LDRs, and State or Federal law, rule, or regulations

Section 4. Chapter 4, Goal 4-1, Objective 4-1.19 of the Plan is hereby created to read as follows (all existing Policies to be renumbered according) to read as follows:

Policy 4-1.19.1 Adoption of Coastal High Hazard Area Maps

Adopted by reference is the Florida Statewide Regional Evacuation Study Program, Volume 7-11, Book 3 of 3 produced by the South Florida Regional Planning Council. Particular reference is given to the Storm Surge Atlas reproduced therein and the areas within the Atlas Maps shown as the Category 1 storm surge line or the Coastal High Hazard Area.

Section 5. Policy 1-3.5.2 of the Plan is hereby deleted as promulgated in Rule 28-18.400 (2) (a), "Policy 1-3.5.18 supersedes Policy 1-3.5.2 of the City of Marathon Comprehensive Plan."

Section 6. The provisions of this Ordinance are declared to be severable, and if any 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 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.

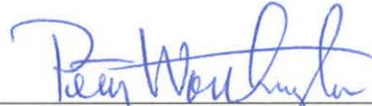
Section 7. The City Clerk shall transmit the Amendment to the State of Florida Department of Economic Opportunity, in its capacity as the State Land Planning Agency (the "Department") as required by Chapters 163 and 380, *Florida Statutes*.

Section 8. Upon the effective date, the Amendment shall replace the City of Marathon *Comprehensive Plan*, previously applicable to the City pursuant to Sections 163.3167(4), 380.05(10) and 380.0552(9), *Florida Statutes*, Rule 28-19.200, *Florida Administrative Code*, and Section 9(6)(A) of the City Charter to the fullest extent allowed by law.

Section 9. This Ordinance shall be effective upon approval by the State Department of Economic Opportunity, pursuant to Chapter 380, *Florida Statutes*.

**ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA,
THIS 11th DAY OF SEPTEMBER, 2012.**

THE CITY OF MARATHON, FLORIDA



Pete Worthington, Mayor

AYES: Snead, Keating, Cinque, Ramsay, Worthington
NOES: None
ABSENT: None
ABSTAIN: None

ATTEST:


Diane Clavier, City Clerk

(CITY SEAL)

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


City Attorney

Rick Scott
GOVERNOR



Hunting F. Deutsch
EXECUTIVE DIRECTOR

FLORIDA DEPARTMENT of
ECONOMIC OPPORTUNITY

November 13, 2012

The Honorable Pete Worthington
Mayor, City of Marathon
9805 Overseas Highway
Marathon, Florida 33050

Dear Mayor Worthington:

The State Land Planning Agency (the Agency) has completed its review of the comprehensive plan amendment for the City of Marathon, adopted on September 11, 2012 (Amendment No. 12-1ACSC), which was received and determined complete on October 16, 2012. We have reviewed the amendment in accordance with the state coordinated review process set forth in Sections 163.3184(2) and (4), Florida Statutes (F.S.), and have determined that the adopted amendment meets the requirements of Chapter 163, Part II, F.S., for compliance, as defined in Section 163.3184(1)(b), F.S. The Agency is therefore issuing a Notice of Intent to find the comprehensive plan amendment "In Compliance." A copy of the Notice of Intent has been posted on the Agency's Internet website. You may access the notice at <http://dca.deo.myflorida.com/finddocumentsonline/>.

The Agency's Notice of Intent to find a plan amendment "In Compliance" shall be deemed to be a final order if no timely petition challenging the amendment has been filed. If this plan amendment is challenged by an affected person, the amendment will not become effective until the State Land Planning Agency or the Administration Commission enters a final order determining the amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective.

If you have any questions, please contact Jeannine Kelsick, at (850) 717-8495, or by email at jeannine.kelsick@deo.myflorida.com.

Sincerely,

Mike McDaniel, Chief
Bureau of Community Planning

MM/jk

Enclosure: Notice of Intent

cc: George Garrett, Director, Planning Department, City of Marathon
James F. Murley, Executive Director, South Florida Regional Planning Council

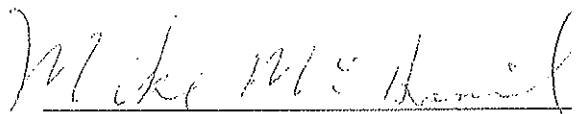
Florida Department of Economic Opportunity The Caldwell Building 107 E. Madison Street Tallahassee, FL 32399-4120
866.FLA.2345 850.245.7105 850.921.3223 Fax www.FloridaJobs.org www.twitter.com/FLDEO www.facebook.com/FLDEO

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STATE OF FLORIDA
DEPARTMENT OF ECONOMIC OPPORTUNITY, THE STATE LAND PLANNING
AGENCY
NOTICE OF INTENT TO FIND THE
CITY OF MARATHON
COMPREHENSIVE PLAN AMENDMENTS
IN COMPLIANCE
DOCKET NO. 12-1ACSC-NOI-4406-(A)-(I)

The Department gives notice of its intent to find the Amendments to the Comprehensive Plan for the City of Marathon, adopted by Ordinance No. 2012-06 on September 11, 2012, IN COMPLIANCE, pursuant to Section 163.3184(4), F.S.

If a timely petition challenging the Amendments was not filed within thirty (30) days after the local government adopted the Amendments, the Amendments become effective upon the posting of this Notice of Intent on the Department's Internet Website. If a timely petition was filed, the Amendments do not become effective until the Department or the Administration Commission enters a final order determining that the Amendments are in compliance.



Mike McDaniel, Chief
Bureau of Community Planning
Division of Community Development
Department of Economic Opportunity
107 East Madison Street
Tallahassee, Florida 32399