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Introduction Date: October 7, 2014  
Public Hearing Dates: October 14, 2014 and October 28, 2014  
Enactment Date: October 28, 2014

**CITY OF MARATHON, FLORIDA  
ORDINANCE 2014-19**

**AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING CHAPTER 103, ARTICLE 3, “USE AND INTENSITY TABLES,” TO INCLUDE IN TABLE 103.15.1 A NEW CATEGORY OF CONDITIONAL USE ENTITLED “SPORT SHOOTING AND TRAINING RANGES” ALLOWED IN ALL MIXED USE, INDUSTRIAL, AND PUBLIC LAND USE DISTRICTS; AMENDING CHAPTER 104 ARTICLE 1, “SPECIFIC USE REGULATIONS” TO PROVIDE SPECIFIC MINIMUM REVIEW CRITERIA AND CONDITIONS FOR THE APPROVAL OF “SPORT SHOOTING AND TRAINING RANGES;” AND AMENDING CHAPTER 110, “DEFINITIONS” INSERTING NEW DEFINITIONS AS NECESSARY RELATED TO THE USE OF “SPORT SHOOTING AND TRAINING RANGES;” PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; 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 DEPARTMENT OF ECONOMIC OPPORTUNITY IN ACCORDANCE WITH STATE LAW.**

**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 Council, based on an expressed deficiency in the allowed uses in the City’s Land Development Regulations (LDRs), requested that staff develop an Ordinance which provides an additional “allowed use within the Industrial (I), Mixed Use (MU), and Public FLUM land use categories consistent with the City Comprehensive Plan; and

**WHEREAS**, the proposed changes to the current Land Development Regulations (LDRs) are consistent with the goals, objectives, and policies set forth in 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 and correct and incorporated herein.

**Section 2.** Chapter 103, Article 3, Sections 103.15, Table 103.15.1 Uses by Zoning District of the Code of Ordinances, City of Marathon, Florida is hereby amended to read as follows:

**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
***																
<b><u>Sport Shooting and Training Ranges</u></b>										<b><u>C</u></b>	<b><u>C</u></b>	<b><u>C</u></b>	<b><u>C</u></b>		<b><u>C</u></b>	
***																

**Section 3.** Chapter 104, Article 1, of the Code of Ordinances, City of Marathon, Florida is hereby amended to add the following sections with other subsections renumbered:

**Section 104.54. Sport Shooting and Training Ranges (Shooting Range)**

**A) Findings and Purpose:**

1. **Sport shooting and training ranges are widely used and enjoyed by the residents of this state and are a necessary component of the guarantees of the Second Amendment to the United States Constitution and of s. 8, Art. I of the State Constitution.**
2. **Many of these ranges are used by state and local law enforcement agencies for training, practice, and regular mandatory qualification by law enforcement officers; by Fish and Wildlife Conservation Commission hunter safety instructors who teach adults and youngsters in the safe use and handling of firearms in preparation for obtaining hunting licenses; by school boards, colleges, and universities for reserve officer training corps training and activities; by school shooting teams; by Olympic competitors; and by certified instructors who teach the safe use and handling of firearms in preparation for applying for licenses to carry concealed firearms for lawful self-protection.**
3. **The public policy of the State of Florida and within the Corporate limits of the City of Marathon, Florida is to encourage the safe handling and operation of firearms and mandates appropriate training in the safe use and handling of. Sport shooting and training ranges throughout this state provide the location at which this important public purpose is served and at which the firearms training mandates are fulfilled.**

**B) Applicability**

1. **This Ordinance is applicable to all future shooting ranges to be located within the incorporated limits of the City of Marathon, Florida.**

**C) Definitions: As used in this Ordinance, the following terms shall have the respective meanings ascribed to them:**

1. **Archery:** The art, sport, or skill of shooting with a bow and arrow.
2. **dBA:** The sound pressure level, in decibels, as measured using the impulse mode and "A" weighting network on a precision sound level meter.
3. **Firearm:** A weapon, including pistols, rifles, and shotguns, capable of firing a projectile using an explosive charge as a propellant.
4. **Firing line:** A line perpendicular to the shooting position and the target along which firearms are discharged.
5. **Person:** Any individual, corporation, association, club, firm, or partnership.

6. Project Area: The individual or cumulative parcels (defined by Real Estate number) upon which the shooting range facility will be located.
  7. Project Area Property Lines: The exterior most property lines of the individual or cumulative parcels associated with the project area.
  8. Projectile: For the purposes of this Ordinance, a projectile is any material fired from a firearm or bow intended to be fired at a target located on the firing line.
  9. Safety fan: An area on a shooting range facility designed to contain all projectiles fired from a shooting range.
  10. Shooting range: An area designed and improved to fully encompass the shooting stations, firing lines, target areas, safety fan, including berms, baffles, or other appropriate structural elements designed to define the area of the safety fan, and any other related components intended to allow safe shooting within the shooting range.
  11. Shooting range projectile safety containment area: The area defined by the physical boundaries of the shooting range, specifically including ALL safety fans. This is the area within which this ordinance absolutely requires that ALL projectiles fired from within the shooting range must be designed and engineered to land. Adherence to this requirement shall be based on the engineered design of the shooting range facility provided by an engineer or architect certified in the design and construction of such facilities.
  12. Shooting range facility: A public or private facility, including individual shooting ranges, safety fans or shotfall zones, structures, parking areas, and other associated improvements, designed for the purpose of providing a place for the discharge of various types of firearms or the practice of archery. Does not include incidental target practice areas on private property. The perimeter of the shooting range facility shall be clearly defined as part of the conditions herein and as part of the Conditional Use Permit Approval.
  13. Shooting station: A fixed point from which firearms or arrows are discharged.
  14. Shotfall zone: An area within which the shot or pellets contained in a shotgun shell typically fall.
  15. Structure: A walled and roofed building that is principally above ground meeting current Florida Building Code Requirements and City of Marathon Land Development Regulations;
  16. Target: Generally defined as a mark or point at which someone fires or aims, especially a round or rectangular board marked with concentric circles used in archery or shooting.
- D) Sport Shooting and Training Ranges Allowed With Conditions:
1. Conditional Use Permit Required:
    - (a) As provided for in Chapter 102, Article 13, "Conditional Use Permits," all parties interested in developing a shooting range shall apply for and obtain approval for a Conditional Use Permit. All conditions of approval established in this Subsection shall be applied and met in consideration of the Planning Commission recommendation and City Council approval of a Conditional Use Permit for a shooting range.
  2. Required information. The applicant shall provide sufficient information as required by these provisions in order to properly evaluate the permit application. In addition, copies of any written agreements from the adjoining property owners and a letter from the insurance company to provide liability insurance shall accompany the permit application.
  3. Site plan. A site plan for the entire range facility which shows the following applicable information drawn to an appropriate scale, shall accompany the permit application:
    - (a) Property lines for any parcel upon which the range facility is to be located, north arrow, plan scale, date, and ownership information for the site;

- (b) Complete layout of the shooting range, including, shooting stations or firing lines, target areas, shotfall zones or safety fans, backstops, berms, and baffles;
- (c) Projected noise contours;
- (d) Existing and proposed structures associated with the proposed shooting range facility; occupied buildings and dwellings within three hundred (300) feet of the project area; roads, streets, or other access areas; buffer areas; and parking areas for the range facility; and
- (e) Any other appropriate information related to the specific type of range(s) being proposed.

E) Performance Standards

1. The following performance standards shall apply to all shooting range facilities:

(a) Minimum Size of Project Area:

- i. IF a shooting range as proposed by the Applicant shall be located within fully contained and enclosed structure, THEN the minimum Project Area shall be defined in terms of the intensity of the proposed use as established in Table 103.15.2 of the LDRs.
- ii. IF a shooting range as proposed by the Applicant shall not be located within fully contained and enclosed structure, THEN the minimum Project Area within which a shooting range facility is located shall be three (3) acres.

(b) Projectile containment / Shooting range projectile safety containment area: Shooting range facilities shall be designed by an engineer or architect certified in the design and construction of shooting range facilities to contain all projectiles within the shooting range. An engineering report outlining the methods and means by which such containment will be accomplished and guaranteed shall be provided with all applications for a shooting range facility.

(c) Firing Range Setbacks:

- i. The Setbacks for a firing range within a fully contained and enclosed structure shall be the same as for the zoning district within which it is located.
- ii. The setbacks for a firing range as herein defined which shall not located within fully contained and enclosed structure, shall be a minimum of fifty (50) feet from ALL Project Area Property Lines.
  - All shooting stations within a shooting range so constructed shall be located a minimum of one hundred (100) feet from any project area property line.
  - Distance from occupied buildings or dwellings: All shooting stations within a shooting range so constructed shall be located at least one hundred fifty (150) feet from any existing occupied buildings or dwellings.

(d) Noise mitigation. Noise levels measured at the Any Project Area Property Line within the Project Area where the shooting range facility is located shall not exceed those limits established in Chapter 14, Section 14-32, "Maximum Permissible Sound Levels By Receiving Land Use," Table II, "Sound Levels By Receiving Land Use" and as reproduced herein:

Section 14-32

TABLE II

SOUND LEVELS BY RECEIVING LAND USE

		<u>L10</u>	<u>Lmax</u>
<u>Receiving</u>	<u>Sound Level Limit</u>		
<u>Land Use Category</u>	<u>Time</u>	<u>dBA</u>	
<u>Residential, public</u>	<u>7:00 a.m.—10:00 p.m.</u>	<u>60</u>	<u>70</u>
<u>space, or institutional</u>	<u>10:00 p.m.—7:00 a.m.</u>	<u>55</u>	<u>60</u>
<u>Commercial</u>	<u>7:00 a.m.—10:00 p.m.</u>	<u>65</u>	<u>75</u>
<u>or business</u>	<u>10:00 p.m.—7:00 a.m.</u>	<u>60</u>	<u>65</u>
<u>Manufacturing, industrial or agricultural</u>	<u>At all times</u>	<u>75</u>	<u>85</u>

Lmax—Maximum sound level recorded during any measurement period.

L10—Def. Level, 10th percentile—The A-weighted sound pressure level that is exceeded ten (10) percent of the time in any measurement period as six (6) minutes in one (1) hour, and is denoted L10.

- (e) Warning signs. Warning signs meeting National Rifle Association (NRA) guidelines for shooting ranges shall be posted at one hundred-foot intervals along the entire perimeter of the shooting range facility.
- (f) Lead And Other Aerosol Contaminants
  - i. Consideration shall be given in the shooting range design to minimizing by whatever means necessary and appropriate any aerosol lead and other contaminants created by the firing of any firearm within the shooting range.
- (g) Recycling of Projectiles:
  - i. Lead and other materials that will be associated with the firing of any projectile within the shooting range shall be recycled from time to time so as to minimize soil contamination.

**F) Section 8. Operational Requirements**

**1. Hours of Operation:**

- (a) Shooting ranges located entirely within a fully contained and enclosed structure which exceed the noise tolerance limits (less noise) established in Chapter 14, Section 14-32, “Maximum Permissible Sound Levels By Receiving Land Use,” Table II, “Sound Levels By Receiving Land Use” as demonstrated by a certified engineering report provided by an engineer certified to provide noise abatement reports shall be allowed to operate at will.
- (b) Shooting ranges which are not located within fully contained and enclosed structures shall be allowed to operate between sunrise and sunset, except that the hours may be extended after sunset for purposes of subdued-lighting certification of law enforcement officers. On Sundays, shooting shall not commence before 12:30 p.m. and shall otherwise cease by sunset.

2. Liability insurance. The Applicant so approved to hold a Conditional Use Permit and meeting all standards of this Section (Permittee) shall be required to carry a minimum of liability insurance in an amount to be established by resolution. Such insurance shall name The City of Marathon, Florida as an additional insured party and shall save and hold the City of Marathon, Florida, its elected and appointed officials, and employees acting within the scope of their duties harmless from and against all claims, demands, and causes of action of any kind or character, including the cost of defense thereof, arising in favor of a person or group's members or employees or third parties on account of any property damage arising out of the acts or omissions of the Permittee, his/her group, club, or its agents or representatives. The City shall be notified of any policy changes or lapses in coverage.
3. Annual Renewal: The Permittee shall renew his/her approval of the Conditional Use Permit granted under Chapter 102, Article 13, "Conditional Use Permits" and this Subsection on an annual basis at the beginning of each fiscal year (October 1). Included with each request for renewal shall be a certification by a licensed engineer that the Shooting Range Facility as permitted continues to meet all conditions imposed on the approval of its development through the Conditional Use Permit process.

**G) Enforcement and Penalties:**

1. The City may enforce the provisions of this Chapter and Section by any lawful means including, but not limited to, in accordance with section 1-7 of this Code; or in accordance with chapter 10 of this Code.
2. More specifically, in order to assure compliance with the provisions of this Ordinance the following applies:
3. The Applicant, by accepting this Permit, specifically agrees to allow authorized City personnel, upon presentation of credential or other documents as may be required by law, and at reasonable times, access to the premises where the permitted activity is located or conducted to:
  - (a) Have access to and copy any records that must be kept under the conditions of the Permit;
  - (b) Inspect the facility, equipment, practices, or operations regulated or required under this Permit; and

If, for any reason the Applicant does not comply with or will be unable to comply with any condition or limitation specified in this Permit, the Applicant shall immediately provide the City with the following information:

- (a) A description of and cause of noncompliance; and
- (b) The period of noncompliance, including dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance.

The Applicant shall be responsible for any and all damages which may result and may be subject to enforcement action by the City for penalties or revocation of this Permit under the provisions of this Section or as may be appropriate under Chapters 1-7 or 10 of the City Code of Ordinances.

**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.** It is the intention of the City Council and it is hereby ordained 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 word "Ordinance" shall be changed to "Section" or other appropriate word.

**Section 6.** 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 7.** 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 28<sup>th</sup> DAY OF OCTOBER, 2014.**

**THE CITY OF MARATHON, FLORIDA**

  
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**Dick Ramsay, Mayor**

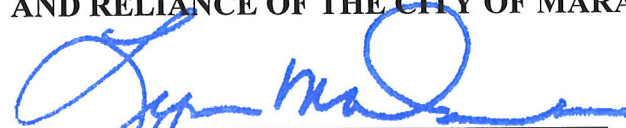
AYES: Bartus, Bull, Keating, Senmartin, Ramsay  
NOES: None  
ABSENT: None  
ABSTAIN: None

**ATTEST:**

  
\_\_\_\_\_  
Diane Clavier, City Clerk

(City Seal)

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

  
\_\_\_\_\_  
Lynn Dannheisser, City Attorney

**STATE OF FLORIDA  
DEPARTMENT OF ECONOMIC OPPORTUNITY**

In re: A LAND DEVELOPMENT REGULATION  
ADOPTED BY CITY OF MARATHON  
ORDINANCE NO. 2014-019

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**FINAL ORDER  
APPROVING CITY OF MARATHON ORDINANCE NO. 2014-019**

The Department of Economic Opportunity (“Department”) hereby issues its Final Order, pursuant to §§ 380.05(6) and 380.0552(9), Florida Statutes, approving land development regulations adopted by the City of Marathon, Florida, Ordinance No. 2014-019 (the “Ordinance”).

**FINDINGS OF FACT**

1. The Florida Keys Area is designated by § 380.0552, Florida Statutes, as an area of critical state concern. The City of Marathon, is a local government within the Florida Keys Area.
2. The Ordinance was adopted by the City of Marathon on October 28, 2014, and rendered to the Department on November 21, 2014.
3. The Ordinance amends the City of Marathon Code Of Ordinances Chapter 103 (Zoning Districts), Article 3 (Use and Intensity Tables); Chapter 104 (Specific Use Regulations) Article 1 (General Provisions); and Chapter 110 (Definitions – inserting new definitions as necessary related to the use of “Sport Shooting and Training Ranges”). This amendment allows for the inclusion of a new category of conditional use entitled “Sport Shooting and Training Ranges” within the “Industrial,” “Mixed Use,” and “Public” Future Land Use Map land use categories and establishes zoning regulations in which to permit the use within the City.



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. § 380.05(6) and § 380.0552(9), Florida Statutes.

5. The City of Marathon is a local government within the Florida Keys Area of Critical State Concern. §380.0552, Florida Statutes and Florida Administrative Code Chapter 28-29.

6. “Land development regulations” include local zoning, subdivision, building, and other regulations controlling the development of land. § 380.031(8), Florida Statutes. The regulations adopted by the Ordinance are land development regulations.

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. §§ 380.05(6) and 380.0552(9), Florida Statutes. The Principles for Guiding Development for the Florida Keys Area of Critical State Concern are set forth in § 380.0552(7), Florida Statutes.

8. The Ordinance is consistent with the City of Marathon Comprehensive Plan generally, and specifically Policy 1-3.1.4 (Future Land Use Categories).

9. The Ordinance is consistent with the Principles for Guiding Development in section 380.0552(7), Florida Statutes, as a whole, and is specifically consistent with the following Principles:

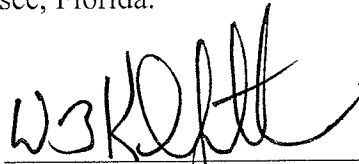
(a) Strengthening local government capabilities for managing land use and development so that local government is able to achieve these objectives without continuing the area of critical state concern designation.

(n) Protecting the public health, safety, and welfare of the citizens of the Florida Keys and maintaining the Florida Keys as a unique Florida resource.

WHEREFORE, IT IS ORDERED that the Department finds that the City of Marathon Ordinance No. 2014-019 is consistent with the Principles for Guiding Development for the Florida Keys Area of Critical State Concern and is hereby APPROVED.

This Order becomes effective 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.



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William B. Killingsworth, Director  
Division of Community Development  
Department of Economic Opportunity

**NOTICE OF ADMINISTRATIVE RIGHTS**

ANY PERSON WHOSE SUBSTANTIAL INTERESTS ARE AFFECTED BY THIS 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 DEPARTMENT OF ECONOMIC OPPORTUNITY WITHIN 21 CALENDAR DAYS OF THE FINAL ORDER BEING PUBLISHED IN THE FLORIDA ADMINISTRATIVE REGISTER. A PETITION IS FILED WHEN IT IS RECEIVED BY:

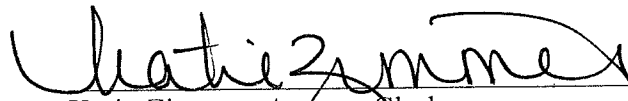
AGENCY CLERK  
DEPARTMENT OF ECONOMIC OPPORTUNITY  
OFFICE OF THE GENERAL COUNSEL  
107 EAST MADISON ST., MSC 110  
TALLAHASSEE, FLORIDA 32399-4128

FAX 850-921-3230

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 22<sup>nd</sup> day of January 2015.



Katie Zimmer, Agency Clerk  
Department of Economic Opportunity  
107 East Madison Street, MSC 110  
Tallahassee, FL 32399-4128

By Certified 011-U.S. Mail:

The Honorable Dick Ramsay, Mayor  
City of Marathon, City Council  
9805 Overseas Highway  
Marathon, FL 33050

Diane Clavier, Clerk  
City of Marathon  
9805 Overseas Highway  
Marathon, FL 33050

George Garrett, Director  
City of Marathon, Planning Department  
9805 Overseas Highway  
Marathon, FL 33050