

Sponsored by: Puto
Introduction Date: December 15, 2014
Public Hearing Dates: December 15, 2014
December 16, 2014 & January 13, 2015
Enactment Date: January 13, 2015

**CITY OF MARATHON, FLORIDA
ORDINANCE 2014-22**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA; AMENDING CHAPTER 101, ARTICLE 2 – CITY COUNCIL, SECTION 101.01 “POWERS AND DUTIES,” F. & G. AND ARTICLE 3 – PLANNING COMMISSION, 101.02 “POWERS AND DUTIES” PROVIDING AUTHORITY TO THE CITY COUNCIL TO REPEAL PREVIOUSLY ADOPTED COMPREHENSIVE PLAN AND LAND DEVELOPMENT REGULATION ORDINANCES WITHOUT PRIOR REVIEW OF THE PROPOSED REPEALER ORDINANCE BY THE PLANNING COMMISSION; 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; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, it is the desire of the City Council to adopt new land development regulations to address the specific and changing needs of our unique community; and

WHEREAS, in order for the City to implement future new regulations as and when they are adopted, and to repeal them to accommodate changing needs without the need to have them heard by the Planning Commission; and

WHEREAS, the City Council hereby determines that this Ordinance will promote the health, safety, and welfare of the City.

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

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

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~~.

Section 2. Amendment to Code Section 101.01.

Section 101.01. - Powers and Duties is hereby amended as follows:

The City Council (the "Council") shall have the following powers and duties in addition to those specifically provided elsewhere in this ordinance or by state law. The Council's authority shall include but not be limited to approval, approval with conditions or modifications or denial. The Council shall have the authority to:

F. *Comprehensive Plan Amendments:* The Council has the authority to adopt, adopt with changes, or reject proposed amendments to the Comprehensive Plan as provided in Article 6 "Comprehensive Plan Amendment" of Chapter 102 and any Evaluation and Appraisal Reports (EARs) prepared to update the Comprehensive Plan. **The Council shall also have the authority to repeal Ordinances adopted to amend the Comprehensive Plan including amendments to the FLUM map without prior review of the repealer Ordinance by the Planning Commission.**

G. *LDR Amendments:* The Council has the authority to approve, approve with changes or deny amendments to the text of the LDRs in accordance with the provisions of Article 7 "Land Development Regulation Text Amendments" of Chapter 102. **The Council shall also have the authority to repeal Ordinances adopted to amend the LDRs including amendments to the official zoning map without prior review of the repealer Ordinance by the Planning Commission.**

Section 3. Amendment to Code Section 101.02.

Section 101.02. - Powers and Duties is hereby amended as follows:

The Planning Commission (PC) shall have the powers and duties as provided in Fla. Stat. 163.3174, including, but not limited to:

G. *LDR Text and Zoning Map Amendments:* The PC shall review and make recommendations to the Council on Zoning Maps and Land Development Regulation amendments **(except an amendment that would represent the repeal of any Comprehensive Plan or Land Development Regulation)**, with recommendations to the Council as to the consistency of the regulation or change with the comprehensive plan.

Section 4. Repealer. The provisions of the Marathon City Code and all Ordinances or parts of Ordinances in conflict with the Provisions of this Ordinance are hereby repealed.

Section 5. Severability. 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 6. 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.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 13th DAY OF JANUARY, 2015.

THE CITY OF MARATHON, FLORIDA



Chris Bull, Mayor

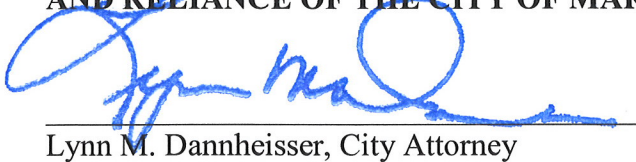
AYES: Kelly, Zieg, Keating, Senmartin, Bull
NOES: None
ABSENT: None
ABSTAIN: None

ATTEST:


for: 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 M. Dannheisser, City Attorney

**STATE OF FLORIDA
DEPARTMENT OF ECONOMIC OPPORTUNITY**

In re: A LAND DEVELOPMENT REGULATION
ADOPTED BY CITY OF MARATHON
ORDINANCE NO. 2014-22

**FINAL ORDER
APPROVING CITY OF MARATHON ORDINANCE NO. 2014-22**

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. 2014-22 (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 January 13, 2015, and rendered to the Department on January 15, 2015.
3. The Ordinance amends the City of Marathon Code of Ordinances Chapter 101, Article 2. – City Council, Section 101.01 Power and Duties., Paragraphs F. and G., and Article 3. – Planning Commission, Section 101.02. – Powers and Duties. These amendments provide authority to the City Council to repeal previously adopted comprehensive plan and land development regulation ordinances without prior review of the proposed repealer ordinance by the planning commission and provides for the repeal of all code provisions and ordinances inconsistent with the Ordinance..

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.

1. 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 28-26.

2. “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.

3. 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.

4. The Ordinance is consistent with the City of Marathon Comprehensive Plan generally, and specifically the purpose of Chapter 9, Implementation and Review Element Goals, Objectives, and Policies.

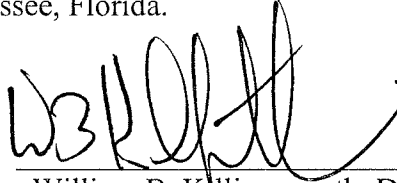
5. The Ordinance is consistent with the Principles for Guiding Development in section 380.0552(7), Florida Statutes, as a whole, and is specifically consistent with the following Principle:

(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 the Department finds that the City of Marathon Ordinance No. 2014-22 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.

A handwritten signature in black ink, appearing to read 'W B Killingsworth', written over a horizontal line.

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.

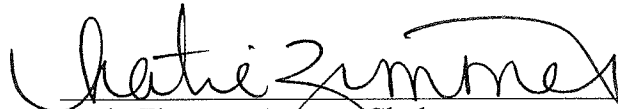
ANY PETITION MUST BE FILED WITH THE AGENCY CLERK OF THE DEPARTMENT OF ECONOMIC OPPORTUNITY WITHIN 21 CALENDAR DAYS OF THE FINAL ORDER BEING PUBLISHED IN THE FLORIDA ADMINISTRATIVE REGISTER. A PETITION IS FILED WHEN IT IS RECEIVED BY:

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 1th day of February, 2015.



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

By Certified U.S. Mail:

The Honorable Chris Bull, 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