

Sponsored by: Zieg
Introduction Date: January 12, 2015
Public Hearing Dates: February 24, 2015, March 10, 2015, June 9, 2015
Enactment Date: June 16, 2015

**CITY OF MARATHON, FLORIDA
ORDINANCE 2015-02**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING CHAPTER 102, ARTICLE 4 TO REQUIRE MAILED, PUBLISHED, AND POSTED NOTICE FOR PLATS AND SUBDIVISIONS; AMENDING CHAPTER 102, ARTICLE 10, "PLATTING" AND ARTICLE 12, "SUBDIVISION REGULATIONS;" REQUIRING THAT ANY PLAT OR SUBDIVISION OF AN EXISTING PARCEL(S) WHICH WOULD RESULT IN THREE (3) OR MORE PARCELS SHALL ALSO BE REQUIRED TO OBTAIN A CONDITIONAL USE PERMIT, INCLUDING A SITE PLAN APPROVAL AS MAY OTHERWISE BE REQUIRED, PRIOR TO RECEIPT OF FINAL PLAT APPROVAL; AND AMENDING CHAPTER 103, ARTICLE 3, TABLE 103.15.1, "USES, BY ZONING DISTRICT;" REQUIRING PLATS AND SUBDIVISIONS RESULTING IN THREE (3) OR MORE PARCELS TO OBTAIN A CONDITIONAL USE PERMIT; 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, 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 has expressed a concern that the platting and subdivision requirements do not currently also require an Conditional Use Permit, including a site plan review when otherwise required; and

WHEREAS, the proposed Ordinance provides an immediate modification based on the council's concern; 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 102, Article 4, “Notice of Public Meetings and Hearings,” Section 102.06, Table 102.06.1, “Required Public Notice for Development Applications,” of the LDRs of the City of Marathon, Florida is hereby amended to modify the following Table:

Section 102.06. - Applicability.

All meetings of the Council, the PC and the Hearing Officer are public meetings and subject to the provisions of Fla. Stat. ch. 112.

Forms of notice required for various public meetings and hearings may include mailed notice, published notice provided via a newspaper of general circulation, and posted notice by signs located on the subject property. The public notice requirements for development applications are indicated in Table 102.06.1.

Table 102.06.1

Required Public Notice for Development Applications

Development Application	Mailed	Published	Posted
Comprehensive Plan Amendment Text or Map (<i>Owner</i>)		X	X
Comprehensive Plan Amendment Text or Map (<i>City</i>)		X	
Rezoning and LDR Text Amendment (<i>Owner</i>)	X	X	X
Rezoning and LDRs Text Amendment (<i>City</i>)	X	X	
Conditional Use Permit/Major Amendment	X	X	X
Development Agreement	X	X	
<u>Platting / Subdivision</u>	<u>X</u>	<u>X</u>	<u>X</u>
Variance	X		X
Site Plan	X		X
Appeal	X		X
Administrative Variance	X		X

Section 3. Chapter 102, Article 10, "Platting," Section 102.44, "Applicability and General Provisions" of the LDRs of the City of Marathon, Florida is hereby amended to modify the following Sections:

Section 102.44. - Applicability and General Provisions.

A. *Applicability:*

1. Platting and subdivision of land, including final plats, replats, plat vacation, plat abandonment, plat revocation and plat modification or suspension, shall comply with the requirements of this article, and Fla. Stat. ch. 85-55, § 20, regarding vacation of plats.
2. All proposed plats shall comply with Fla. Stat. ch. 177, and any other applicable statutes and Article 12, "Subdivision Regulations" of Chapter 102, regarding the platting of land.
3. Proposed plats for parcels containing an existing duplex structure shall be considered for Minor Plat Review and administrative approval by the TRC.
4. For the purposes of this article, the term plat or platting shall include subdivision of land, replatting of land, and vacation or abandonment of all or a portion of an approved plat.
- 5. For the purposes of all requested plats or re-plats which would result in three (3) or more parcels, a Conditional Use Permit shall be required which incorporates a site plan review (if otherwise required. Said Conditional Use Permit process, done in accordance with Chapter 102, Article 13 of the LDRs, may be carried out simultaneously, but in no case shall the plat be approved without a Conditional Use Permit review.**

Section 4. Chapter 102, Article 10, "Platting," Section 102.48, "Public Notice Requirements" of the LDRs of the City of Marathon, Florida is hereby amended to modified as follows:

Section 102.48. - Public Notice Requirements.

Published notice, **mailed**, and posted notice in accordance with Article 4 "Notice of Public Meetings and Hearings", of this chapter, shall be required before the public hearing on any application for plat approval.

Section 5. Chapter 102, Article 12, "Subdivision Regulations," Section 102.68, "General Provisions," of the LDRs of the City of Marathon, Florida is hereby amended to add or modify the following sections:

Section 102.68. - General Provisions.

G. For the purposes of all requested subdivisions of land which would result in three (3) or more parcels, a Conditional Use Permit shall be required which incorporates a site plan review (if otherwise required). Said Conditional Use Permit process, done in accordance with

Chapter 102, Article 13 of the LDRs, may be carried out simultaneously, but in no case shall the plat be approved without a Conditional Use Permit review.

Section 6. Chapter 102, Article 12, “Subdivision Regulations,” is hereby amended to add Section 102.69 and to re-number subsequent Sections as follows:

Section 102.69. - Public Notice Requirements.

Published notice, mailed, and posted notice in accordance with Article 4 "Notice of Public Meetings and Hearings", of this chapter, shall be required before the public hearing on any application for plat approval.

Section 7. Chapter 103, Article 3, “Use and Intensity Tables,” Table 103.15.1, “Uses by Zoning District” of the LDRs of the 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

<u>Platting &/or Subdivision of land which would result in three (3) or more parcels</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>

Section 8. 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 9. 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 10. 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 11. 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 12. 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 9th DAY OF JUNE, 2015.

THE CITY OF MARATHON, FLORIDA



Chris Bull, Mayor

AYES: Zieg, Keating, Kelly, Senmartin, Bull
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:



City Attorney, Dirk M. Smits

**STATE OF FLORIDA
DEPARTMENT OF ECONOMIC OPPORTUNITY**

In re: A LAND DEVELOPMENT REGULATION
ADOPTED BY CITY OF MARATHON
ORDINANCE NO. 2015-02

**FINAL ORDER
APPROVING CITY OF MARATHON ORDINANCE NO. 2015-02**

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. 2015-02 (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 March 10, 2015, and rendered to the Department on April 17, 2015.
3. The Ordinance amends the City of Marathon Code of Ordinances, Appendix A (Land Development Regulations) Chapter 102, Article 4, Table 102.06.01, requiring that platting and subdivisions provide mailed and posted notice to the public for Development Applications; Chapter 102, Article 10, Section 102.48, amending public notice requirements to also require mailed notices; Chapter 102, Article 10, Section 102.44 and Article 12, Section 102.68, requiring that plats resulting in three additional parcels must obtain a conditional use permit which incorporates a site plan review; Chapter 102, Article 12, Section 102.69, amending and numbered to also require mailed, published and posted notice for public hearings on applications for plat

approval; Chapter 103, Article 3, Table 103.15.1 requiring a conditional use permit in all land uses for platting and subdivisions.

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 28-26.

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 1-3.1.2 (Plat Review and Lots Containing Duplex Dwelling Units).

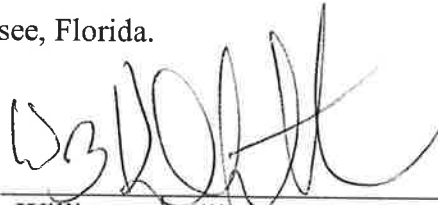
9. The Ordinance is consistent with the Principles for Guiding Development in section 380.0552(7), Florida Statutes, as a whole, and is specifically consistent with the following Principle:

- (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. 2015-02 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.

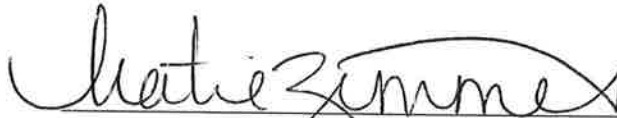
ANY PETITION MUST BE FILED WITH THE AGENCY CLERK OF THE DEPARTMENT OF ECONOMIC OPPORTUNITY WITHIN 21 CALENDAR DAYS OF THE FINAL ORDER BEING PUBLISHED IN THE FLORIDA ADMINISTRATIVE REGISTER. A PETITION IS FILED WHEN IT IS RECEIVED BY:

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 12th day of June, 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