

Sponsored by: Lindsey
Introduction Date: May 16, 2016
Public Hearing Dates: May 16, 2016
May 24, 2016
June 14, 2016
Enactment date: June 14, 2016

**CITY OF MARATHON, FLORIDA
ORDINANCE 2016-05**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA; AMENDING PORTIONS OF CHAPTER 106, ARTICLES 1, 3, AND 9 TO CLARIFY REQUIREMENTS UNDER THE LDRS FOR CLUSTERING IN CLASS I, II, AND III HABITAT; AMENDING CHAPTER 110, ARTICLE 3 MODIFYING AND/OR ADDING DEFINITIONS TO FURTHER DEFINE AND CLARIFY ENVIRONMENT RESOURCE TERMS OF ART CONCERNING REQUIREMENTS FOR CLUSTERING; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES FOUND TO BE IN CONFLICT, AND PROVIDING FOR INCLUSION IN THE CODE; 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 of Marathon is located within an Area of Critical State Concern (ACSC), pursuant to Sections 380.05 and 380.0552, Florida Statutes, hereinafter referred to the "Keys ACSCs"; and

WHEREAS, 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, Chapter 166, *Florida Statutes*, grants the City of Marathon (the "City") broad municipal home rule powers to provide for the health, safety and welfare of its residents, business owners and visitors by enacting business regulations for the protection of the public; and

WHEREAS, the City of Marathon currently is engaged in a grant agreement with the Florida Department of Economic Opportunity which requires that the City submit to DEO revised Land Development Regulations (LDRs) that address local government requirements for subdivision of land and the approval process;

WHEREAS, said revisions to the LDRs are specifically required to do the following:

1. Define plat, re-plat, and subdivision; and
2. Clarify the difference between re-plat and subdivision; and
3. Identify the respective applicant requirements in the approval process; and
4. Identify infrastructure construction level required of payment of fees required; and
5. At what interval in the approval process for sewer, potable water, and fire needs, sidewalks, roads; and

WHEREAS, said revisions to the LDRs must also define the following terms for LDR Code purposes:

1. Natural resources;
2. Natural areas;
3. Environmentally sensitive natural systems, and
4. Habitat

in order to identify when open space designation and clustering applies to guide development away from important natural resources; an

WHEREAS, said revisions to the LDRs must also clarify clustering requirements for natural resources/natural areas for subdivisions, re-plats, plats, lot splits, or parcels proposed for development;

WHEREAS, said revisions must also provide a section that requires identification of open space on a site plan for parcels proposed for subdivision or containing more than one principal structure. Included in this condition is a requirement that the open space and vegetation data be presented as an overlay on the subdivision and plat/re-plat document at concept approval level or prior to construction plan approval if such a step is established to ensure that natural resources, regulated or protected trees, contiguous vegetation, or habitat will be a priority in determining placement of access driveways and lot layouts; and

WHEREAS, said revisions must also provide a section that require more detailed steps for approval of subdivision, plats, re-plats and Conditional Use Permits identifying at what point construction plan approval has been granted and at what stage of approval improvements must be constructed, bonded, or paid for and the minimal requirements that must be met prior to Council granting final plat approval for recordation; and

WHEREAS, said revisions must also provide a section that identifies which types of development require bonding or improvements and at what stage of the approval process bonding is necessary; and

WHEREAS, said revisions must also provide a section that indicate the minimum stormwater improvements that must be constructed and at which point within the approval process for subdivisions, plats, re-plats, and conditional use permits; and

WHEREAS, said revisions must also provide a section that identifies the construction approval stage at which point the proposed site plan is binding on all parties and when improvements must be constructed; and

WHEREAS, said revisions must also provide a section that identify any infrastructure inspection approvals that are required prior to final plat being recorded,

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

~~Strikethrough~~ = deletion **bold underline** = addition

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

SECTION 2. Modify Chapter 106, Article 1, of the LDRs as follows:

Section 106.02. - Use of Sound Environmental Practices.

The provisions in this chapter are intended to accommodate development while also protecting and preserving valuable natural and historic resources. To further this objective, applicants shall be required to use sound environmental practices, and to plan for proposed activities and projects in the context of natural systems and historic features of the landscape. Applicants are required to use conservation design techniques such as clustering and density transfer to produce marketable projects while protecting natural and historic resources.

A. *Satisfaction of Open Space Requirements:* When land development involves a parcel that contains regulated natural or historic resources, the City's open space requirements shall be fulfilled first with regulated natural or historic resources. These natural resource areas shall be protected as conservation management areas through a Grant of Conservation Easement in accordance with Article 8 "Conservation Management Areas".

B. *Clustering in Natural Areas:* Avoidance or minimization shall be required for all natural areas (**habitats pursuant to Chapter 106, Article 3, Table 106.16.1**) to the maximum extent feasible. Where the applicant demonstrates that

all reasonable steps have been taken in the attempt to avoid significant adverse impact to regulated natural resources, and proposed impact is consistent with the upland habitat limitations of this chapter (see required open space percentages in Table 106.16.1), development in regulated upland resource areas may be authorized as follows:

1. Shall not constitute a significant adverse impact.
2. ~~Density will be calculated within the regulated resource area at the lowest density allowed by the established zoning district. Maximum net density for parcels within the Conservation Future Land Use designation shall be established on a case-by-case basis, subject to the habitat open space requirements established in Table 106.16.1 and the density limitations of the district. Allowed units or commercial intensity (FAR) shall be calculated based on the allowed densities in the FLUM and Zoning District within which the parcel proposed for development lies. This calculation shall be made for the entire area of the subject parcel(s) proposed for development. However, development shall be limited from the perspective of habitat Class and open space (Table 106.16.1) in accordance with the clustering criteria established in Section 106.16, requiring the placement of development in the least sensitive habitat first, then the next least sensitive habitat, etc. The maximum density for any parcel shall be subject to the density allowed pursuant to Section 103, Article 3, Table 103.15.2, "Density, Intensity, and Dimensions for Zoning Districts" for all habitats which are provided density under the LDRs. Density within any Class I or II habitat within a parcel subject to development may be exceeded as long as the open space requirements are met and the density for the total area of the parcel is not exceeded. All aspects of the LDRs must be met, particularly open space requirements, setbacks and height.~~ For residential uses, reasonable access shall be allowed as follows:

- (a) A driveway shall not exceed 12 feet in width serving single-family uses; and 24 feet serving multi-family parcels. (excluding roadways serving multiple-family parcels); and
- (b) Driveways and roadways shall be located and designed to avoid or minimize adverse impacts on the protected resource(s), balancing such resource protection with the need for safe access to the site. When driveways are proposed to pass through Class III habitats within which regulated trees or native vegetation are identified, the driveway should be placed to minimize the removal of these regulated species to the greatest extent

practicable and in accordance with the provisions established in Article 2 of this Chapter.

4. Parcels, lots, building areas, and driveways shall be configured to minimize overall impact to ecosystem integrity (**Class I and II habitats**), utilizing reduced construction footprints, or modified or innovative construction techniques. Modification of the development footprint shall minimize the impact on existing native understory and canopy trees.

5. Development shall be clustered on the least environmentally sensitive portion of the parcel as listed in Table 106.16.1. When a parcel proposed for development contains more than one (1) habitat type, all development shall be clustered in the least environmentally sensitive portions of the parcel. Development permitted on the least sensitive portion(s) of a parcel shall be clustered within that portion(s) of the parcel to avoid impacts on existing native understory and canopy vegetation; shall achieve the maximum density or intensity **allowable possible without violating other aspects of the LDRs**; **and** shall fully utilize the net buildable area of the habitat prior to expanding to the next least sensitive habitat type on the site; **and in no instance shall the density or intensity of the parcel(s) subject to development exceed the density or intensity allowed for the sum of all habitats provided density or intensity under the LDRs (See Table 103.15.2, "Density, Intensity, and Dimensions for Zoning Districts."** **If the parcel(s) subject to development only exhibit Class III habitats as defined in Table 106.16.1, then the standards applied will be in accordance with Article 2 of this Chapter.**

6. Clearing of native vegetation (**Class I and II habitats**) shall be limited to the immediate development area which shall be shown as the area of approved clearing on the site plan approved by the City Biologist and shall be subject to the mitigation and management requirements of this chapter. **Clearing or transplantation of and mitigation for regulated trees or native vegetation found in Class III habitats shall be permitted in accordance with Article 2 of this Chapter.**

7. Champion trees and specimen trees shall not be disturbed.

8. No impact shall be allowed to wetlands or associated wetland buffer areas (**Class I and II habitats**), except as consistent with the requirements of Section 106.28 "Water Resource and Wetland Buffer".

C. *Eligibility for Transfer of Development Rights (TDR):* Transfers of Development Rights (TDR) may be proposed for two (2) or more separate tracts of land to facilitate transfers of density rights from regulated natural resource areas pursuant to Article 3 "Transfer of Development Rights", Chapter 107. Such

sending sites shall be designated as conservation areas on the City of Marathon Habitat Maps and shall be protected as conservation management areas through a Grant of Conservation Easement.

Section 106.03. - Resources Assessment Requirements.

Unless otherwise exempted elsewhere in this article, all applications for proposals with potential adverse impact to natural resources (including any of the habitats listed in Table 106.16.1, except ~~disturbed with exotics and scarified~~ **Class III habitats**, including, but not limited to; applications for land use change, **FLUM** or zoning change, **subdivision and platting, Conditional Use Permits and Development Agreements**, and site plan approval, shall include an assessment of the natural resource information, including a Habitat Analysis where applicable. The assessment shall be complete at or before the preliminary development review stage.

A. *Minimum Contents:* The assessment shall include, at a minimum, the following:

1. Cover letter and/or executive summary, including written explanation of the need and intent of the project and description of construction or alteration methodologies.
2. Maps drawn to scale, including a north arrow and scale showing the following:
 - a. Location of project site in relation to major roads or other readily identifiable landmarks, showing parcel boundaries with dimensions.
 - b. Existing roads, structures, utilities, and other existing conditions and noteworthy features.
 - c. Identification of all regulated natural resources (**Class I and II habitats**) or the locations of identified regulated trees or native vegetation (**Class III habitats**), labeled by resource type.
 - d. Proposed location of protected conservation resources and open space **pursuant to Articles 2, 3, 4 of this Chapter**.
 - e. Potential connections to existing adjacent preservation or conservation resources.
 - f. Statement of the proposed measures to protect natural resources, or to avoid, minimize, or mitigate impacts on natural resources, including the development siting and construction and stormwater management plans.

B. *Additional Information:* Additional data and analysis may be required by the City Biologist as appropriate to the complexity of the proposed activity and types of natural or historic resources identified. Such information may include, but is not limited to:

1. A Habitat analysis prepared according to Section 106.18 of this Chapter.
 2. Wildlife corridors, biodiversity hot spots, strategic habitat conservation areas, or element occurrences identified by the U.S. Fish and Wildlife, Florida Department of Environmental Protection, Florida Natural Areas Inventory, or South Florida Regional Planning Council, to analyze potential habitat connectivity issues.
 3. A mitigation and monitoring plan.
- C. *Use of Assessment:* The City shall review and evaluate the natural resources assessment to determine whether the proposal is consistent with the Comprehensive Plan and the LDRs and to identify appropriate site designs and strategies that maintain and protect the functions and values of natural and historic resources.

SECTION 3. Modify Chapter 106, Article 3, of the LDRs as follows:

Section 106.16. - Clustering.

Natural plants, animals and wildlife habitat of any size shall remain undisturbed to the greatest extent practicable; therefore, clustering of the development shall be required, subject to the habitat classification open space requirements in Table 106.16.1 and the mitigation and monitoring requirements of Article 10. To this end, the following shall be required:

A. A detailed natural resources assessment shall be provided for the proposed project area according to this chapter. **The assessment shall be used to confirm or to assist in modifying existing habitat information such as the City of Marathon, Comprehensive Plan Map Book, Map 4: Habitat Types.** Regulated natural and historic resources shall be inventoried using the best available data for the remainder of the planning parcel, and all natural plant and wildlife habitat and listed species habitat shall be identified. **If the natural resources assessment indicates that the property in question is characterized by different habitats than are listed in the Comprehensive Plan Map Book, then such information will be utilized to determine the limitations of development under this Section. For clarity, the assessment should only utilize habitat types as defined in this Section. If it is determined that a habitat type exists which is not otherwise found in Table 106.16.1, the responsible biologist should identify the habitat type and why it doesn't fit into the typical descriptive types in Table 106.16.1.**

B. Where regulated habitat or listed species habitat is identified, in order to proceed, the applicant must demonstrate that the proposed project will minimize disturbance of the connectivity of the habitat corridor and will be clustered on the least sensitive portion of the parcel according to habitat classification, pursuant to Table 106.16.1. An area

containing Class III habitat is considered the least environmentally sensitive and an area containing Class I habitat is considered the most environmentally sensitive. The habitats within each Class category in Table 106.16.1 are listed in order of sensitivity from greatest sensitivity to least sensitivity. **Class III habitats generally are not considered regulated natural resources pursuant to this Article. However, it is recognized that these habitats may have individual regulated trees, small clusters of regulated trees, and other native vegetation. As such, protection of this vegetation shall be regulated exclusively under the provisions of Article 2 of this Chapter. If individual or clusters of regulated trees and areas of native vegetation are identified within the habitat then under any development scenario, including subdivision and platting, these areas should be avoided if possible pursuant to Article 2.**

C. Unless otherwise exempted herein, a management plan for the parcel shall be prepared pursuant to Article 9 "Management Plans" which shall be subject to approval by the TRC.

Table 106.16.1
Open Space Requirements by Habitat Type

Classification	Habitat Type	Open Space (%)
Class I	<u>Water</u>	<u>100</u>
	Submerged Land	100
	Mangroves / <u>Scrub Mangroves</u>	100
	Undisturbed Saltmarsh and/or buttonwood association wetlands of high functional capacity as defined in Section 106.30, Art. 4.	100
	Disturbed with salt marsh and/or buttonwood association wetlands	
	Undisturbed beach or berm <u>Beach</u>	95 <u>100</u>
	<u>Beach Berm</u>	<u>95</u>
	<u>Cactus Barrens</u>	<u>95</u>
	Palm Hammock	90
	Cactus Hammock	90
	High Quality Tropical Hardwood Hammock	90

	Moderate Quality Tropical Hardwood Hammock	70
	Low Quality Tropical Hardwood Hammock	50
Class II	Disturbed beach/berm Disturbed Beach Berm	40
	Disturbed with salt marsh and/or buttonwood association wetlands of moderate or low functional capacity as defined in Section 106.27, Art. 4 of this chapter	60
	Disturbed with Tropical Hardwood Hammock	40
Class III	Disturbed / Scarified	20
	Disturbed with Exotics	20
	<u>Exotics</u>	<u>20</u>
	<u>Developed</u>	<u>20</u>

SECTION 4. Modify Chapter 106, Article 9, of the LDRs as follows:

ARTICLE 9. - MANAGEMENT PLANS

Section 106.60. - When Required.

A management plan shall be required for all development applications involving properties with regulated natural resources areas whether or not impact is proposed. The management plan shall be submitted for review and approval concurrent with submittal of the application. **An exemption from the requirement to provide a management plan is granted for Class III habitats as established in Chapter 106, Article 3, Table 106.16.1.**

SECTION 5. Modify Chapter 110, Article 3, of the LDRs as follows:

Beach: A sandy area typically composed of carbonate sands and shell material in the Keys, frequently associated with nearby dunes which are together suitable for turtle nesting and use by shore and wading birds.

Habitat: The natural abode of a plant or animal that contains the arrangement of food, water, cover and space required to meet the biological needs of a given species. Different species have different requirements, and these requirements vary over the course of a year. The term *habitat* in the context of the LDRs and particularly Chapter 106, Articles 2, 3, and 4 should be considered in context with Table 106.16.1, "Open Space Requirements by Habitat Type." Synonymous terms for this purpose as utilized throughout the LDRs, include natural resources, natural areas, native vegetation, and regulated natural resources. Terms such as least environmentally sensitive portions of the parcel, open space, and open space ratio are utilized in context with Table 106.16.1 and regulated utilization of habitat types identified therein.

Least environmentally sensitive portions of the parcel: A term of art utilized in context with Chapter 106, Article 2, Section 106.16 – "Clustering." Where regulated habitat or listed species habitat is identified, in order to proceed, the applicant must demonstrate that the proposed project will minimize disturbance of the connectivity of the habitat corridor and will be clustered on the least sensitive portion of the parcel according to habitat classification, pursuant to Table 106.16.1. An area containing Class III habitat is considered the least environmentally sensitive and an area containing Class I habitat is considered the most environmentally sensitive. The habitats within each Class category in Table 106.16.1 are listed in order of sensitivity from greatest sensitivity to least sensitivity.

Mangroves / Scrub Mangroves / Mangrove Community: A wetland plant association subject to tidal influence where the vegetation is dominated by one (1) or more of the following three (3) species of mangroves:

Avicennia germitiatis	Black mangrove
Laguncularia racemose	White mangrove
Rhizophora mangle	Red mangrove

Salt Marsh and Buttonwood Wetlands: Two (2) plant associations that are sometimes collectively or individually referred to as the "transitional wetland zone." The salt marsh community is a wetland area subject to tidal influence, and the vegetation is dominated

by nonwoody groundcovers and grasses. The vegetation may include, but is not limited to; the following nonwoody species:

<i>Sporobolus virginicus</i>	Dropseed
<i>Batis maritime</i>	Saltwort
<i>Distichlis spicata</i>	Salt grass
<i>Monanthochloe</i>	Key grass
<i>Salicornia spp.</i>	Glasswort
<i>Sesuvium portulacastrum</i>	Sea purslane
<i>Spartina spatinae</i>	Cordgrass
<i>Fimbristylis castanea</i>	Chestnut sedge

Wood vegetation that may be present includes the three (3) species of mangroves, as well as buttonwood (*Conocarpus erectus*); however, the salt marsh community is distinguished by the dominance of nonwoody plants, and the woody species have a coverage of less than 40 percent. The salt marsh community may be associated and intermixed with areas of almost bare ground on which the vegetation may be limited to masts of periphyton.

The buttonwood wetland is a wetland that is usually present in the more landward zone of the transitional wetland area, and may intermix with more upland communities. The vegetation may include, but is not limited to the following species:

<i>Sporobolus virginicus</i>	Dropseed
<i>Borrichia spp.</i>	Sea ox-eye daisy
<i>Bumelia celastrina</i>	Saffron plum
<i>Coccoloba uvifera</i>	Sea grape
<i>Conocarpus erectus</i>	Buttonwood
<i>Erithalis fruticosa</i>	Black torch
<i>Fimbristylis castanea</i>	Chestnut sedge
<i>Jacquinia keyensis</i>	Joewood
<i>Lycium Carolinianum</i>	Christmas berry
<i>Maytenus phyllanthoides</i>	Mayten
<i>Spartina spatinae</i>	Cordgrass

The buttonwood wetland is distinguished from the salt marsh wetland by the dominance of buttonwood trees, usually occurring as an open stand that permits the growth of an understory of groundcovers and shrubs. The buttonwood wetland is, in turn, distinguished

from more upland communities by the presence of graminoids and halophytic groundcover under its open canopy, and generally by the lack of an appreciable layer of hums and leaf litter. As reference throughout these regulations, "Salt marsh and Buttonwood" habitat refers collectively and individually to "salt marsh" and "buttonwood" habitats for the purpose of determining regulatory requirements.

Undisturbed or high functioning saltmarsh and buttonwood accrue density in accordance with Policy 4-1.7.2, of the City of Marathon Comprehensive Plan for the purposes of transferring allocated density. However, the open space for such habitats is 100 percent and ire otherwise unbuildable. Disturbed or low functional categories of saltmarsh and buttonwood wetland are best defined by the KEYWEP score as outlined in Chapter 106, Article 4, Section 106.27 C. 2. of the LDRs and are buildable for KEYWEP scores .

Tropical Hardwood Hammock; High quality, moderate quality, low quality, disturbed: A characterization of habitat quality for hammock habitat (high and low elevation) defined elsewhere in this Chapter. Determination of habitat quality is established by performing a habitat analysis as outlined in Chapter 106, Article 3, Section 106.18 – Habitat Analysis.

SECTION 6. 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 7. 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 8. 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 9. 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 10. 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 14th DAY OF JUNE, 2016.

THE CITY OF MARATHON, FLORIDA



Mark Senmartin, Mayor

AYES: Zieg, Bartus, Coldiron, Senmartin
NOES: None
ABSENT: Kelly
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, David Migut

**STATE OF FLORIDA
DEPARTMENT OF ECONOMIC OPPORTUNITY**

In re: A LAND DEVELOPMENT REGULATION
ADOPTED BY CITY OF MARATHON
ORDINANCE NO. 2016-05

FINAL ORDER
APPROVING CITY OF MARATHON ORDINANCE NO. 2016-05

The Department of Economic Opportunity (“Department”) hereby issues its Final Order, pursuant to sections 380.05(6) and 380.0552(9), Florida Statutes, approving land development regulations adopted by the City of Marathon, Florida, Ordinance No. 2016-05 (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 of Marathon is a local government within the Florida Keys Area.
2. The Ordinance was adopted by the City of Marathon on June 14, 2016, and rendered to the Department on December 28, 2016.
3. The Ordinance amends the City of Marathon Code of Ordinances, Appendix A (Land Development Regulations) to clarify clustering requirements in class I, II, and III habitat, and add definitions to further define environmental resource terms.

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. Sections 380.05(6), and 380.0552(9), 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 of Marathon Comprehensive Plan generally, and specifically Policies 4-1.2.1 and 4-1.2.2, as required by section 163.3177(1), Florida Statutes.

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. Sections 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 section 380.0552(7), Florida Statutes.

8. 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:

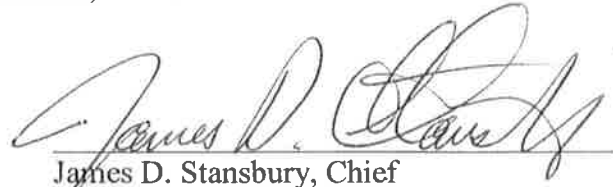
(a) Strengthening local government capabilities for managing land use and development so that local government is able to achieve these objectives without continuing the area of critical state concern designation.

(c) Protecting upland resources, tropical biological communities, freshwater wetlands, native tropical vegetation (for example, hardwood hammocks and pinelands), dune ridges and beaches, wildlife, and their habitat.

WHEREFORE, IT IS ORDERED that the Department finds that the City of Marathon Ordinance No. 2016-05 is consistent with the City of Marathon Comprehensive Plan and 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.



James D. Stansbury, Chief
Bureau of Community Planning
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. MEDIATION IS NOT AVAILABLE.

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 10th day of February, 2017.



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

By Certified U.S. Mail:

The Honorable Dr. Dan Zieg, 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