



**City of Marathon Planning Commission**  
**Monday September 20, 2021**  
**9805 Overseas Hwy**  
**City Hall Council Chambers**  
**5:30 PM**

- 1. Call To Order**
  - 2. Pledge Of Allegiance**
  - 3. Roll Call**
  - 4. Minutes**
  - 5. Items For Public Hearing**
  - 6. Adjournment**
- 

**5. Items For Public Hearing**

1. An Ordinance Of The City Of Marathon, Florida Amending The Comprehensive Plan By Amending The Existing Property Rights Element To Include Further Protections Of Private Property Rights; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The Department Of Economic Opportunity; And Providing For An Effective Date Upon The Approval Of This Ordinance By The State Department Of Economic Opportunity.
2. An Ordinance Of The City Of Marathon, Florida Amending The Code Of Ordinances Chapter 6 Entitled "Buildings And Building Regulations" Article III Entitled "Building Code" Sections 6-25 And 6-26 Entitled "Amendments To The Florida Building Code, Building" And "Amendments To The Florida Building Code, Existing Building" Respectively, Amending The Cumulative Period For Substantial Damage And Substantial Improvement; And Amending The Land Development Regulations Chapter 110 Entitled "Definitions", Article 3 Entitled "Defined Terms"; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity; Providing For The Transmittal Of This Ordinance To The Florida Building Commission; And Providing For An Effective Date Upon The Approval Of This Ordinance By The State Department Of Economic Opportunity.



**City of Marathon Planning Commission  
Monday August 16, 2021  
9805 Overseas Hwy  
City Hall Council Chambers**

**MINUTES**

Lynn Landry called the meeting of the Planning Commission to order on Monday, August 16, 2021, at 5:33 pm.

In attendance: Attorney Steve Williams, Planning Director Brian Shea, City Manager George Garrett, and Admin Assistant Lorie Mullins.

The Pledge of Allegiance was recited.

The roll was called. Mike Cinque-present; Matt Sexton-present; Malloy Pinto-present; Mary Ann Royse-present; Lynn Landry-present.

Landry asked for a motion to approve the minutes of the last meeting. Pinto moved to approve. Landry seconded. The roll was called. The minutes were approved 5-0.

The quasi-judicial statement was read into the record.

**Item 1** was read into the record. An Ordinance By The City Of Marathon, Florida, Amending Chapter 104, Article I (“General Provisions”) By Amending Section 104.62 To Limit Access Of Mobile Vendors On Sombrero Beach Road Immediately Adjacent To Sombrero Beach; Providing For The Repeal Of All Ordinances Or Parts Thereof Found To Be In Conflict; Providing For Severability; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity After Final Adoption By The City Council; Providing For Inclusion In The Code Of Ordinances And Providing For An Effective Date.

Shea presented the item.

Royse questioned why Sombrero Beach was excluded. Shea and Williams explained there have been multiple complaints from property owners and the complaints had escalated to the brandishing of a weapon in that area.

There were no public speakers.

Landry asked for a motion to approve. Pinto moved to approve. Sexton seconded. The roll was called. The item was approved 4-1. Royse dissenting.

**Item 2** was pulled by staff. A Request For A Conditional Use And Plat Approval Permit Pursuant To Chapter 102 Article 10 And Article 13 Of The City Of Marathon Land Development Regulations (LDRs) Entitled “Subdivision Of Land/Plats And Re-Plats,” And “Conditional Use Permits”

Respectively, For A Plat And Site Plan Approval As Submitted By Seaview Commons II For Vacant Land On The Corner Of Avenue A (Pescayo Avenue) And Avenue B, Which Is Described As Lots 5 And 6 Of Block 6, Coco Plum Beach Subdivision, Fat Deer Key, Marathon, Monroe County, Florida, Having Real Estate Numbers 00363550-000000 & 00363560-000000. Nearest Mile Marker 54.

**Item 3** was read into the record. A Request For A Conditional Use Permit And Plat Approval Pursuant To Chapter 102 Article 10 And Article 13 Of The City Of Marathon Land Development Regulations (LDRs) Entitled “Subdivision Of Land/Plats And Re-Plats,” And “Conditional Use Permits” Respectively, For A Plat And Site Plan Approval As Submitted By Novoa Angela C 2012 Irrevocable Trust 11/16/12 For Vacant Land On Avenue A (Pescayo Avenue), Which Is Described As Lots 1 Through 6 Of Block 5 And Bay Bottom Adjacent To Lots 1 Through 6 Of Block 5, Coco Plum Beach Subdivision, Fat Deer Key, Marathon, Monroe County, Florida, Having Real Estate Numbers 00363430-000000, 00363450-000000, 00363460-000000, 00363460-000100, 363470-000000, 00363480-000000, 00363490-000000, 00363490-000000, and 00363500-000000. Nearest Mile Marker 54.

Shea presented the item.

Cinque asked if the egress problem with Messina had been resolved. Shea stated the applicant is working with Messina to resolve.

Bart Smith, for the applicant, presented the item. Smith added a condition: all docks are required to run parallel to the lots, maximum out from land will be 5’, except lots 5, 6, 7 which will be a maximum of 4’ out from land.

The speakers were sworn in.

Torres, the applicant, answered questions regarding driveways and access.

Landry opened the meeting to public speakers. Michelle Perdomo spoke in favor of the item.

Landry closed the meeting to public speakers.

Landry asked for ex-parte communications.

Royse stated that Torres is building her home and she wanted to be transparent.

Landry spoke with Torres, but it would not affect his decision.

Cinque spoke with neighbor about the fence problem, but it would not affect his decision.

Pinto had none.

Sexton had none.

Sexton moved to approve the item with the additional condition that docks must run parallel to upland and be a maximum of 5’ from upland, except for lots 5, 6, and 7 which will be no more than 4’ from upland.

Pinto seconded.

The roll was called. The item was approved 5-0.

**Item 4** was read into the record. Consideration Of A Request By Florida Keys Animal Encounters, LLC For A Conditional Use Permit Pursuant To Chapter 102 Article 13 Of The City Of Marathon Land Development Regulations (LDRs) Entitled “Conditional Use Permits”, For The Expansion Of The Previously Approved Sea Life Amusement Park And A Marine Educational Facility, To Include A Warehouse, Office, And Lab Space Not To Exceed 30,400 Square Feet, At 11710 Overseas Highway, And Legally Described As Part Of Government Lot 4, Section 5, Township 66 South, Range 33 East, Key Vaccas, Monroe County, Florida, Having Real Estate Number 00104130-000000.

Shea presented the item.

The proposed square footage will not change the footprint of the building.

Williams asked for ex-parte communications.

Cinque had conversations with both sides, and it will not affect his decision.

Pinto was contacted by the applicant, and it will not affect her decision.

Royse was contacted by the applicant, and it will not affect her decision.

Landry had conversations with applicant and people living at Seawatch and it will not affect his decision.

Sexton had no communications.

Bart Smith, for the applicant, presented the item.

Landry opened the meeting to public speakers.

Nick Mulick spoke against the item.

Bart Valdes presented a power point and spoke against the item.

Sandra Walters, expert witness, was questioned by Mulick. Walters summarized her opinion that the project is not in compliance and not consistent with community character.

Ben Daughtry, applicant, was questioned by Smith. Daughtry summarized his opinion that the project is in compliance.

After discussion on ownership of the road, access to and from Seawatch, parking, widening the road, and adding a condition for no parking allowed within the easement for ingress and egress Cinque moved to approve the item with the additional condition regarding no parking in the easement.

Royse seconded.

The roll was called. The item was approved 5-0.

Minutes for May and June meetings were approved.

Adjourned at 6:52pm.

ATTEST:

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Lynn Landry – Planning Commission Chairman

ATTEST:

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Lorie Mullins-Administrative Assistant  
City of Marathon Planning Department

Audio-Video is available upon request.

Pursuant to Section 286.0105, Florida Statutes, if a person decides to appeal any decision made by the Planning Commission with respect to any matter considered at such hearing or meeting, one will need a record of the proceedings and for such purpose that person may need to ensure that a verbatim record of the proceedings is made; such record includes the testimony and evidence upon which the appeal is to be based.

ADA Assistance: Anyone needing special assistance at the Planning Commission Meeting due to disability should contact the City of Marathon at (305-) 743-0033 at least two days prior thereto.

**(Please note that one or more Marathon City Council members may participate in the meeting.)**

## PLANNING COMMISSION AGENDA STATEMENT



**Meeting Date:** September 20, 2021  
**To:** Planning Commissioners  
**From:** Brian Shea, Planning Director

**Item:** **Ordinance 2021-XX**, An Ordinance Of The City Of Marathon, Florida Amending The Comprehensive Plan By Amending The Existing Property Rights Element To Include Further Protections Of Private Property Rights.; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The Department Of Economic Opportunity; And Providing For An Effective Date Upon The Approval Of This Ordinance By The State Department Of Economic Opportunity.

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### RECOMMENDATION

Staff is recommending approval of the ordinance as written.

#### I. BACKGROUND AND JUSTIFICATION

Florida amended the Community Planning Act to require every city and county “to include in its comprehensive plan a property rights element.” FLA. STAT. § 163.3177(6)(i)1. (2021). The City must adopt this new element “by the earlier of the date of its adoption its next proposed plan amendment that is initiated after July 1, 2021, or the date of the next scheduled evaluation and appraisal of its comprehensive plan.” FLA. STAT. § 163.3177(6)(i)2. (2021). The City has proposed plan amendments that will be submitted after this deadline, and therefore, must adopt the amendment.

#### II. ANALYSIS AND RECOMMENDATION

The City already has a private property rights element in the comprehensive plan. However, the specific statutory items are not elaborated within the comprehensive plan. Therefore, staff is recommending amending the comprehensive plan to expand the elements to adopt the specific language from the statute.

Based on the above, Planning Staff recommends that the City Council **APPROVE** the comprehensive plan amendment as written.

**Sponsored by:** Garrett  
**Introduction Date:** XXX  
**Public Hearing Dates:** XXX  
**Enactment Date:** XXX

**CITY OF MARATHON, FLORIDA  
ORDINANCE 2021-XXX**

**AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA AMENDING THE COMPREHENSIVE PLAN BY AMENDING THE EXISTING PROPERTY RIGHTS ELEMENT TO INCLUDE FURTHER PROTECTIONS OF PRIVATE PROPERTY RIGHTS.; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY.**

**WHEREAS**, Section 163.3167, Florida Statutes, requires the City of Marathon to maintain a comprehensive plan to guide its future development and growth; and

**WHEREAS**, Section 163.3177(6)(i)1., Florida Statutes, requires the City of Marathon comprehensive plan to include a property rights element; and

**WHEREAS**, the City of Marathon respects judicially acknowledged and constitutionally protected private property rights; and

**WHEREAS**, the City of Marathon respects the rights of all people to participate in land use planning processes; and

**WHEREAS**, the City Council determined that it is in the public interest to amend the comprehensive plan by further amending the property rights element;

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

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

**Section 2.** The City of Marathon comprehensive plan objective 1-3.6 is hereby amended by the following amendments to include a new policy 1-3.6.7:

**OBJECTIVE 1-3.6 PROTECT PROPERTY RIGHTS**

*Neither the provisions of the Plan nor the Land Development Regulations shall deprive a property owner of all reasonable economic use of a parcel of real property which is a lot or parcel of record as of the effective date of the Plan. The development or use of each parcel is subject to, and restricted by the Goals, Objectives and Policies of the Plan and Land*

*Development Regulations implementing the Plan, therefore, no building permits shall be issued by the City unless the proposed development complies with the Plan and the Land Development Regulations. ~~§163.3177(6)(a)4 F.S.~~ §163.3177(6)(i)2 F.S.*

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Policy 1-3.6.7 Respecting Property Rights

The City of Marathon respects judicially acknowledged and constitutionally protected private property rights. The City shall consider the following rights in local decision making:

- The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.
- The right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.
- The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.
- The right of a property owner to dispose of his or her property through sale or gift.

**Section 3.** The Provisions of the Marathon Code 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 section, sentence, clause, or phrase of this Ordinance shall be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this 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.** This Ordinance shall become effective immediately upon adoption on second reading.

**ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2021.**

**THE CITY OF MARATHON, FLORIDA**

\_\_\_\_\_  
**Luis Gonzalez, Mayor**

AYES:

NOES:



ABSENT:  
ABSTAIN:  
**ATTEST:**

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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:**

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City Attorney  
Steven T. Williams

DRAFT

## PLANNING COMMISSION AGENDA STATEMENT



**Meeting Date:** September 20, 2021  
**To:** Planning Commissioners  
**From:** Brian Shea, Planning Director

**Item:** **Ordinance 2021-XX**, An Ordinance Of The City Of Marathon, Florida Amending The Code Of Ordinances Chapter 6 Entitled “Buildings And Building Regulations” Article III Entitled “Building Code” Sections 6-25 And 6-26 Entitled “Amendments To The Florida Building Code, Building” And “Amendments To The Florida Building Code, Existing Building” Respectively, Amending The Cumulative Period For Substantial Damage And Substantial Improvement; And Amending The Land Development Regulations Chapter 110 Entitled “Definitions”, Article 3 Entitled “Defined Terms”; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity; Providing For The Transmittal Of This Ordinance To The Florida Building Commission; And Providing For An Effective Date Upon The Approval Of This Ordinance By The State Department Of Economic Opportunity.

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### RECOMMENDATION

Staff is recommending approval of the ordinance as written.

#### I. BACKGROUND AND JUSTIFICATION

City Council directed staff to look into changing the cumulative requirement for substantial improvement. The current cumulative is tracked over a three-year period. Staff verified that the changes to reduce to a one-year period will not alter our point value in the Community Rating System.

#### II. ANALYSIS AND RECOMMENDATION

Staff is recommending amending the code sections that amend the Florida Building Code to change the specific language for the cumulative substantial improvement.

Based on the above, Planning Staff recommends that the City Council **APPROVE** the ordinance as written.

## **Documentation for FDN Provided by the Community**

(1) The activity documentation requirements in Section 431.d must be met.

### **432.d. Cumulative substantial improvements (CSI)**

The maximum credit for this element is 90 points.

The NFIP allows improvements valued at up to 50% of the building's pre-improvement value to be permitted without meeting the flood protection requirements for buildings located in the SFHA. Over the years, a community may issue a succession of permits for different repairs or improvements to the same structure. This can greatly increase the overall flood damage potential to that building as well as the insurance liability to FEMA.

CSI provides credit to a community that ensures that the total value of all improvements or repairs permitted OVER TIME does not exceed 50% of the value of the structure. When the total value does exceed 50%, the original building must be protected according to the ordinance requirements for new buildings.

Under some circumstances the NFIP flood insurance policy may pay a portion of the cost of bringing a substantially flood-damaged building into compliance with the community's floodplain management ordinance. If the community has a more restrictive definition of substantial damage, the provision may still apply. More information on Increased Cost of Compliance coverage can be found at [www.CRSresources.org/400](http://www.CRSresources.org/400).

If a community does not regulate for cumulative substantial improvements, it may still receive credit for regulation of additions. Additions within the footprint of the original building would have to be to a floor above the base flood elevation. Additions outside the footprint of the original building would have to be elevated (non-residential structures could be floodproofed) above the base flood elevation.

### **Credit Points for CSI**

Up to 90 points are provided for tracking improvements cumulatively.

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CSI = the total of the following points, not to exceed 90 points

(1) EITHER:

(a) 40 points, if the regulations require that improvements, modifications, and additions to existing buildings are counted cumulatively for at least 10 years

OR

(b) 20 points, if the regulations require that improvements, modifications, and additions to existing buildings are counted cumulatively for at least 5 years

(2) EITHER:

(a) 40 points, if the regulations require that reconstruction and repairs to damaged buildings are counted

cumulatively for at least 10 years

OR

- (b) 20 points, if the regulations require that reconstruction and repairs to damaged buildings are counted cumulatively for at least five years
- (3) 20 points, if the community adopts regulatory language that qualifies properties for Increased Cost of Compliance insurance coverage for repetitive losses
- (4) 20 points, if the regulations require that any addition to a building be protected from damage from the base flood

### Impact Adjustment for CSI

CSI credit is adjusted based on the ratio of the area affected by the cumulative substantial improvement regulation to the area of the SFHA. See Section 431.c on calculating an impact adjustment.

$$rCSI = \frac{aCSI}{aSFHA}, \text{ where}$$

aCSI = the size of the area(s) that qualify for CSI credit, and

aSFHA = the size of the community's SFHA

### Documentation for CSI Provided by the Community

(1) The activity documentation requirements in Section 431.d must be met.

(2) At each verification visit,

- (a) A list of all permits for building improvements or repairs in the regulatory floodplain that have been issued since the last visit. The list must include both substantial improvements and permitted projects that were not substantial improvements.

The ISO/CRS Specialist will review permit records that document how the regulation has been applied. The records need to track permits by parcel number or address, so that the history of improvements or repairs to a particular structure is checked before the next permit is issued.

### 432.e. Lower substantial improvements threshold (LSI)

The maximum credit for this element is 20 points.

The NFIP allows improvements valued at up to 50% of the building's pre-improvement value to be permitted without meeting the flood protection requirements for buildings located in the SFHA. LSI credits having a threshold that is lower than 50%.

LSI has the effect of requiring more structures to come into compliance if the owners want to improve them or if they are damaged. Since any community that participates in the NFIP already has a threshold (50%), it is only necessary for the community to change the number specified in its ordinance or regulations. A community must be sure that a minimum threshold is not set by state law before it adopts a different standard.

There are alternative ways to receive credit under item (2) in Credit Points, below:

- (a) Instead of basing the substantial improvement determination on the value of the building and the cost of the project, half credit is provided for limiting expansions of the building to no more than 25% of the square footage of the lowest floor.
- (b) Half credit is provided if the lower threshold applies to either improvements or to repairs to damaged buildings, but not both. Full credit is provided under (1) for both.

Under some circumstances the NFIP flood insurance policy may pay a portion of the cost of bringing a substantially flood-damaged building into compliance with the community's floodplain management ordinance. If the community has a more restrictive definition of substantial damage, the provision may still apply. More information on Increased Cost of Compliance coverage can be found at <http://www.fema.gov/increased-cost-compliance-coverage>.

### Credit Points for LSI

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LSI = EITHER:

- (1) 20 points, if the regulatory threshold for determining if a building is substantially improved or substantially damaged is less than 50%

OR

- (2) 10 points, if EITHER

- (a) The regulatory threshold is no more than 25% of the square footage of the building's lowest floor, OR
  - (b) The regulatory threshold applies to either improvements, modifications, and additions or reconstruction and repairs, but not both
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### Impact Adjustment for LSI

LSI credit is adjusted based on the ratio of the area affected by the lower substantial improvement threshold to the area of the SFHA. See Section 431.c on calculating an impact adjustment.

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$$rLSI = \frac{aLSI}{aSFHA}, \text{ where}$$

aLSI = the size of the area(s) that qualify for LSI credit, and

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aSFHA = the size of the community's SFHA

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### **Documentation for LSI Provided by the Community**

(1) The activity documentation requirements in Section 431.d must be met.

(2) At each verification visit,

- (a) A list of all permits for building improvements or repairs in the regulatory floodplain that have been issued since the last visit. The list must include both substantial improvements and permitted projects that were not substantial improvements.

The ISO/CRS Specialist will review permit records that document how the regulation has been applied.

### **432.f. Protection of critical facilities (PCF)**

The maximum credit for this element is 80 points.

For CRS credit purposes, critical facilities are defined in Section 120. There are usually two kinds of critical facilities that a community should address:

- Facilities that are vital to flood response activities or critical to the health and safety of the public before, during, and after a flood, such as a hospital, emergency operations center, electric substation, police station, fire station, nursing home, school, public works, vehicle and equipment storage facility, or shelter.
- Facilities that, if flooded, would make the flood problem and its impacts much worse, such as a hazardous materials facility, power generation facility, water utility, or wastewater treatment plant.

PCF credit is provided for regulations that either prohibit critical facilities in the 500-year floodplain or set higher standards for protecting them from flood damage. Full credit is for a prohibition on new critical facilities in the 500-year floodplain.

It may not be feasible for some communities to locate critical facilities outside the 500-year floodplain, but they may be able to take some steps towards reducing future risk to these facilities, so partial credit is provided for regulations that allow new facilities in the 500-year floodplain, but set higher protection standards for them. If the standards only apply to some facilities or some parts of facilities, the credit will be prorated. For example, partial credit would be provided if the regulations addressed only one type of critical facility, such as hazardous materials sites or critical facilities owned and managed by the community.

### **Credit Criteria for PCF**

(1) Credit is provided only if there is regulatory language that protects critical facilities.

The fact that there are currently no critical facilities in the regulated floodplain may indicate community policy, but adopted regulations are required for PCF credit.

**Sponsored by: Garrett**  
**Introduction Date: XXX**  
**Public Hearing Dates: XXX**  
**Enactment Date: XXX**

**CITY OF MARATHON, FLORIDA**  
**ORDINANCE 2021-XXX**

**AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA AMENDING THE CODE OF ORDINANCES CHAPTER 6 ENTITLED “BUILDINGS AND BUILDING REGULATIONS” ARTICLE III ENTITLED “BUILDING CODE” SECTIONS 6-25 AND 6-26 ENTITLED “AMENDMENTS TO THE FLORIDA BUILDING CODE, BUILDING” AND “AMENDMENTS TO THE FLORIDA BUILDING CODE, EXISTING BUILDING” RESPECTIVELY, AMENDING THE CUMULATIVE PERIOD FOR SUBSTANTIAL DAMAGE AND SUBSTANTIAL IMPROVEMENT; AND AMENDING THE LAND DEVELOPMENT REGULATIONS CHAPTER 110 ENTITLED “DEFINITIONS”, ARTICLE 3 ENTITLED “DEFINED TERMS”; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE FLORIDA BUILDING COMMISSION; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY.**

**WHEREAS**, the Legislature of the State of Florida in Chapter 166 – Municipalities, Florida Statutes, confers upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

**WHEREAS**, the City of Marathon participates in the National Flood Insurance Program and participates in the NFIP’s Community Rating System, a voluntary incentive program that recognizes and encourages community floodplain management activities that exceed the minimum program requirements, achieving a CRS rating of Class 6; and

**WHEREAS**, the City Council determined that it is in the public interest to amend the floodplain management regulations to amend the substantial improvement code sections while maintain existing points in the Community Rating System at the current class rating.

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

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

**Section 2.** Code of Ordinances Chapter Six, Section 6-25 and Section 6-26 Amendments to the Florida Building Code, Building & Amendments to the Florida Building Code, Existing Building respectively are hereby amended by the following amendments:

Sec. 6-25. - Amendments to the Florida Building Code, Building.  
Modify Sec. 107.3.5 as follows:

*107.3.5 Minimum plan review criteria for buildings.*

*Commercial Buildings: Building*

8. Structural requirements shall include:

Flood requirements in accordance with Section 1612, including lowest floor elevations, the City of Marathon's V-Zone Certification form, FEMA's Floodproofing Certification form (FEMA Form 086-0-34), enclosures, declaration of land restriction (non-conversion agreement), flood damage-resistant materials.

*Residential (one- and two-family):*

6. Structural requirements shall include:

Flood hazard areas, flood zones, design flood elevations, lowest floor elevations, enclosures, declaration of land restriction (non-conversion agreement), equipment, and flood damage-resistant materials.

Modify Sec. 110.3 as follows:

*110.3 Required inspections.*

*Building [partial shown]*

1. Foundation inspection.

1.1. In flood hazard areas, upon placement of the lowest floor, including basement, and prior to further vertical construction, the FEMA Elevation Certificate (FEMA Form 086-0-33) shall be submitted to the authority having jurisdiction.

5. Final inspection.

5.1. In flood hazard areas, as part of the final inspection, final FEMA Elevation Certificate (FEMA Form 086-0-33) of the lowest floor elevation shall be submitted to the authority having jurisdiction.

Modify Sec. 202 as follows:

***SUBSTANTIAL IMPROVEMENT.*** Any combination of repair, reconstruction, rehabilitation, alteration, addition or other improvement of a building or structure taking place during a ~~3~~1-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. The period of accumulation begins when the first improvement or repair of each building or structure is permitted subsequent to June 1, 2012. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:



1. Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that is the minimum necessary to assure safe living conditions.
2. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

(Ord. No. [2018-05](#), § 5, 8-14-2018)

Sec. 6-26. - Amendments to the Florida Building Code, Existing Building.  
Modify Sec. 202 as follows:

*SUBSTANTIAL IMPROVEMENT.* Any combination of repair, reconstruction, rehabilitation, alteration, addition or other improvement of a building or structure taking place during a ~~3~~1-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. The period of accumulation begins when the first improvement or repair of each building or structure is permitted subsequent to June 1, 2012. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

3. Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that is the minimum necessary to assure safe living conditions.
4. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

(Ord. No. [2018-05](#), § 5, 8-14-2018)

**Section 3.** The Land Development Code, Chapter 110 Definitions, is hereby amended by the following amendments:

Chapter 110 - DEFINITIONS

ARTICLE 1. - GENERAL Section 110.00. - Construction of Words and Phrases.

ARTICLE 3. - DEFINED TERMS

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*Substantial Damage:* Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 50 percent of the market value of the building or structure before the damage occurred.

*Substantial Improvement:* Any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure taking place during a ~~three~~-one-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure, either; (1) before the improvement or repair is started; or (2) if the structure has been damaged and is being restored, before the damage occurred. The period of accumulation begins when the first improvement or repair of each building is permitted subsequent to June 1, 2012. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed.

The term does not, however, include either:

- A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- B. Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure".

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

**Section 5.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this 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.

**Section 7.** This Ordinance shall become effective immediately upon adoption on second reading.

**ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2021.**

**THE CITY OF MARATHON, FLORIDA**

\_\_\_\_\_  
**Luis Gonzalez, Mayor**

AYES:  
NOES:  
ABSENT:  
ABSTAIN:  
**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  
Steven T. Williams