



City of Marathon Planning Commission
Monday October 21, 2019
9805 Overseas Hwy
City Hall Council Chambers
5:30 PM

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

Please be advised that some of the items on the agenda are quasi-judicial in nature. If you wish to give testimony on any item please inform the Boards clerk by filling out an available sign up form. An opportunity to speak will be made available after the applicant and staff have made their presentations on each item. All testimony, including public testimony and evidence, will be made under oath or affirmation. Additionally, all persons giving testimony may be subject to cross examination. If you refuse either to be cross examined or to be sworn your testimony will not be considered. The general public will not be allowed to cross examine witnesses, but they can ask the Commission to ask questions on their behalf. Persons representing organizations must present evidence of their authority to speak for the organization.

6. Items For Public Hearing

Item 1: **POSTPONED.** Consideration Of A Request For A Conditional Use Permit For Guillermo Torres, Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (Code) Entitled "Conditional Use Permits" For The Development Of A Property Into Multifamily Housing, Office And Retail; Located At 10155 Overseas Hwy; Which Is Legally Described As Part Of Government Lot 2 And Bay Bottom South Of And Adjacent Part Government Lot 2, Key Vaca, Having Real Estate Number 00104460-000000, Nearest Mile Marker 52.5.

Item 2: A Proposed Ordinance Of The City Of Marathon, Florida, Amending The City Of Marathon's Comprehensive Plan Modifying Chapter One, "Future Land Use," Table 1-1, "Future Land Use Densities And Intensities," And Intending To Modify Policy 1-3.3.4, "Encourage Redevelopment Of Tourist/Resort/Campground Facilities," To Allow Uses Designated As "Permanent RVs" To Be Utilized As "Transient Residential Units" (RV Lots), Meeting All Requirements Of Such Uses, And That Hold No Monetary Value As Transient

Units, And Cannot Be Transferred As Transient Units, To Be Allowed On Properties Zoned Residential Mobile Home (R-MH) That Also Allows Permanent Florida Building Code Compliant Residences; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity After The First Hearing By The City Council; And Providing For An Effective Date.

Item 3: An Ordinance Of The City Of Marathon, Florida, Amending The City’s Comprehensive Plan To Modify Comprehensive Plan, Chapter 1, “Future Element”, Goal 1-3, “Manage Growth;” Objective 1-3.2, “Regulate Density And Intensity;” Policy 1-3.2.5; “Maximum Height Limitation,” Increasing The Maximum Building Height To Forty-Two Feet (42) For Residential Structures To Provide Compensation For Increases In Required Elevations For The New FEMA Firm Maps; Providing That No Structure Shall Thereby Exceed Three Stories Above Grade; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity After Final Adoption By The City Council; And Providing For An Effective Date.

Item 4: An Ordinance Of The City Of Marathon, Florida, Amending The City’s Land Development Regulations, Chapter 103, Table 103.15.2, “Density, Intensity And Dimensions For Zoning Districts, Chapter 107, Article 5, “Setbacks And Height,” Section 107.40, “Maximum Height” And Figure 107.40.1, “Building Height Measurement,” Increasing The Maximum Building Height To Forty-Two Feet (42) For Residential Structures To Provide Compensation For Increases In Required Elevations For The New FEMA Firm Maps; Providing That No Structure Shall Thereby Exceed Three Stories Above Grade; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity After Final Adoption By The City Council; And Providing For An Effective Date.

Item 5: An Ordinance Of The City Of Marathon, Florida, Amending The City’s Land Development Regulations To Modify Chapter 102, Article 13, Conditional Use Permits, Section 102.74, “Application Process;” Chapter 103, Article 3, “Use And Intensity Tables,” Table 103.15.1, “Uses By Zoning District;” And Adding A Section To Chapter 104, Article 1, To Be Titled “Permitting Of Residential Units Which Exceed Six (6) Bedrooms” As Defined Therein; Amending Chapter 110 To Provide Related Definitions For Bedrooms, Dwelling Units, And Kitchens; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity After Final Adoption By The City Council; And Providing For An Effective Date.



**City of Marathon
Planning Commission
Monday May 20, 2019
9805 Overseas Hwy
City Hall Council Chambers**

MINUTES

Chairman Jeff Smith called the meeting of the Planning Commission to order on Monday, May 20, 2019 at City Hall Council Chambers, 9805 Overseas Hwy. at 5:30 pm.

In attendance: Planning Director George Garrett, Attorney David Migut, Growth Management Director Doug Lewis, Senior Planner Brian Shea, Planner Geovanna Torres, Admin Assistant Lorie Mullins and members of the public.

The Pledge of Allegiance was recited.

The roll was called. Mike Cinque-absent; Lynn Landry-present; Pam Dobson-present; Mike Leonard-present; Jeff Smith-present.

Chairman Smith asked for approval of the last meeting minutes.

Lynn Landry moved to approve. Pam Dobson seconded. The roll was called. The minutes were approved 4-0.

The Quasi-Judicial Statement was read into the record.

Item 1 was read into the record. Consideration Of A Request For A Conditional Use Permit For Coral Construction Company Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (Code) Entitled "Conditional Use Permits" For The Development Of A Property Into Affordable Housing, Outdoor Storage Yard, And Commercial Office Space; Located At 347 Aviation Boulevard; Which Is Legally Described As A Tract Of Land In A Part Of Sections 1 And 2, And Containing Lots 11, 12, 13, 14, 15, And A Portion Of Lots 10 And 16, Schmitt Subdivision, Township 66 South, Range 32 East, Key Vaca, Monroe County, Florida; Having Real Estate Numbers 00101300-000000 & 00101360-000000, Nearest Mile Marker 51.

There were no ex-parte communications.

Brian Shea presented the item with the use of visual aids.

Steve Hurley presented the item on behalf of the applicant.

There were no public speakers.

A brief discussion ensued on the proposed dock, proposed size and rental amounts for the units, parking, and the setback from Aviation Blvd.

Chairman Jeff Smith asked that calculations of numbers be included in the packet.

Chairman Jeff Smith made a motion to approve, Lynn Landry seconded. The roll was called. The motion was approved 4-0.

Item 2 was read into the record. Consideration Of A Request For A Conditional Use Permit For Captain Pips Holdings, LLC Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (Code) Entitled “Conditional Use Permits” For The Development Of A Property Into Multifamily Housing, Office And Restaurant, And Marina; Located At 1470 Overseas; Which Is Legally Described As Part Of Government Lot 2 And Bay Bottom North Of And Adjacent To Lot 2 And Adjacent Portion Of State Road 4-A, Part Of Government Lot 2 In Rear Of Hanley’s Inc, And Block 3 Part Of Lot 3 And Government Lot 2 W R Thompson Subdivision, Section 9, Township 66 South, Range 32, Key Vaccas, Monroe County, Florida; Having Real Estate Numbers 00320350-000000, 00102790-000000, & 00102760-003000, Nearest Mile Marker 48.

There were no ex-parte communications.

Brian Shea presented the item with the use of visual aids.

Steve Hurley presented the item on behalf of the applicant.

Chairman Jeff Smith opened the meeting to public speakers. The speakers were sworn in.

1. Bob Mikes. His concerns were the mangroves and the access road/left turns.
2. Karen Gilbert. Her concerns were the parking spaces off the access road and the dangerous curve on the access road.

A discussion ensued regarding the 6 parking spaces off the access road, the fact that the access road is an easement granted by the owner of this property (not Casa Cayo), bicycle safety, and setbacks.

Lynn Landry made a motion to approve with a condition to adjust the lot line to allow for a 10’ rear setback on the Residential Medium parcel and that consideration be given to the mangroves. Pam Dobson seconded.

The roll was called. The motion was approved 4-0.

Item 3 was read into the record. Consideration Of A Request For A Conditional Use Permit For Midway Specialty Care Center, Inc. Pursuant To Chapter 102, Article 13 Of The City Of Marathon Land Development Regulations (Code) Entitled “Conditional Use Permits” For The Development Of A Medical Clinic; Located At 11400 Overseas Highway Units 103 & 104; Which Is Legally Described As Lots 2, 17, And 18 Less The Southerly Seven Feet And Half Vacated Alley, Key Colony Subdivision, Key Vaca, Monroe County, Florida; Having Real Estate Number 00334860-000000, Nearest Mile Marker 53.

There were no ex-parte communications on the item.

Geovanna Torres presented the item with the use of visual aids.

There was a brief discussion regarding a sink to be installed in each exam room.

Teresa Dryden, the nurse practitioner, spoke on behalf of the applicant.

Chairman Jeff Smith made a motion to approve and added that the Building Dept. ensure there is a sink in each exam room at the time of permit issuance. Mike Leonard seconded.

The roll was called. The motion was approved 4-0.

Chairman Jeff Smith called for a 5 minute recess.

Item 4 was read into the record. An Ordinance Of The City Of Marathon, Florida, Amending The City's Comprehensive Plan To Modify Or Add To Its Conservation And Coastal Element, Goals Objectives, And Policies To Comply With Florida Statute 163.3178(2)(F) "Peril of Flood"; Intending To Modify, "Purpose;" Goal 4-1, "Conserve, Manage, Use, And Protect Natural And Environmental Resources;" Policy 4-1.3.3, "Surface Water Management And Flood Damage Prevention;" And Objective 4-1.17, "Minimum Coastal Hazards;" And Intending To Add Policies To Include Policy 4-1.17.8, "Strategies For Responding To Sea Level Rise;" Policy 4-1.17.9, "Flood-Resistant Development Requirements;" Policy 4-1.17.10, "Extreme Weather Event Mitigation;" Policy 4-1.17.10, "Best Practices And Mitigation Strategies;" And Policy 4-1.17.11, "Best Practices And Mitigation Strategies;" And Finally, Intending To Modify Objective 4-1.22, "Reduce Exposure To Natural Hazards," Policy 4-1.22.5, "Manage Redevelopment Activities; And Policy 4-1.22.8, "Regulate Redevelopment Of Non-Conforming Structures To The Required Base Flood Elevation;" Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity After The First Hearing By The City Council; And Providing For An Effective Date.

George Garrett presented the item.

The discussion encompassed freeboard on new construction being amended to 3' from 1', upcoming amended flood maps, the possibility of achieving the highest possible CRS rating and changing the verbiage in the ordinance accordingly, and the safety of our residents during flood events.

Pam Dobson made a motion to approve the item with 'softening of the language'. Mike Leonard seconded.

The roll was called. The item was approved 4-0.

Motion to adjourn.

Chairman Smith adjourned the meeting at 7:17 p.m.

ATTEST:

Jeff Smith – Planning Commission Chairman

ATTEST:

Lorie Mullins-Administrative Assistant
City of Marathon Planning Department

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.)

ITEM 1

POSTPONED

ITEM 2

COUNCIL AGENDA STATEMENT



Meeting Date: October 21, 2019
To: Planning Commission
From: George Garrett, Planning Director

Agenda Item: **Ordinance 2019-XXX**, Amending The City OF Marathon, Florida's Comprehensive Plan, Modifying Chapter one, "Future Land Use," Table 1-1, "Future Land Use Densities and Intensities," To Allow Transient Rights That Hold No Monetary Value To Be Allowed In An RV Park That Also Allows Permanent Code Compliant Residences; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity; And Providing For An Effective Date.

RECOMMENDATION:

The City of Marathon Planning Department staff recommend approval WITH SUGGESTED REVISIONS of this proposed amendment to the City of Marathon Comprehensive Plan.

APPLICANT: Trailer Ranch By The Sea / Bob Young

REQUEST: Amend City of Marathon Comprehensive Plan by amending Chapter One, "Future Land Use," Table 1-1, "Future Land Use Densities and Intensities," allowing RVs to utilize Permanent RV Sites, with Conditions.

ANALYSIS OF COMPREHENSIVE PLAN CHANGE REQUEST:

Preface

The current Land Development Regulations provide only brief guidance concerning the review of a proposed Comprehensive Plan Amendment.

Section 102.19 simply states:

Section 102.19. Standards for Review.

When considering an application for a Comprehensive Plan Amendment, the review shall include all standards and criteria of Fla. Stat. ch. 163.

Standards in Chapter 163, F.S. offer some additional guidance, but are limited. Pertinent sections of Chapter 163 promulgate process rather than establishing criteria for the development of a proposed Comprehensive Plan Amendment. Chapter 163.3184, Process for adoption of comprehensive plan or plan amendment, define the sequential process for transmittal, review, and approval of a

Comprehensive Plan Amendment. Most relevant to this delineation of process is the definition of “compliance” which is recited for review below:

163.3184 Process for adoption of comprehensive plan or plan amendment.--

(1) DEFINITIONS.--As used in this section, the term:

(b) "In compliance" means consistent with the requirements of ss. [163.3177](#), when a local government adopts an educational facilities element, 163.3178, 163.3180, 163.3191, and 163.3245, with the state comprehensive plan, with the appropriate strategic regional policy plan, and with chapter 9J-5, Florida Administrative Code, where such rule is not inconsistent with this part and with the principles for guiding development in designated areas of critical state concern and with part III of chapter 369, where applicable. Thus, leading through an exhaustive process, the State Land Planning Agency must find a Comprehensive Plan or Plan Amendment in compliance in accordance with the above definition. Process as further defined in the section leads from Local Government Transmittal through review by the State Land Planning Agency and other required local and state government bodies to a finding of “in compliance” by the State Land Planning Agency.

Review is contemplated and expected to be completed by such agencies as the South Florida Regional Planning Council, whose responsibility it is to review the proposal for consistency with the Strategic Regional Policy Plan. Such review is not therefore, the responsibility of the local government to determine consistency in this regard and will not be addressed herein. Though referenced in the definition of compliance and elsewhere Chapters 163.3177, 163.3191, 163.3245, and 369 will not be reviewed as a compliance matter. Chapter 163.3177 defines required elements in a comprehensive plan. The City has an approved comprehensive plan which must be assumed to have all required elements. Chapter 163.3191 refers to the required Evaluation and Appraisal Report (EAR); a review of an approved comprehensive plan required of the City every seven years. The City is not subject to an EAR at this juncture and therefore is not relevant as a criterion to the review herein. Finally, Chapter 163.3245 refers to the development of an optional sector plan. This optional element of an approved comprehensive plan was not adopted by the City and therefore will not be used as a criterion for review in this proposed FLUM amendment. Chapter 369 refers to invasive aquatic plant control and the Wekiva River area and similarly will not be the subject of compliance review herein.

Other pertinent review elements leading to a determination of compliance are found in Chapter 163.3178 Coastal management, Chapter 163.3180 Concurrency and the principals for guiding development in the Florida Keys Area of Critical State Concern. This application for a FLUM amendment will be analyzed against the limited compliance issues found in sections of Chapter 163 F.S. and Chapter 380 F.S. noted immediately above. Relevant sections are provided in EXHIBITS 2, 3, & 4 attached or with website references for your review

Compliance Discussion

Relevant criteria promulgated in Chapters 163 and 380 F.S. can be itemized in bullets as follows based on the critical concerns more specifically identified in the City's comprehensive plan:

- Natural Resource Protection
 - Wetlands
 - Estuaries
 - Living marine resources
 - Beaches / Dunes
 - Unique wildlife habitat
 - Water Quality
- Historical Resources
- Infrastructure / Concurrency Management
 - Wastewater
 - Stormwater
 - Potable Water
 - Solid Waste
 - Transportation
- Affordable Housing
- Hazard Mitigation
 - CHHA
 - Hurricane Evacuation
- Ports
 - Marina Siting
- Public Use
 - Shoreline use and Access
 - Water dependent and independent activity
- Land Acquisition
 - Conservation
 - CHHA
 - Public Services

These bullet items should be utilized as the focus points for review of the proposed FLUM amendment and for future comprehensive plan amendments.

SUMMARY

The proposed Comprehensive Plan Amendment is intended to allow fully operable RVs to utilize properties or RV/Mobile Home Park spaces that are designated as “Permanent RVs” as identified elsewhere in the Comprehensive Plan, Policy 1-3.2.8. Permanent RVs are identified as “Market Rate” building rights which are retained on site as “Market Rate” units if rebuilt and transfer as a Transferable Building Rights (TBRs) as Affordable Building Rights. The intent of the proposed amendment is to allow Permanent RVs (as structures) to be demolished and to allow RVs, under RV regulations, to occupy the site. If a Permanent RV property or site is ever re-built, the reconstructed units would be required to meet the Florida Building Code and would be designated as a Market Rate residential unit. While being used as an RV site, the Site would NOT be assumed to have a Transient Residential Unit (TRU) development right and COULD NOT be transferred as such.

City Planning staff believes that the proposed Amendment to the Comprehensive Plan generally “hits the mark” and can be supported by the City and can meet the Goals, Objectives, and Policies of the Comprehensive Plan and the regulations for the Land Development Regulations (LDRs). The proposed amendment does need some “word smithing” in order to have staff support. Those considerations are provided below in the analysis section.

ANALYSIS

Natural Resources

No Significant Impact would result from the proposed change.

Historical and Cultural Resources

No Significant Impact would result from the proposed change.

Infrastructure

No Significant Impact would result from the proposed change.

Wastewater infrastructure

No Significant Impact would result from the proposed change.

Stormwater infrastructure

No Significant Impact would result from the proposed change.

Potable Water

No Significant Impact would result from the proposed change.

Solid Waste

No Significant Impact would result from the proposed change.

Transportation

No Significant Impact would result from the proposed change.

Affordable Housing

No Significant Impact would result from the proposed change.

Hazard Mitigation

No Significant Impact would result from the proposed change.

Coastal High Hazard Areas

No Significant Impact would result from the proposed change.

Hurricane Evacuation

No Significant Impact would result from the proposed change. All Early Evacuation units (tenants) would be required to evacuate within the first 24 hours of a 48 hour evacuation window. The City's (and County) obligation is to be prepared to evacuate at 24 hours before the impacts of Tropical Storm Force Winds in the Keys.

Ports – Marina Siting

No Significant Impact would result from the proposed change.

Public Use – Access to Water

No Significant Impact would result from the proposed change.

Land Acquisition

No Significant Impact would result from the proposed change.

Alternate Compliance Review Criteria

Since there are no internal Comprehensive Plan change review criteria available in Chapter 102, Article 6, those that would apply for an LDR text change request (Chapter 102, Article 7) are useful. The basis for the LDR text change criteria are the same as for a Comprehensive Plan change ultimately.

Section 102.26(B) of the Land Development Regulations requires that the following standards and criteria be considered for any proposed text amendment. Each criteria and explanation of relevance

to this proposed amendment are listed below:

A. The need and justification for the change;

There may be no absolute need for this amendment, but Permanent RVs are recognized as affordable housing within the City of Marathon (See quoted sections of the Comprehensive Plan referenced below). Many of these units are nearly or entirely paid for and are generally not insurable. Many of the owners of these units are seasonal residents living on fixed incomes. Others are renters, equally living on limited incomes. Thus, the suggested amendment does continue the existing Permanent RV properties and sites as affordable.

The important thing to note in the proposed amendment and the revisions suggested by staff, though operable Road Ready RVs would be allowed to occupy Permanent RV sites, the property or site itself would only retain its Market Rate residential units status for the sake of a “Determination of Building Rights” and could not be transferred as a Transient Residential Unit.

B. The consistency of the proposed amendment with the Comprehensive Plan; and

Permanent RVs are recognized in the City’s Comprehensive Plan and LDRs. They are allowed to continue under our Ordinances. Equally, operable Road Ready RVs are allowed in the Residential High Future Land Use category. Thus, the proposed amendment is simply “marrying” the two concepts while insuring that a Permanent RV property or site Development Right shall not transfer to another property as a Transient Residential Unit.

With modifications to the proposed Ordinance noted immediately below, the Ordinance meets the Goals, Objectives and Policies of the City of Marathon Comprehensive Plan (see **Bold Type underlined** below). A number sequential Objectives and Policies are reproduced in order to allow a full review of the importance of Permanent RVs to the City’s Comprehensive Plan. Most notably, Permanent RVs may be maintained with the ultimate goal that they be replaced with Florida Building Code compliant residential structures. This Ordinance provides an interim or even long term alternative for the elimination of these Permanent RV residents.

Citations from the City of Marathon Comprehensive Plan

Objective 1-3.2 Regulate Density and Intensity

The City shall direct and regulate density and intensity to maintain the character of the community, protect the natural resources and provide for the compatible distribution of land uses. §163.3177(6)(a)3, 4 and 9. F.S.

Policy 1-3.2.8 **Permanent RVs**

Permanent RVs are recreational vehicles that, as of the effective date of the Plan, meet all of the following criteria:

- a. have been tied down or otherwise affixed to the property on which they are located, and
- b. have permanent attachments such as carports, porches, screened rooms, or similar improvements, and
- c. are continuously occupied for more than six months and are being used as a permanent dwelling unit,
- d. are no longer capable of traveling on the public roadways of the state, and
- e. no new additions shall be added to a permanent RV.

At such time as the City establishes a Transfer of Building Rights (TBR) process, the building right for a permanent RV may be transferred to an approved site by the owner of the property on which the TBR is located and the TBR shall be considered and deed restricted as an affordable dwelling unit.

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**TABLE 1-1
Future Land Use Densities and Intensities***

Future Land Use Category	Permitted Residential Density (Units per acre)			Hotel/Motel/RV Spaces (Units per acre)	Maximum Intensity (floor area ratio)	Minimum Open Space Ratio
	Market Rate	Affordable	Licensed Mobile Home or RV Parks			
Airport (AD)	0		0	N/A	0.15 - 0.50	0.2
Conservation (C)	0.1- 0.25	0.1- 0.25	0	N/A	0.05 - 0.10	0.5
Industrial (I)	0	5-10	0	N/A	0.85	0.2
Mixed Use Commercial (MUC)	2 – 6	10 – 15	10-25	5 - 25	0.15 - 0.60 ⁴	0.2
Public Uses (PU)	0	15-25	0	3 – 25	0.15 - 0.75	0.2
Recreation (R)	0.25	0.25	0	5 – 15	0.15 - 0.50	0.2
Residential High (RH) ²	8	15 - 25	15-25	0	0	0.2
Residential Medium (RM)	5	10	0	0	0	0.2
Residential Low (RL)	0.5	0.5	0	0	0	0.5

Note:

1. See Objective 1-3.9 and subsequent policies.
2. The allocated and maximum net densities for submerged lands shall be 0.
3. For properties consisting of hammocks or disturbed wetlands within the Mixed Use Commercial future land use categories, the floor area ratio shall be 0.10 and the maximum net residential density shall be 0.
4. Open space shall be increased based upon the requirement for a habitat evaluation and shall conform to Table 4-1 of the Coastal and Conservation Element.
5. The FAR in Mixed Use developments may be increased to .75 if mitigated by the development of affordable/workforce housing is provided.
6. Residential Densities found in this Table are subject to the provisions of Policy 1-3.5.16
7. **This Footnote applies ONLY to properties and/or developed RV or Mobile Home sites which have been or would be recognized as having a Permanent RV structure, as defined in Policy 1-3.2.8, which are located in the Residential High Land Use Category. Operable Road Ready RVs may be placed on the site of a Permanent RV once the Permanent RV structure is demolished and ONLY if it is determined that the property or site has retained its Transferable Building Right and the Right hasn't been previously transferred to another location within the City. Otherwise, said Permanent RV properties or sites will retain their Market Residential Building Right or allocation. Said Market Rate Building Rights may be retained on-site as Market Rate residential units with the redevelopment of a Florida Building Code compliant residential structure. If the Development Right is transferred, it shall only be transferred as an Affordable Building Right. Though an operable Road Ready RV may utilize Permanent RV properties or sites, it shall not be assumed that the site has a Transient Residential Unit which can be transferred as such.**

*All development and redevelopment shall comply with this Plan and the Land Development regulations

Objective 1-3.3 Encourage Redevelopment

The City shall evaluate potential redevelopment areas and prepare redevelopment plans or Land Development Regulations for areas determined to be in need of redevelopment. §163.3177(6)(a)3, 4 and 9 and §163.330 F.S.

Policy 1-3.3.1 General Redevelopment Criteria

The City shall investigate commonly used planning strategies and identify available funding sources to address the revitalization of areas in need of redevelopment. The City shall strive to utilize the most appropriate and creative mechanisms available to address such issues. Additionally, the City shall analyze existing development patterns, property values, structural conditions, renter/owner ratios, commercial vacancy rates, and other indicators of economic vitality and physical living conditions as part of the preparation of redevelopment plans or Land Development Regulations. Such redevelopment plans or Land Development Regulations shall:

- a. Prevent negative impacts on the fragile coastal ecosystem by directing development away from environmentally sensitive lands and critical habitat;
- b. Revitalize existing commercial areas;
- c. Promote safe and efficient vehicular, bicycle, and pedestrian movement;
- d. Prevent or minimize the City's cost to provide infrastructure;
- e. Mitigate incompatible commercial activity where commercial activity is adjacent to established residential neighborhoods;
- f. Enhance the unique character of the City's commercial land uses through incentives for bufferyards and landscaping; and
- g. Facilitate within the City, the creation of aesthetically pleasing commercial spaces outdoors, as places for social leisure and interaction, while limiting light industrial uses, outdoor storage and sales as a primary use of land, and outdoor retail sales as an accessory use of land; and
- h. Provide for affordable/workforce housing.

Policy 1-3.3.2 Removal of Hazard Structures

The City shall ensure that its code compliance process identifies and requires removal or rehabilitation of structures that are a hazard to the public health, safety and welfare.

Policy 1-3.3.3 Encourage Redevelopment of Aging Mobile Homes and Permanent RVs

The City shall continue to maintain Land Development Regulations that provide incentives and encourage the redevelopment of lawfully established mobile home and permanent RV parks. However, the City recognizes that existing mobile homes and permanent RVs in lawfully established mobile home and RV parks provide a critical source of affordable/workforce housing in the City. Accordingly, the redevelopment of lawfully established mobile home and RV parks shall incorporate development techniques which integrate the maintenance and promotion of affordable/workforce housing as part of the redevelopment project.

Policy 1-3.3.4 Encourage Redevelopment of Tourist/Resort/Campground Facilities

The City shall continue to maintain Land Development Regulations that provide incentives and encourage the redevelopment of existing resort and tourist facilities in the City. These Regulations shall include, but not be limited to:

- a. Mandatory hurricane evacuation.
 - i. **All operable Recreational Vehicles (RVs) shall be “Road Ready. Road Ready means that such units shall be fully licensed, shall have wheels on, be on an internal jacking system. And only be affixed to the site by quick disconnect-type utilities commonly utilized in campgrounds and trailer parks and shall not have any permanent attachments such as Florida rooms or porches.**
 - ii. **In the event of a mandatory evacuation, all RVs shall be removed from their location and evacuate as required under a Monroe County and City of Marathon emergency declaration whether or not the RV is being used as a dwelling at the time of the emergency declaration. If the RV is not removed, the owner of the property or RV/Mobile Home site will be subject to a potential fine of \$250.00 per day by the City of Marathon, from the day after the evacuation order is given through the day that RVs are allowed to return to the City.**
- b. Provision of on-site/off-site employee housing
- c. Transportation
- d. Services/Amenities
- e. Protection of habitat
- f. Establish a motel/hotel/campground equivalency ratio
- g. Ensure compliance with 2010 wastewater standards
- h. Ensure that transient units remain transient through various mechanisms such as:
 1. Use of Development Agreements
 2. Deed restrictions prohibiting the use of Homestead Exemptions;
 3. Provision of a lobby/front desk; or
 4. Limiting the tenancy of each unit.

Objective 1-3.4 Protect Established Uses, Densities, and Intensities

The City shall recognize and protect lawfully established uses, lawfully established transient, non-transient, and permanent RV residential densities and intensities within the City and shall encourage the rehabilitation and maintenance of all residential and non-residential structures within the community. §163.3177(6)(a)9. F.S.

Policy 1-3.4.1 Protect Established Residential Densities

Notwithstanding Table 1-1, herein all lawfully established transient, non-transient, or permanent RV residential dwelling units in existence in 1996 shall be entitled to a density of one dwelling unit as follows: a transient dwelling unit, such as a campground space, recreational vehicle space or a motel/hotel unit, shall only be entitled to redevelop as a transient dwelling unit and a non-transient dwelling unit or **permanent RV** shall be entitled to redevelop as a non-transient dwelling unit. If any such residential dwelling unit is a legal nonconformity as a condition of redevelopment the developer/property owner shall:

- a. bring their property into compliance with the Plan and Land Development Regulations; or
- b. if it is physically impossible to bring the site into compliance with the Plan and Land Development Regulations due to the size of the site and physical layout of the structure, the site shall be brought into compliance to the maximum extent practical but at a minimum the site shall meet a fifteen percent open space ratio, and all applicable FEMA/floodplain, wastewater, and stormwater requirements, however the size of the structure shall not be increased unless it complies with all of the provision of this Plan and the Land Development Regulations.

The reestablishment of any such transient, non-transient, or permanent RV dwelling unit shall not adversely impact the existing inventory of affordable/workforce housing in the City, by decreasing the number of affordable housing units within the City. Any new parks must comply with density standards established in Table 1-1.

C. Whether the proposed change shall further the purposes of the LDRs and other City Codes, regulations and actions designed to implement the Comprehensive Plan.

The proposed text amendments furthers the purposes of the LDRs and other City Codes, regulations and actions designed to implement the Comprehensive Plan by providing the mechanism to preserve Permanent RV sites, while demolishing Permanent RV structures, until permanent Market Rate and Florida Building Code compliant structures are built on these properties or sites.

CONCLUSION:

The proposed Amendment, as modified herein, is consistent with and furthers the goals of the City of Marathon Comprehensive Plan and Land Development Regulations.

RECOMMENDATION:

The Planning Staff recommends approval of the proposed amendment to the Comprehensive Plan as follows:

1. Amend Table 1-1 as follows (bold and underlined verbage):

**TABLE 1-1
Future Land Use Densities and Intensities***

Future Land Use Category	Permitted Residential Density (Units per acre)			Hotel/Motel/RV Spaces (Units per acre)	Maximum Intensity (floor area ratio)	Minimum Open Space Ratio
	Market Rate	Affordable	Licensed Mobile Home or RV Parks			
Airport (AD)	0		0	N/A	0.15 - 0.50	0.2
Conservation (C)	0.1 - 0.25	0.1 - 0.25	0	N/A	0.05 - 0.10	0.5
Industrial (I)	0	5-10	0	N/A	0.85	0.2
Mixed Use Commercial (MUC)	2 – 6	10 – 15	10-25	5 - 25	0.15 - 0.60 ⁴	0.2
Public Uses (PU)	0	15-25	0	3 – 25	0.15 - 0.75	0.2
Recreation (R)	0.25	0.25	0	5 – 15	0.15 - 0.50	0.2
Residential High (RH) ²	8	15 - 25	15-25	0	0	0.2
Residential Medium (RM)	5	10	0	0	0	0.2
Residential Low (RL)	0.5	0.5	0	0	0	0.5

Note:

1. See Objective 1-3.9 and subsequent policies.
2. The allocated and maximum net densities for submerged lands shall be 0.
3. For properties consisting of hammocks or disturbed wetlands within the Mixed Use Commercial future land use categories, the floor area ratio shall be 0.10 and the maximum net residential density shall be 0.
4. Open space shall be increased based upon the requirement for a habitat evaluation and shall conform to Table 4-1 of the Coastal and Conservation Element.
5. The FAR in Mixed Use developments may be increased to .75 if mitigated by the development of affordable/workforce housing is provided.
6. Residential Densities found in this Table are subject to the provisions of Policy 1-3.5.16
7. **This Footnote applies ONLY to properties and/or developed RV or Mobile Home sites which have been or would be recognized as having a Permanent RV structure, as defined in Policy 1-3.2.8, which are located in the Residential High Land Use Category, Operable Road Ready RVs may be placed on the site of a Permanent RV once the Permanent RV structure is demolished and ONLY if it is determined that the property or site has retained its Transferable Building Right and the Right hasn't been previously transferred to another location within the City. Otherwise, said Permanent RV properties or sites will retain their Market Residential Building Right or allocation. Said Market Rate Building Rights may be retained on-site as Market Rate residential units with the redevelopment of a Florida Building Code compliant residential structure. If the Development Right is transferred, it shall only be transferred as an Affordable Building Right. Though an operable Road Ready RV may utilize Permanent RV properties or sites, it shall not be assumed that the site has a Transient Residential Unit which can be transferred as such.**

*All development and redevelopment shall comply with this Plan and the Land Development regulations

2. Amend Policy 1-3.3.4 as follows(bold and underlined verbiage):

Policy 1-3.3.4 Encourage Redevelopment of Tourist/Resort/Campground Facilities

The City shall continue to maintain Land Development Regulations that provide incentives and encourage the redevelopment of existing resort and tourist facilities in the City. These Regulations shall include, but not be limited to:

- a. Mandatory hurricane evacuation.
 1. **All operable Recreational Vehicles (RVs) shall be “Road Ready. Road Ready means that such units shall be fully licensed, shall have wheels on, be on an internal jacking system. And only be affixed to the site by quick disconnect-type utilities commonly utilized in campgrounds and trailer parks and shall not have any permanent attachments such as Florida rooms or porches.**
 2. **ii. In the event of a mandatory evacuation, all RVs shall be removed from their location and evacuate as required under a Monroe County and City of Marathon emergency declaration whether or not the RV is being used as a dwelling at the time of the emergency declaration. If the RV is not removed, the owner of the property or RV/Mobile Home site will be subject to a potential fine of \$250.00 per day by the City of Marathon, from the day after the evacuation order is given through the day that RVs are allowed to return to the City.**
- b. Provision of on-site/off-site employee housing
- c. Transportation
- d. Services/Amenities
- e. Protection of habitat
- f. Establish a motel/hotel/campground equivalency ratio
- g. Ensure compliance with 2010 wastewater standards
- h. Ensure that transient units remain transient through various mechanisms such as:
 1. Use of Development Agreements
 2. Deed restrictions prohibiting the use of Homestead Exemptions;
 3. Provision of a lobby/front desk; or
 4. Limiting the tenancy of each unit.

Sponsored By: George Garret, Planning Director

Planning Commission Public Hearing Date: XXX

City Council Public Hearing Dates: XXX

Enactment Date: XXX

CITY OF MARATHON, FLORIDA

ORDINANCE 2019-xx

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA,

AMENDING THE CITY OF MARATHON'S COMPREHENSIVE PLAN MODIFYING CHAPTER ONE, "FUTURE LAND USE," TABLE 1-1, FUTURE LAND USE DENSITIES AND INTENSITIES," TO ALLOW TRANSIENT RIGHTS THAT HOLD NO MONITARY VALUE TO BE ALLOWED IN AN RV PARK THAT ALSO ALLOW PERMANENT CODE COMPLIANT RESIDENCES; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINACE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY.

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 Section 380.05 and 380.0552, Florida Statutes, hereinafter referred to "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, pursuant to the provisions of Chapters 163, 166 and 380 Florida Statutes, the City of Marathon, Florida (the "City") proposes to amend Chapter 1, "Future Land Use element," of the Comprehensive Plan; and

WHEREAS, the purpose of the proposed Ordinance is to allow a state recognized RV park the ability to allow their owners the ability to use their plot as a transient unit or permanent residence. Transient units will not be sellable and all permanent residences must meet all Florida Building Code regulations.

NOW, THEREFORE, BE IT ORDANINED 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 herin by this reference.

SECTION 2. Amend the Comprehensive Plan, Chapter 1, Table 1-1 to read as follows:

TABLE 1-1 Future Land Use Densities and Intensities*				
Future Land Use Category	Permitted Residential Density (units per acre)	Hotel/Motel/RV Spaces (units per acre)	Maximum Intensity (floor area ratio)	Minimum Open Space Ratio
<p>Note:</p> <ol style="list-style-type: none"> 1. See Objective 1-3.9 and subsequent policies 2. The allocated and maximum net densities for submerged lands shall be 0. 3. For properties consisting of hammocks or disturbed wetlands within the Mixed Use Commercial future land use categories, the floor area ration shall be 0.10 and the maximum net residential density shall be 0. 4. Open space shall be increased based upon the requirements for a habitat evaluation and shall confirm to Table 4-1 of the Coastal and Conservation Element. 5. The FAR in Mixed Use developments may be increased to .75 if mitigated by the development of affordable/workforce housing is provided. 6. Residential Densities found in this Table are subject to the provisions of Policy 1-3.5.16. 7. <u>For properties recognized as RV parks located in Residential High Land Use Category, an agreed upon portion of those RV units may be treated as Transient Units that conform with Policy 1-3.3.4. These Transient Rights cannot be sold and transferred out of the RV park.</u> 				

SECTION 3. Amend the Comprehensive Plan, Chapter 1, Policy 1-3.3.4 to read as follows:

Policy 1-3.3.4 Encourage Redevelopment of Tourist/Resort/Campground Facilities

The City shall continue to maintain Land Development Regulations that provide incentives and encourage the redevelopment of existing resort and tourist facilities in the City. These Regulations shall include, but not be limited to:

- a. Mandatory hurricane evacuation;
 1. **All Recreational Vehicles must be “Road Ready”. Road Ready, means that such units will be fully licensed, will have wheels on, be on internal jacking system, and only be affixed to the site by quick disconnect-type utilities commonly utilized in campgrounds and trailer parks, and shall have no permanent attachments such as Florida rooms or porches.**
 2. **In the event of a mandatory evacuation, all Recreational Vehicles must be removed from the Park and evacuate as required under the County’s emergency declaration whether or not they are currently being used as a dwelling. If the RV is not removed the owner of the lot and/or RV will be fined \$250.00 per day by the City of Marathon, from the day after the evacuation order is given to the day that RV’s are allowed to return.**
- b. Provisions of on-site/off-site employee housing
- c. Transportation
- d. Services/Amenities
- e. Protection of habitat
- f. Establish a motel/hotel/campground equivalency ration
- g. Ensure compliance with 201 wastewater standards
- h. Ensure that transient units remain transient through various mechanisms such as:
 1. Use of Development Agreements
 2. Deed restrictions prohibiting the use of Homestead Exemptions;
 3. Provisions of a lobby/front desk; or
 4. Limiting the tenancy of each unit.

SECTION 4. 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 5. 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, by the 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 Comprehensive Plans, that sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be changes to "Section" or other appropriate word.

SECTION 7. The provisions of this Ordinance constitutes a "land development regulations" 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 Section 380.05(6) and (11), Florida Statutes.

SECTION 8. This Ordinance shall be effective immediately upon approval by the Department of Economic Opportunity pursuant to Chapters 163 and 380, Florida Statutes.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA,

THIS ___ TH DAY OF ___, 2019

THE CITY OF MARATHON, FLORIDA

John Bartus, Mayor

ITEM 3

COUNCIL AGENDA STATEMENT



Meeting Date: October 21, 2019
To: The City of Marathon Planning Commission
From: George Garrett, Planning Director

Agenda Items: Ordinance 2019-XXX, Of The City Of Marathon, Florida, Amending The City's Comprehensive Plan To Modify Comprehensive Plan, Chapter 1, "Future Element"; Goal 1-3, "Manage Growth"; Objective 1-3.2, "Regulate Density And Intensity"; Policy 1-3.2.5 "Maximum Height Limitation", Increasing The Maximum Building Height To Forty-Two Feet (42) For Residential Structures To Provide Compensation For Increases In Required Elevations For The New FEMA FIRM Maps; Providing That No Structure Shall Thereby Exceed Three Stories Above Grade; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity After Final Adoption By The City Council; And Providing For An Effective Date.

Ordinance 2019-XXX Of The City Of Marathon, Florida, Amending The City's Land Development Regulations, Chapter 103, Table 103.15.2, "Density, Intensity And Dimensions For Zoning Districts"; Chapter 107, Article 5, "Setbacks And Height"; Section 107.40, "Maximum Height" And Figure 107.40.1, "Building Height Measurement", Increasing The Maximum Building Height To Forty-Two Feet (42) For Residential Structures To Provide Compensation For Increases In Required Elevations For The New FEMA Firm Maps; Providing That No Structure Shall Thereby Exceed Three Stories Above Grade; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity After Final Adoption By The City Council; And Providing For An Effective Date.

RECOMMENDATION:

The Planning staff recommends approval of both Ordinances modifying provisions concerning the maximum height of any structure

APPLICANT: City of Marathon

REQUEST: Amend City of Marathon Comprehensive Plan and Land Development Regulations in order to ensure that the City is able to comply with the proposed Working Draft FEMA NFIP FIRMs, while not significantly impacting the construction industry's ability to build structures up to three (3) stories.

ANALYSIS OF COMPREHENSIVE PLAN CHANGE REQUEST:

Preface

The current Land Development Regulations provide only brief guidance concerning the review of a proposed Comprehensive Plan Amendment.

Section 102.19 simply states:

Section 102.19. Standards for Review.

When considering an application for a Comprehensive Plan Amendment, the review shall include all standards and criteria of Fla. Stat. ch. 163.

Standards in Chapter 163, F.S. offer some additional guidance, but are limited. Pertinent sections of Chapter 163 promulgate process rather than establishing criteria for the development of a proposed Comprehensive Plan Amendment. Chapter 163.3184, Process for adoption of comprehensive plan or plan amendment, define the sequential process for transmittal, review, and approval of a Comprehensive Plan Amendment. Most relevant to this delineation of process is the definition of “**compliance**” which is recited for review below:

163.3184 Process for adoption of comprehensive plan or plan amendment.--

(1) DEFINITIONS.--As used in this section, the term:

(b) "In compliance" means consistent with the requirements of ss. [163.3177](#), when a local government adopts an educational facilities element, 163.3178, 163.3180, 163.3191, and 163.3245, with the state comprehensive plan, with the appropriate strategic regional policy plan, and with chapter 9J-5, Florida Administrative Code, where such rule is not inconsistent with this part and with the principles for guiding development in designated areas of critical state concern and with part III of chapter 369, where applicable. Thus, leading through an exhaustive process, the State Land Planning Agency must find a Comprehensive Plan or Plan Amendment in compliance in accordance with the above definition. Process as further defined in the section leads from Local Government Transmittal through review by the State Land Planning Agency and other required local and state government bodies to a finding of “in compliance” by the State Land Planning Agency.

Review is contemplated and expected to be completed by such agencies as the South Florida Regional Planning Council, whose responsibility it is to review the proposal for consistency with the Strategic Regional Policy Plan. Such review is not therefore, the responsibility of the local government to determine consistency in this regard and will not be addressed herein. Though referenced in the definition of compliance and elsewhere Chapters 163.3177, 163.3191, 163.3245, and 369 will not be reviewed as a compliance matter. Chapter 163.3177 defines required elements in a comprehensive plan. The City has an approved comprehensive plan which must be assumed to have all required elements. Chapter 163.3191 refers to the required Evaluation and Appraisal Report (EAR); a review of an approved comprehensive plan required of the City every seven years. The City is not subject to an EAR at this juncture and therefore is not relevant as a criterion to the review herein. Finally, Chapter 163.3245 refers to the development of an optional sector plan. This optional element of an approved comprehensive plan was not adopted by the City and therefore will not be used as a criterion for review in this proposed FLUM amendment. Chapter

369 refers to invasive aquatic plant control and the Wekiva River area and similarly will not be the subject of compliance review herein.

Other pertinent review elements leading to a determination of compliance are found in Chapter 163.3178 Coastal management, Chapter 163.3180 Concurrency and the principals for guiding development in the Florida Keys Area of Critical State Concern. This application for a FLUM amendment will be analyzed against the limited compliance issues found in sections of Chapter 163 F.S. and Chapter 380 F.S. noted immediately above. Relevant sections are provided in EXHIBITS 2, 3, & 4 attached or with website references for your review

Compliance Discussion

Relevant criteria promulgated in Chapters 163 and 380 F.S. can be itemized in bullets as follows based on the critical concerns more specifically identified in the City's comprehensive plan:

- Natural Resource Protection
 - Wetlands
 - Estuaries
 - Living marine resources
 - Beaches / Dunes
 - Unique wildlife habitat
 - Water Quality
- Historical Resources
- Infrastructure / Concurrency Management
 - Wastewater
 - Stormwater
 - Potable Water
 - Solid Waste
 - Transportation
- Affordable Housing
- Hazard Mitigation
 - CHHA
 - Hurricane Evacuation
- Ports
 - Marina Siting
- Public Use
 - Shoreline use and Access
 - Water dependent and independent activity
- Land Acquisition
 - Conservation
 - CHHA
 - Public Services

These bullet items should be utilized as the focus points for review of the proposed FLUM amendment and for future comprehensive plan amendments.

DRAFT FEMA NFIP MAPS:

The Draft FEMA NFIP Maps were release on August 22, 2019 at meetings held in both Key West and Marathon. The Maps should be considered “Working Maps” at this juncture, but little significant change is expected upon their anticipated official release in December of this year (2019). An official appeal period of the maps will begin when the maps are released through a Legal Notice in the Federal Register, expected sometime in late January or February.

BACKGROUND

To emphasize that flood risks are changing and to make sure property owners are aware that new FEMA FIRM maps will be adopted in the near future, the City of Marathon Building Department will be requiring Owner’s to sign a form with permits that acknowledges the issuance of these new DRAFT coastal flood maps and the fact that these maps may indicate a future change to the required elevation of a building currently in the permit process. This is intended to help homeowners understand that what they are proposing to build today, under the existing flood maps, could become non-conforming after the new draft maps are formally adopted. This could make their flood risk and insurance costs greater. Owners should think about designing their improvements to meet the proposed draft maps to assure they are addressing potential future risk.

As the DRAFT maps are rolled out, the City is considering its options to hire a consultant that would be charged with analyzing how flood risks are changing within its municipal boundaries based on the new DRAFT FIRMs and the best available science and technology. If hired, the technical consultant would also be reviewing the maps and modeling conducted by FEMA and would be prepared to appeal any of the maps that do not appear to be correct.

To view the City’s DRAFT FIRM maps, please click on the following link [DRAFT Marathon coastal flood maps](#). This link will open to an Index map of the Florida Keys which you can then utilize to navigate to individual specific maps concerning your area of the City. In order to view other DRAFT FIRM maps outside of the City of Marathon, but within Monroe County, please click the following link [HERE: DRAFT coastal flood maps](#). This link will open a FEMA FIRM Draft Maps mapping tool. Simply click in the FIRM Panel section where property is located to view the popup containing a link to the Draft Map (PDF).

IMPORTANT: These maps don't show an additional difference in elevation due to a change in mapping standards between the old and new proposed flood maps (datum NGVD29 to datum NAVD88). This means that all NGVD29 elevations (e.g., BFE, Lowest Floor Elevation) need to be converted to NAVD88. While there is no set conversion factor, as it varies throughout Monroe County, on average there is -1.5 foot conversion factor. To account for this change, ON AVERAGE you should add +1.5-feet to any apparent increase. For example: If your building was in an AE-8 flood zone and is still shown in an AE-8 zone, then it actually experienced an increase of 1.5 feet. Another example: If your building was in an AE-6 flood zone and is proposed to be in an AE-9 zone, the increase appears to be three-feet. However, the actual increase would be 4.5'-feet.

Immediate Concerns

The Draft maps show some immediate and obvious difference from the old maps. Account for the change in datum, many homes in Marathon will see an increase in their FEMA NFIP Flood Zone of from 0.5 feet to as many as 5.5 feet (See Table below)

The City is already recognizing that the release of the DRAFT Working Maps will influence current construction and the construction that we see in the coming months BEFORE the maps actually reach final adoption.

For instance, a residential permit issued today at BFE – AE 7 or 8 may become an AE 10. At that juncture, it will be 3.5 to 4.5 feet below the necessary flood level when the draft maps are adopted. Permits issued in the future will be advised that the owners should consider meeting the new flood zones NOW.

Considerations & Suggestions

The new map provisions are going to strain the City’s maximum height restriction as required base elevations go up. Staff is proposing that we look at the maximum height restrictions, rather than creating a “free board” provision or enact a combination of the two so that home builders will not be constrained by the additional elevation requirements of the new maps. We would also suggest that no addition habitable floors be allowed as part of any new Code modifications (No more than three levels & more likely two levels are achievable now).

Relative Flood Zones / Conversion from NGVD29 to NAVD88

	NAVD88	7	8	9	10	11	12	NE W
NGVD 29								
6		2.43	3.43	4.43	5.43	6.43	7.43	
7		1.43	2.43	3.43	4.43	5.43	6.43	
8		0.43	1.43	2.43	3.43	4.43	5.43	
9		0.57	0.43	1.43	2.43	3.43	4.43	
10		1.57	0.57	0.43	1.43	2.43	3.43	
11		2.57	1.57	0.57	0.43	1.43	2.43	
12		3.57	2.57	1.57	0.57	0.43	1.43	
13		4.57	3.57	2.57	1.57	0.57	0.43	
14		Water	Water	Water	Water	Water	Water	
15		Water	Water	Water	Water	Water	Water	
OLD								
NAVD88 = NGVD29 - 1.43' (Avg. Marathon) (Conversion Range = -1.39' to -1.47')								

ANALYSIS

Natural Resources

No Significant Impact would result from the proposed change.

Historical and Cultural Resources

No Significant Impact would result from the proposed change.

Infrastructure

No Significant Impact would result from the proposed change.

Wastewater infrastructure

No Significant Impact would result from the proposed change.

Stormwater infrastructure

No Significant Impact would result from the proposed change.

Potable Water

No Significant Impact would result from the proposed change.

Solid Waste

No Significant Impact would result from the proposed change.

Transportation

No Significant Impact would result from the proposed change.

Affordable Housing

The proposed amendment will not affect the construction of affordable housing appreciably. As with other types of structures and uses, the proposed amendment will provide maximum flexibility in meeting the new FEMA NFIP flood map base elevations while still allowing for the construction of up to three functional stories above grade.

Hazard Mitigation

No Significant Impact would result from the proposed change.

Coastal High Hazard Areas

Implementation of the proposed Ordinance will have some, but limited, impact on the City's current enforcement of regulations regarding the Coastal High Hazard Areas (CHHAs as we already heavily regulate development in what are otherwise known as Category 1 surge zones or VE Zones.

Hurricane Evacuation

No Significant Impact would result from the proposed change.

Ports – Marina Siting

No Significant Impact would result from the proposed change.

Public Use – Access to Water

No Significant Impact would result from the proposed change.

Land Acquisition

No Significant Impact would result from the proposed change.

Alternate Compliance Review Criteria

Since there are no internal Comprehensive Plan change review criteria available in Chapter 102, Article 6, those that would apply for an LDR text change request (Chapter 102, Article 7) are useful. The basis for the LDR text change criteria are the same as for a Comprehensive Plan change ultimately.

Section 102.26(B) of the Land Development Regulations requires that the following standards and criteria be considered for any proposed text amendment. Each criteria and explanation of relevance to this proposed amendment are listed below:

A. The need and justification for the change;

The Draft maps show some immediate and obvious difference from the old maps. Account for the change in datum, many homes in Marathon will see an increase in their FEMA NFIP Flood Zone of from 0.5 feet to as many as 5.5 feet (See Table below)

The City is already recognizing that the release of the DRAFT Working Maps will influence current construction and the construction that we see in the coming months BEFORE the maps actually reach final adoption.

For instance, a residential permit issued today at BFE – AE 7 or 8 may become an AE 10. At that juncture, it will be 3.5 to 4.5 feet below the necessary flood level when the draft maps are adopted.

Permits issued in the future will be advised that the owners should consider meeting the new flood zones NOW.

The new map provisions are going to strain the City's maximum height restriction as required base elevations go up. Staff is proposing that we look at the maximum height restrictions, rather than creating a "free board" provision or enact a combination of the two so that home builders will not be constrained by the additional elevation requirements of the new maps. We would also suggest that no additional habitable floors be allowed as part of any new Code modifications (No more than three levels & more likely two levels are achievable now).

B. The consistency of the proposed amendment with the Comprehensive Plan; and

The proposed Ordinance meets three principle areas of concern reflected in the City's Comprehensive Plan. First, the proposed amendment seeks to meet all of the necessary requirements of the FEMA Floodplain management program and the City's standing in the Community Rating System (CRS while at the same time continuing to allow development consistent with that allowed in the past, particularly, structures of up to three (3) stories. Second, The Ordinance does not allow any additional stories above what could have been reasonably or potentially permitted under the current Planning guidelines and regulations. Third, the proposed amendment seeks to maintain the traditional community character of Marathon by limiting the potential to turn the additional height allowance into something more than that ability to meet new FEMA regulations while maintaining current standards for the number of stories typically allowed.

C. Whether the proposed change shall further the purposes of the LDRs and other City Codes, regulations and actions designed to implement the Comprehensive Plan.

The proposed regulations does further the basic goals and premises outlined in the introductory to the City's Comprehensive Plan as follows:

"With the knowledge that the City needs redevelopment and new development to provide the necessary improvements to guarantee the residents of the City a clean, healthy environment and a sound economy in which to live and enjoy their families, it is the desire and intent of the City through the Goals, Objectives and Policies of the adopted Comprehensive Plan and Land Development Regulations implementing the Plan to protect our character, environment and viability through:

- Protection of the small town family feel of the community
- Continued utilization of the established mixed-use pattern of the community
- Protection of the heritage of the commercial fishing industry
- Acknowledgement and protection of a character that is unique to the Keys
- Protection of existing and increased affordable housing opportunities
- Implementation of effective surface water management strategies
- Systematic removal of failing and inadequate on-site wastewater disposal systems
- Maintenance and management of central wastewater and stormwater facilities
- Protection and enhancement of sensitive upland, wetland and submerged land habitat
- Protection for the existing uses, densities and intensities
- Providing new investment and reinvestment opportunities

- Ensuring new development and redevelopment protects the environment
- Ensuring new and redevelopment compliments and enhances community character
- Implementation of thoughtful, managed growth.”

CONCLUSION:

The proposed Amendment is consistent with and furthers the goals of the City of Marathon Comprehensive Plan and Land Development Regulations.

RECOMMENDATION:

The Planning staff recommends approval of both Ordinances modifying provisions concerning the maximum height of any structure

Sponsored By: Lindsey
Planning Commission Public Hearing Date: October 21, 2019
City Council Public Hearing Date: November 12, 2019
tbd
Enactment Date: tbd

**CITY OF MARATHON, FLORIDA
ORDINANCE 2019-XXX**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING THE CITY'S COMPREHENSIVE PLAN TO MODIFY COMPREHENSIVE PLAN, CHAPTER 1, "FUTURE ELEMENT", GOAL 1-3, "MANAGE GROWTH;" OBJECTIVE 1-3.2, "REGULATE DENSITY AND INTENSITY;" POLICY 1-3.2.5; "MAXIMUM HEIGHT LIMITATION," INCREASING THE MAXIMUM BUILDING HEIGHT TO FORTY-TWO FEET (42) FOR RESIDENTIAL STRUCTURES TO PROVIDE COMPENSATION FOR INCREASES IN REQUIRED ELEVATIONS FOR THE NEW FEMA FIRM MAPS; PROVIDING THAT ANY STRUCTURE SHALL NOT THEREBY EXCEED THREE STORIES ABOVE GRADE; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY AFTER FINAL ADOPTION BY THE CITY COUNCIL; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Marathon (the "City") has adopted a Comprehensive Plan which has been found to be in compliance by the State Department of Economic Opportunity ("DEO"), pursuant to Chapters 163 and 380, Florida Statutes; and

WHEREAS, FEMA has recently released National Flood Insurance Program (NFIP), Working Draft Flood Insurance Rate Maps (FIRM) which in some areas may significantly alter the currently adopted Base Flood Elevations (BFE); and

WHEREAS, it is the City's intent to raise the height limitations to provide some flexibility in building construction under the constraint that many Base Flood Elevations have increased from the current adopted maps; and

WHEREAS, the City does not want to unduly constrain construction in the City so long as the proposed increase in maximum building height does not allow additional building stories and said construction does not exceed three (3) stories; and

WHEREAS, the City Council finds it necessary, desirable, and proper to adopt the amendments to the Goals, Objectives and Policies of the Comprehensive Plan in order to reflect changing conditions, pursuant to Sections 163.3191 and 163.3178(2)(f) Florida Statute.; and

WHEREAS, this Ordinance, thus passed at its first reading, shall be transmitted to DEO and

sister State Agencies for their coordinated Comprehensive Plan review so as to obtain and receive the DEO Objections, Recommendations, and Comments (ORC) prior to final adoption,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA THAT

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

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

SECTION 2. Amend the Comprehensive Plan, Chapter 1, Conservation and Coastal Element, “Purpose:”

Policy 1-3.2.5 Maximum Height Limitation

The maximum height of any structure **permitted for maintenance, repair, expansion or new construction within the City of Marathon** shall be **forty-two feet (42)** ~~thirty-seven (37)~~ feet with the exception of permitted projections, unless further restricted by the Land Development Regulations. **No structure shall exceed three (3) stories whether a story is utilized for building entry, parking, storage, habitation or a valid commercial or industrial use. The purpose of this provision is to allow some flexibility in meeting the City’s Floodplain regulations and revised FEMA Floodplain Maps. Government Facilities are exempt with the approval of the City Council. Nonconforming structures may be repaired, maintained or expanded as long as any alterations to the structure does not increase the nonconformity.**

SECTION 3. The provisions of this Ordinance are declared to be severable and if any section, sentence, 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 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 4. The provisions of this Ordinance constitute a “Comprehensive Plan amendment” as defined by State law. Accordingly, the City Clerk is authorized to forward a copy of this Ordinance to the DCA and other state agencies for review and approval pursuant to Sections 380.05(6) and (11), Florida Statutes.

SECTION 5. This Ordinance shall be effective immediately upon approval by Department of Economic Opportunity pursuant to Chapters 163 and 380, Florida Statutes.

ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, this
___ day of _____, 2019.

¹Additions to existing text are shown by underline/red print; deletions are shown as ~~strikethrough~~

THE CITY OF MARATHON, FLORIDA

XXXXXXX, Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

Diane Clavier, City Clerk

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

David Migut, City Attorney

ITEM 4

Sponsored By: Lindsey
Planning Commission Public Hearing Date: October 21, 2019
City Council Public Hearing Date: November 12, 2019
tbd
Enactment Date: tbd

**CITY OF MARATHON, FLORIDA
ORDINANCE 2019-XXX**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING THE CITY'S LAND DEVELOPMENT REGULATIONS, CHAPTER 103, TABLE 103.15.2, "DENSITY, INTENSITY AND DIMENSIONS FOR ZONING DISTRICTS, CHAPTER 107, ARTICLE 5, "SETBACKS AND HEIGHT," SECTION 107.40, "MAXIMUM HEIGHT" AND FIGURE 107.40.1, "BUILDING HEIGHT MEASUREMENT," INCREASING THE MAXIMUM BUILDING HEIGHT TO FORTY-TWO FEET (42) FOR RESIDENTIAL STRUCTURES TO PROVIDE COMPENSATION FOR INCREASES IN REQUIRED ELEVATIONS FOR THE NEW FEMA FIRM MAPS; PROVIDING THAT NO STRUCTURE SHALL THEREBY EXCEED THREE STORIES ABOVE GRADE; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY AFTER FINAL ADOPTION BY THE CITY COUNCIL; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Marathon (the "City") has adopted a Comprehensive Plan which has been found to be in compliance by the State Department of Economic Opportunity ("DEO"), pursuant to Chapters 163 and 380, Florida Statutes; and

WHEREAS, FEMA has recently released National Flood Insurance Program (NFIP), "Working Draft Flood Insurance Rate Maps (FIRM) which in some areas may significantly alter the currently adopted Base Flood Elevations (BFE); and

WHEREAS, it is the City's intent to raise the height limitations to provide some flexibility in building construction under the constraint that many Base Flood Elevations have increased from the current adopted maps; and

WHEREAS, the City does not want to unduly constrain construction in the City so long as the proposed increase in maximum building height does not allow additional building stories and said construction does not exceed three (3) stories; and

WHEREAS, the City Council finds it necessary, desirable, and proper to adopt the amendments to the Land Development Regulations corresponding to a similar amendment to the City's Comprehensive Plan in order to reflect changing conditions, pursuant to Sections 163.3191 and 163.3178(2)(f) Florida Statute.; and

WHEREAS, this Ordinance, thus passed at its second reading, shall be transmitted to DEO for review and approval,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA THAT

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

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

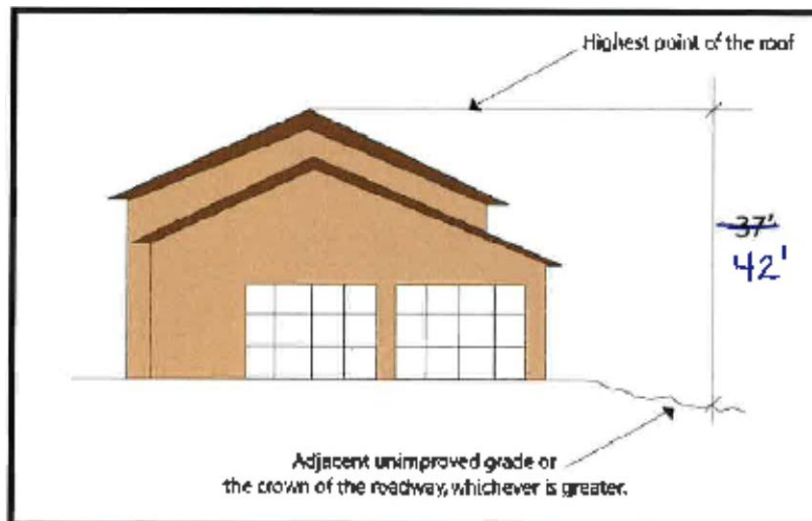
SECTION 2. Amend the Comprehensive Plan, Chapter 107, “General Development Standards,” Article 5, “Setbacks and Height,” Section 107.40:

Section 107.40. - Maximum Height.

A. Unless provided for elsewhere in the LDRs, the maximum height of any structure **permitted for maintenance, repair, expansion or new construction within the City of Marathon** shall be **forty-two feet (42)** ~~(37)~~ feet, as measured from the unimproved grade directly adjacent to the structure or from the crown of the roadway, whichever is greater. **No structure shall exceed three (3) stories whether a story is utilized for building entry, parking, storage, habitation or a valid commercial or industrial use. The purpose of this provision is to allow some flexibility in meeting the City’s Floodplain regulations and revised FEMA Floodplain Maps. Nonconforming structures may be repaired, maintained or expanded as long as any alterations to the structure does not increase the nonconformity. Government Facilities are exempt with the approval of the City Council.**

B. Building height shall be measured to the highest point of the roof. The height measurement shall be to the roof peak for structures with pitched roofs and the roof slab for structures with flat roofs.

Figure 107.40.1
Building Height Measurement



¹Additions to existing text are shown by underline/red print; deletions are shown as ~~strikethrough~~

SECTION 3. The provisions of this Ordinance are declared to be severable and if any section, sentence, 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 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 4. The provisions of this Ordinance constitute an amendment to the Land Development Regulations as defined by State law. Accordingly, the City shall forward a copy of this Ordinance to the Department of Economic Opportunity for review and approval pursuant to Sections 380.05(6) and (11), Florida Statutes.

SECTION 5. This Ordinance shall be effective immediately upon approval by Department of Economic Opportunity pursuant to Chapters 163 and 380, Florida Statutes.

ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, this — day of _____, 2019.

THE CITY OF MARATHON, FLORIDA

XXXXXXX, Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

Diane Clavier, City Clerk

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

David Migut, City Attorney

ITEM 5

PLANNING COMMISSION AGENDA STATEMENT



Meeting Date: October 21, 2019
To: Planning Commission
From: George Garrett, Planning Director

Agenda Item: An Ordinance Of The City Of Marathon, Florida, Amending The City's Land Development Regulations To Modify Chapter 102, Article 13, Conditional Use Permits, Section 102.74, "Application Process;" Chapter 103, Article 3, "Use And Intensity Tables," Table 103.15.1, "Uses By Zoning District;" And Adding A Section To Chapter 104, Article 1, To Be Titled "Permitting Of Residential Units Which Exceed Six (6) Bedrooms" As Defined Therein; Amending Chapter 110 To Provide Related Definitions For Bedrooms, Dwelling Units, And Kitchens; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity After Final Adoption By The City Council; And Providing For An Effective Date.

RECOMMENDATION

Planning Staff recommends approval

BACKGROUND AND REQUEST:

Single-family residential structures which exceed six (6) bedrooms in number have a greater impact on the community than a more typical residence of six (6) or less bedrooms. Therefore, the City wishes to require the permission of such structures be considered in the wider context of a Conditional Use Permit review and approval. Particularly, the City needs to understand the greater impacts of the size of the property in question, the parking requirements, the traffic impacts, and the impacts on infrastructure such as water, sewer, electricity, and solid waste. We also need to understand the impacts of larger residential development and the larger number of individuals likely to reside there, on the community character of surrounding neighborhoods.

APPLICANT: City of Marathon

REQUEST: To modify the Land Development Regulations to require that proposed residential development which has more than six (6) bedrooms must be approved through a Conditional Use Permit review and approval.

Particularly, the City is requesting to change Chapter 103, Article 3, Table 103.15.1 to require a Conditional Use Permit review and to change Chapter 110, "Defined Terms," to modify or add necessary terms related to a change requiring Conditional Use permit approval.

ANALYSIS OF COMPREHENSIVE PLAN CHANGE REQUEST:

Preface

The current Land Development Regulations provide only brief guidance concerning the review of a proposed Comprehensive Plan Amendment.

Section 102.19 simply states:

Section 102.19. Standards for Review.

When considering an application for a Comprehensive Plan Amendment, the review shall include all standards and criteria of Fla. Stat. ch. 163.

Standards in Chapter 163, F.S. offer some additional guidance, but are limited. Pertinent sections of Chapter 163 promulgate process rather than establishing criteria for the development of a proposed Comprehensive Plan Amendment. Chapter 163.3184, Process for adoption of comprehensive plan or plan amendment, define the sequential process for transmittal, review, and approval of a Comprehensive Plan Amendment. Most relevant to this delineation of process is the definition of “**compliance**” which is recited for review below:

163.3184 Process for adoption of comprehensive plan or plan amendment.--

(1) DEFINITIONS.--As used in this section, the term:

(b) "In compliance" means consistent with the requirements of ss. [163.3177](#), when a local government adopts an educational facilities element, 163.3178, 163.3180, 163.3191, and 163.3245, with the state comprehensive plan, with the appropriate strategic regional policy plan, and with chapter 9J-5, Florida Administrative Code, where such rule is not inconsistent with this part and with the principles for guiding development in designated areas of critical state concern and with part III of chapter 369, where applicable. Thus, leading through an exhaustive process, the State Land Planning Agency must find a Comprehensive Plan or Plan Amendment in compliance in accordance with the above definition. Process as further defined in the section leads from Local Government Transmittal through review by the State Land Planning Agency and other required local and state government bodies to a finding of “in compliance” by the State Land Planning Agency.

Review is contemplated and expected to be completed by such agencies as the South Florida Regional Planning Council, whose responsibility it is to review the proposal for consistency with the Strategic Regional Policy Plan. Such review is not therefore, the responsibility of the local government to determine consistency in this regard and will not be addressed herein. Though referenced in the definition of compliance and elsewhere Chapters 163.3177, 163.3191, 163.3245, and 369 will not be reviewed as a compliance matter. Chapter 163.3177 defines required elements in a comprehensive plan. The City has an approved comprehensive plan which must be assumed to have all required elements. Chapter 163.3191 refers to the required Evaluation and Appraisal Report (EAR); a review of an approved comprehensive plan required of the City every seven years. The City is not subject to an EAR at this juncture and therefore is not relevant as a criterion to the review herein. Finally, Chapter 163.3245 refers to the development of an optional sector plan. This optional element of an approved comprehensive plan was not adopted by the City and therefore will not be used as a criterion

for review in this proposed FLUM amendment. Chapter 369 refers to invasive aquatic plant control and the Wekiva River area and similarly will not be the subject of compliance review herein.

Other pertinent review elements leading to a determination of compliance are found in Chapter 163.3178 Coastal management, Chapter 163.3180 Concurrency and the principals for guiding development in the Florida Keys Area of Critical State Concern. This application for a FLUM amendment will be analyzed against the limited compliance issues found in sections of Chapter 163 F.S. and Chapter 380 F.S. noted immediately above. Relevant sections are provided in EXHIBITS 2, 3, & 4 attached or with website references for your review

Compliance Discussion

Relevant criteria promulgated in Chapters 163 and 380 F.S. can be itemized in bullets as follows based on the critical concerns more specifically identified in the City's comprehensive plan:

- Natural Resource Protection
 - Wetlands
 - Estuaries
 - Living marine resources
 - Beaches / Dunes
 - Unique wildlife habitat
 - Water Quality
- Historical Resources
- Infrastructure / Concurrency Management
 - Wastewater
 - Stormwater
 - Potable Water
 - Solid Waste
 - Transportation
- Affordable Housing
- Hazard Mitigation
 - CHHA
 - Hurricane Evacuation
- Ports
 - Marina Siting
- Public Use
 - Shoreline use and Access
 - Water dependent and independent activity
- Land Acquisition
 - Conservation
 - CHHA
 - Public Services

These bullet items should be utilized as the focus points for review of the proposed FLUM amendment and for future comprehensive plan amendments.

ANALYSIS

Natural Resources

No Significant Impact would result from the proposed change.

Historical and Cultural Resources

No Significant Impact would result from the proposed change.

Infrastructure

Single-family residential structures which exceed six (6) bedrooms in number have a greater impact on the community than a more typical residence of six (6) or less bedrooms. Therefore, the City wishes to require the permission of such structures be considered in the wider context of a Conditional Use Permit review and approval. Particularly, the City needs to understand the greater impacts of the size of the property in question, the parking requirements, the traffic impacts, and the impacts on infrastructure such as water, sewer, electricity, and solid waste. We also need to understand the impacts of larger residential development and the larger number of individuals likely to reside there, on the community character of surrounding neighborhoods.

Wastewater infrastructure

Single-family residential structures which exceed six (6) bedrooms in number have a greater impact on the community than a more typical residence of six (6) or less bedrooms. Therefore, the City wishes to require the permission of such structures be considered in the wider context of a Conditional Use Permit review and approval. Particularly, the City needs to understand the greater impacts of the size of the property in question, the parking requirements, the traffic impacts, and the impacts on infrastructure such as water, sewer, electricity, and solid waste. We also need to understand the impacts of larger residential development and the larger number of individuals likely to reside there, on the community character of surrounding neighborhoods.

Stormwater infrastructure

No Significant Impact would result from the proposed change.

Potable Water

Single-family residential structures which exceed six (6) bedrooms in number have a greater impact on the community than a more typical residence of six (6) or less bedrooms. Therefore, the City wishes to require the permission of such structures be considered in the wider context of a Conditional Use Permit review and approval. Particularly, the City needs to understand the greater impacts of the size of the property in question, the parking requirements, the traffic impacts, and the impacts on infrastructure such as water, sewer, electricity, and solid waste. We also need to understand the impacts of larger residential development and the larger number of individuals likely to reside there, on the community character of surrounding neighborhoods.

Solid Waste

Single-family residential structures which exceed six (6) bedrooms in number have a greater impact on the community than a more typical residence of six (6) or less bedrooms. Therefore, the City wishes to require the permission of such structures be considered in the wider context of a Conditional Use Permit review and approval. Particularly, the City needs to understand the greater impacts of the size of the property in question, the parking requirements, the traffic impacts, and the impacts on infrastructure such as water, sewer, electricity, and solid waste. We also need to understand the impacts of larger residential development and the larger number of individuals likely to reside there, on the community character of surrounding neighborhoods.

Transportation

Single-family residential structures which exceed six (6) bedrooms in number have a greater impact on the community than a more typical residence of six (6) or less bedrooms. Therefore, the City wishes to require the permission of such structures be considered in the wider context of a Conditional Use Permit review and approval. Particularly, the City needs to understand the greater impacts of the size of the property in question, the parking requirements, the traffic impacts, the transportation impacts, and the impacts on infrastructure such as water, sewer, electricity, and solid waste. We also need to understand the impacts of larger residential development and the larger number of individuals likely to reside there, on the community character of surrounding neighborhoods.

Affordable Housing

No Significant Impact would result from the proposed change.

Hazard Mitigation

No Significant Impact would result from the proposed change.

Coastal High Hazard Areas

No Significant Impact would result from the proposed change.

Hurricane Evacuation

No Significant Impact would result from the proposed change.

Ports – Marina Siting

No Significant Impact would result from the proposed change.

Public Use – Access to Water

No Significant Impact would result from the proposed change.

Land Acquisition

No Significant Impact would result from the proposed change.

Alternate Compliance Review Criteria

Since there are no internal Comprehensive Plan change review criteria available in Chapter 102, Article 6, those that would apply for an LDR text change request (Chapter 102, Article 7) are useful. The basis for the LDR text change criteria are the same as for a Comprehensive Plan change ultimately.

Section 102.26(B) of the Land Development Regulations requires that the following standards and criteria be considered for any proposed text amendment. Each criteria and explanation of relevance to this proposed amendment are listed below:

A. The need and justification for the change;

Single-family residential structures which exceed six (6) bedrooms in number have a greater impact on the community than a more typical residence of six (6) or less bedrooms. Therefore, the City wishes to require the permission of such structures be considered in the wider context of a Conditional Use Permit review and approval. Particularly, the City needs to understand the greater impacts of the size of the property in question, the parking requirements, the traffic impacts, and the impacts on infrastructure such as water, sewer, electricity, and solid waste. We also need to understand the impacts of larger residential development and the larger number of individuals likely to reside there, on the community character of surrounding neighborhoods.

B. The consistency of the proposed amendment with the Comprehensive Plan; and

The proposed amendment does not change any of the basic purposes of the Comprehensive Plan. This proposal acts to provide more detail to requirements for proposed developments which request single-family residences of greater than six (6) bedrooms.

C. Whether the proposed change shall further the purposes of the LDRs and other City Codes, regulations and actions designed to implement the Comprehensive Plan.

The proposed regulations does further the basic goals and premises outlined in the introductory to the City's Comprehensive Plan as follows:

“With the knowledge that the City needs redevelopment and new development to provide the necessary improvements to guarantee the residents of the City a clean, healthy environment and a sound economy in which to live and enjoy their families, it is the desire and intent of the City through the GOALS, OBJECTIVES AND POLICIES OF THE ADOPTED COMPREHENSIVE PLAN AND LAND DEVELOPMENT REGULATIONS IMPLEMENTING THE PLAN TO PROTECT OUR CHARACTER, ENVIRONMENT AND VIABILITY THROUGH:

- Protection of the small town family feel of the community
- Continued utilization of the established mixed-use pattern of the community

- Protection of the heritage of the commercial fishing industry
- Acknowledgement and protection of a character that is unique to the Keys
- Protection of existing and increased affordable housing opportunities
- Implementation of effective surface water management strategies
- Systematic removal of failing and inadequate on-site wastewater disposal systems
- Maintenance and management of central wastewater and stormwater facilities
- Protection and enhancement of sensitive upland, wetland and submerged land habitat
- Protection for the existing uses, densities and intensities
- Providing new investment and reinvestment opportunities
- Ensuring new development and redevelopment protects the environment
- Ensuring new and redevelopment compliments and enhances community character
- Implementation of thoughtful, managed growth.”

CONCLUSION:

The proposed Amendment is consistent with and furthers the goals of the City of Marathon Comprehensive Plan and Land Development Regulations.

RECOMMENDATION:

Staff recommends approval of the proposed Ordinances.

Sponsored by: Lindsey
Introduction Date: October 21, 2019
Public Hearing Dates: November 12, 2019
tbd
Enactment date: tbd

CITY OF MARATHON, FLORIDA
ORDINANCE 2019-XXX

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING THE CITY'S LAND DEVELOPMENT REGULATIONS TO MODIFY CHAPTER 102, ARTICLE 13, CONDITIONAL USE PERMITS, SECTION 102.74, "APPLICATION PROCESS;" CHAPTER 103, ARTICLE 3, "USE AND INTENSITY TABLES," TABLE 103.15.1, "USES BY ZONING DISTRICT;" AND ADDING A SECTION TO CHAPTER 104, ARTICLE 1, TO BE TITLED "PERMITTING OF RESIDENTIAL UNITS WHICH EXCEED SIX (6) BEDROOMS" AS DEFINED THEREIN; AMENDING CHAPTER 110 TO PROVIDE RELATED DEFINITIONS FOR BEDROOMS, DWELLING UNITS, AND KITCHENS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY AFTER FINAL ADOPTION BY THE CITY COUNCIL; 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

~~Strikethrough~~ = deletion

bold underline = addition

WHEREAS, the purpose of the proposed Ordinance is to manage growth and development in residential neighborhoods and zoning categories when large single family residential development are proposed (greater than six (6) bedrooms, thus requiring a Conditional Use Permit review and approval,

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

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

SECTION 2. Amend Chapter 102, Article 13. Section 102.74, "Application Requirements" to add language identifying minimum application requirements as follows:

Section 102.74. - Application Requirements.

An application for a Conditional Use permit shall be submitted in accordance with Article 2, "Common Development Application Elements" and shall include any other information that may be required by the City in order for the Department, the TRC, PC and Council to make informed decisions. **At a minimum, these specific application requirements are:**

MINIMUM APPLICATION REQUIREMENTS
CONDITIONAL USE PERMITS

These requirements are not to be considered ALL inclusive of the requirements for the proposed work. The Planning Department may require additional drawings, specifications or information in order to complete the review of the application. Equally, not all items noted below may be required at the discretion of the Planning Director based his or her review of a project proposal and the requirements of the City's Comprehensive Plan and Land Development Regulations (LDRs).

THE FOLLOWING MUST BE PROVIDED IN ORDER TO BE A COMPLETE APPLICATION:

1. **Application Completed in Full**
2. **Proof of ownership (copy of deed or tax statement)**
3. **Agent authorization (as applicable)**
4. **Vegetation Survey or Habitat Evaluation Index (as applicable)**
5. **Location Map and Photographs of site from the main adjacent road and/ or aerial photograph.**
6. **Five (5) copies and 1 digital set (CD of DVD, No Flash Drives) of the following plans, drawn to scale, signed and sealed by a Florida registered Surveyor, Architect or Engineer:**

Strikethrough = deletion

bold underline = addition

7. Property Survey no older than two years from date of application.

8. Site Plans. Including but not limited to:

- Property lines, Mean High Water Line (MHWL), and dimensions of the parcel
- Areas and dimensions of existing and proposed structures
- Adjacent roadways and uses of adjacent property
- Setbacks and Buffers
- Parking (including handicap parking) and loading zone locations and dimensions
- Calculations for open space ratios, floor area ratios, density and parking
- Outdoor lighting location, type, power and height
- Extent and area of wetlands, open space areas, and landscape areas
- Location of solid waste separation, storage and removal
- Type of ground cover such as asphalt, grass, pea rock
- Sewage treatment facilities
- Location of bike racks (if required)
- Flood zones pursuant to the Flood Insurance Rate Map (FIRM)
- Show Fire hydrants per following schedule:
- Commercial Non-Fire Sprinkler Protected Buildings:
- 350 feet between hydrants
- No building further than 175 feet from a fire hydrant.
- No building further than 250 feet from a hydrant.
- Provide location of fire lanes (marked fire apparatus roads) and fire lane marking details on plans. NFPA 1 (2012) 18.2.3.5.1
- Provide a minimum 42 ft curb radius at driveways. Reference City of Marathon Turning Radius requirements NFPA 1 (2012) 18.2.3.4.3.1
- Provide minimum 13' 6" vertical clearance for all canopies and road overhangs. NFPA 1 (2012) 18.2.3.4.1.2.
- Fire department access roads shall have an unobstructed width of not less than 20'. NFPA 1 (2012) 18.2.3.4.1.1
- Dead-end fire department access roads in excess of 150ft in length shall be provided with approved provisions for the fire apparatus to turn around. NFPA 1 (2012) 18.2.3.4.4
- Marine areas shall comply with NFPA 303

9. Landscape Plans. Including but not limited to:

- Open space preservation areas
- Size and type of buffer yards including the species, size, and number of plants
- Parking lot landscaping including the species, size and number of plants
- Existing natural features
- Specimen trees, or threatened and endangered plants to be retained and those to be relocated or replaced
- Transplantation plan (if required)

~~Strikethrough~~ = deletion

bold underline = addition

10. Floor Plans and Elevations of all proposed structures with the elevations of the following features referenced to NAVD 88: Existing grade, finished grade, finished floor elevations (lowest supporting beam for V-zone development), roofline and highest point of the structure.

11. Drainage Plans with drainage calculations. The plan must show existing and proposed topography, all drainage structures, retention areas and drainage swales, and existing and proposed permeable and impermeable areas.

12. Wastewater Flow Calculations.

- Up to six (6) bedrooms will be assumed to equate to one (1) Equivalent Dwelling Unit (EDU) at 167 gallons per day. System development and connection charges, as well as monthly base and flow charges will accrue and be billed as a single-family residence.

- Additional Bedrooms (Greater than six (6)) will be assessed based on a calculation of average wastewater flows developed and provided by a qualified wastewater engineer. Such additional flow will be calculated into the one time System Development and Connection charges and be billed accordingly.

13. Construction Management Plan: (State how impacts on near-shore water and surrounding property will be managed - i.e. erosion control, construction barriers, hay bales, flagging, etc.).

14. Construction Phasing Plan (as applicable)

15. A Traffic Study prepared by a licensed traffic engineer.

Letters of Coordination may be required. The applicant must check with the Planning Department to identify other agencies expected to review the project. These may include:

- City of Marathon, City Fire Marshall's Office
- City of Marathon, Utilities Manager
- Florida Department of Environmental Protection (FDEP)
- Florida Department of State, Division of Historic Resources
- Florida Department of Transportation (FDOT)
- Florida Keys Aqueduct Authority (FKAA)
- Florida Keys Electric Cooperative (FKEC)
- Monroe County Department of Health
- South Florida Water Management District (SFWMD)
- U.S. Army Corps of Engineers (ACOE)
- U.S. Fish and Wildlife Service (USFWS)
- Other, as applicable to the project

SECTION 2. Amend Chapter 103, Article 3, Table 103.15.1 to add a use to be titled "Single-Family dwellings (6 Bedrooms or less) to read as follows:

Table 103.15.1

Uses By Zoning District

Uses in bold have specific conditions listed in Chapter 104

~~Strikethrough~~ = deletion

bold underline = addition

ZONING DISTRICTS	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

Sexually Oriented Business																
Single-family dwellings (<u>6 Bedrooms or less</u>)	P	P	P	P	P	P	P	P	P	P	P	P	P			A
<u>Single-family dwellings (7 Bedrooms or more)</u>					<u>C</u>	<u>C</u>	<u>C</u>		<u>C</u>							
Small animal shelters/boarding kennels											C	C	C	C		C

SECTION 3. Amend Chapter 104, Article 1, “General Provisions,” to add Section 104.52, “Single-family dwellings (7 Bedrooms or more),” and renumber subsequent sub-sections as will follow:

Section 104.52

The approval of Single-family dwellings (Seven (7) Bedrooms or more) requires a Conditional Use Permit review and approval pursuant to Chapter 102, Article 13 of the Land Development Regulations.

Single-family residential structures which include seven (7) or more bedrooms in number have a greater impact on the community than a more typical residence of six (6) or less bedrooms. Therefore, the City requires that the permission of such structures be considered in the wider context of a Conditional Use Permit. Particularly, the City needs to understand the greater impacts of the size of the property in question, the parking requirements, the traffic impacts, and the impacts on infrastructure such as water, sewer, electricity, and solid waste. However, as noted in the application submittal requirements below, other considerations and additional review areas may be required.

SPECIFIC APPLICATION REQUIREMENTS
CONDITIONAL USE PERMITS

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

These requirements are to be met in addition to those requirements of Chapter 102, Article 13, Section 102.75. The Planning Department may require additional drawings, specifications or information in order to complete the review of the application.

1. Wastewater Flow Calculations.
 - Up to six (6) six bedrooms will be assumed to equate to one (1) Equivalent Dwelling Unit (EDU) at 167 gallons per day. System development and connection charges, as well as monthly base and flow charges will accrue and be billed as a single-family residence.
 - Additional Bedrooms (Seven (7) Bedrooms or more) will be assessed based on a calculation of average wastewater flows developed and provided by a qualified wastewater engineer. Such additional flow will be calculated into the one time System Development and Connection charges and be billed accordingly.
2. A parking space needs analysis. The City will require a minimum of one (1) parking space per bedroom unless otherwise justified and validated by the Conditional Use Permit applicant.
3. A Traffic Study prepared by a licensed traffic engineer.
4. Concurrency, Letters of Coordination shall be required. The applicant must check with the Planning Department to identify other agencies expected to review the project and those that may not be necessary. These may include:
 - City of Marathon, City Fire Marshall's Office
 - City of Marathon, Utilities Manager
 - Florida Department of Environmental Protection (FDEP)
 - Florida Department of State, Division of Historic Resources
 - Florida Department of Transportation (FDOT)
 - Florida Keys Aqueduct Authority (FKAA)
 - Florida Keys Electric Cooperative (FKEC)
 - Monroe County Department of Health
 - South Florida Water Management District (SFWMD)
 - U.S. Army Corps of Engineers (ACOE)
 - U.S. Fish and Wildlife Service (USFWS)
 - Other, as applicable to the project

SECTION 4. Amend Chapter 110, Article 3, "Defined Terms" to add the following term, "bedroom:"

Bedroom: a room generally intended for sleeping in, typically with one or two individuals and perhaps a small child. A bedroom typically is defined on the basis of the following conditions, but may vary:

- Doors: Typically contains at least one door for entry, though may not have a door in open living plans
- Minimum square footage: 60 to 70 square feet.

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- Minimum horizontal footage: A minimum of at least 7 feet in any horizontal direction.
- Two means of egress: There have to be two ways out of a bedroom.
- Minimum ceiling height: At least half of the bedroom ceiling has to be at least 7 feet tall and meet the Florida Building Code (FBC).
- Minimum window size: The window opening must be a minimum size, usually 5.7 square feet and must meet the Florida Building Code (FBC).
- A heating/cooling element:
- May have a closet, an associated bathroom, small refrigerator, and/or a microwave.

SECTION 5. Amend Chapter 110, Article 3, “Defined Terms” to modify the following terms:

Dwelling, Apartment: A multi-family building in which units share common entries or accesses to individual units.

Dwelling, Attached: ~~A residential dwelling unit consisting of more than one (1) residential unit that area development without open yards on all sides of the dwelling unit.~~ Means a dwelling unit that is located on a separate lot and shares a wall on one or both sides with a neighboring dwelling unit. Townhomes and duplexes are attached dwelling units.

Dwelling, Detached: A residential dwelling unit that is developed with open yards on all sides of the dwelling unit, but not including mobile homes or recreational vehicles. A stand-alone house (also called a Dwelling Unit or Single-family Residence, detached residence or detached house) is a free-standing residential building. Sometimes referred to as a single-family home, as opposed to a duplex or multi-family residential dwelling.

Dwelling, Duplex: Two-family dwelling units with the units either side-by side or in any over-under configuration. In the side-by side configuration, the units share a common wall, while in the over-under configuration, they are stacked.

Dwelling, Townhouse: An attached dwelling with only one (1) dwelling unit from ground to roof attached to its neighbors on no more than two (2) sides.

Dwelling Unit (Single-family residence): A single unit providing complete and independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, cooking (~~meaning a food preparation area larger than a one (1) bin wet bar, that was is intended or designed to be used for cooking or the preparation of food and a range, oven or utility connections for such~~) and sanitation. The term is applicable to both permanent ~~and transient~~ or rental residential development and living. For the purposes of calculation within the Building Permit Allocation System (BPAS), any Dwelling Unit or Single-family Residence which supports more than one complete kitchen and seven (7) or more bedrooms, shall be required to obtain additional BPAS allocations for each additional kitchen. Dwelling units with greater than six bedrooms are subject to Conditional Use Permit review and approval (see Chapter 104, Article 13). Dwelling units with greater than six bedrooms shall not be set up in the fashion of a hotel or motel, so defined herein,

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to provide common area facilities for reservations, cleaning services, site management, and reception.

SECTION 6. Amend Chapter 110, Article 3, “Defined Terms” to add the following term, “kitchen:”

Kitchen, complete: for residential purposes typically and for the sake of calculating allocation requirements in BPAS, a complete kitchen shall be defined as a room for preparing and cooking meals to include a sink (or multiple sinks), a stove, a refrigerator, kitchen cabinets, and a kitchen work surface or surfaces. A kitchen may include a microwave, a dishwasher, and a garbage disposal. Outdoor, non air conditioned cooking facilities are excepted. Indoor wet bars are generally excepted unless, in design or at the discretion of the Planning Director and/or Building Official, the wet bar, as shown in construction plans, constitutes a complete kitchen as described herein.

SECTION 7. 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 8. 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 9. 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 10. 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 11. 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 XXth DAY OF XXXXX, 2019.

THE CITY OF MARATHON, FLORIDA

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XXX, 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:**

David Migut, City Attorney

DRAFT

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