

Sponsored by: Garrett
Public Hearing Date: September 19, 2022
October 11, 2022
November 15, 2022
Enactment Date: November 15, 2022

**CITY OF MARATHON, FLORIDA
ORDINANCE 2022-25**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA AMENDING CHAPTER 102, ARTICLES 10, “SUBDIVISION OF LAND/PLATS AND REPLATS”; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR INCLUSION IN THE ORDINANCES, CITY OF MARATHON, FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Local Government Comprehensive Planning and Land Development Regulation Act, Chapter 163, Florida Statutes, provides for comprehensive plan implementation through the enactment of certain ordinances; and

WHEREAS, the City of Marathon is located within an Area of Critical State Concern (ACSC), pursuant to Sections 380.05 and 380.0552, Florida Statutes, hereinafter referred to the “Keys ACSCs”; and

WHEREAS, Keys’ Local Governments have adopted state-mandated Comprehensive Plans and Land Development Regulations pursuant to both Chapters 163 and 380.055, Florida Statutes, which have been approved by the State, as required by law, and;

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

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

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

1. Define plat, re-plat, and subdivision; and
2. Clarify the difference between re-plat and subdivision; and

3. Identify the respective applicant requirements in the approval process; and
4. Identify infrastructure construction level required of payment of fees required; and
5. At what interval in the approval process for sewer, potable water, and fire needs, sidewalks, roads; and

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

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

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

SECTION 2. Amend Chapter 102, Article 10 to read as follows:

Section 102.46 Simple Subdivision

- A. Application Requirements: The submittal requirements and review procedure for all requests for a simple subdivision shall be in accordance with Chapter 102 and shall provide the following minimal information:
 1. Proof of Ownership of the parcel or parcels proposed for simple subdivision or reconfiguration.
 2. An independent survey of each of the proposed parcels or reconfigured parcels including an identification of the parent parcel in the survey.
- B. Review and Approval Procedure
 1. The Director or his designee shall review the applicant for the proposed simple subdivision taking the following criteria into consideration:
 - a. The Simple Subdivision procedure is an administrative process carried out by the Director in coordination with other City staff including the Public Works and Utilities Directors.
 - b. With the exception of the proposed subdivision of a parcel with a duplex residence, the resultant parcels of a simple subdivision or reconfiguration shall meet all of the minimum lot area, density, intensity, clustering, and dimension requirements of the City's Land Development Regulations.
 - c. Otherwise, the following requirements of the following subsections apply.
- C. Notice

1. Notice is not required for a Simple Subdivision.
- D. Approval of a Simple Subdivision is a ministerial function which should generally receive approval so long as all criteria in the review process are met.
- E. Division of one (1) parcel into two (2) parcels: A legal lot of record may be divided into two (2) separate lots, parcels, tracts or other subdivision of land, without complying with the subdivision requirements of this article, through the simple subdivision review process, provided all of the conditions below are met:
1. The legal lot of record has frontage on and has direct access to an existing publicly maintained street. The access may be provided by a legally established joint driveway access to the public street in lieu of public street frontage for both lots upon approval by the City and City Attorney. The minimum lot area to allow subdivision, the minimum resulting lot area and street-front lot width for all Land Use Districts are as follows:

Table 102.46.1
 Minimum/~~Maximum~~ **Simple** Subdivided Lot Area & Front Lot Width

Land Use District	Minimum Existing Lot Area (Sq. Ft.)	Minimum Subdivided Lot Area (Sq. Ft.)	<u>Minimum Subdivided Lot Area (Sq. Ft.)</u>	Street-Front Lot Width (Ft.)
A	NA	NA	<u>NA</u>	NA
C-NA	12 8 Acres	4 Acres	<u>348,479</u>	NA
C-OI	30 20 Acres	10 Acres	<u>871,199</u>	NA
I-G	26,136 8,712	8,712 4,356	<u>17,423</u>	NA
I-M	26,136 8,712	8,712 4,356	<u>17,423</u>	NA
MU	21,780 14,520	7,260	<u>14,519</u>	NA
MU-M	21,780 14,520	7,260 14,520	<u>14,519</u>	NA
P	13,068 3,484	4,356 1,742	<u>8,711</u>	NA
PR	12 8 Acres	4 Acres	<u>348,479</u>	NA
RH	16,335 10,890	5,445	<u>10,879</u>	75
RL	2 4 Acres	2 Acres	<u>87,119</u>	NA
RL-C	12 8 Acres	4 Acres	<u>348,479</u>	NA

R-MH	16,335 <u>10,890</u> 3,484	5,445 <u>1,742</u>	<u>10,879</u>	NA
RM	26,136 <u>17,424</u>	8,712	<u>17,423</u>	100
RM-1	32,670 <u>20,000</u>	10,890 <u>10,000</u>	<u>21,779</u>	100
RM-2	26,136 <u>17,424</u>	8,712	<u>17,423</u>	100

Section 102.47 Minor And Major Subdivision

A. Application Requirements: The submittal requirements and review procedure for all minor and major subdivision development plans shall be in accordance with Chapter 102 and shall provide the following minimal information:

The preliminary subdivision plan for both a minor or major subdivision (and plat) shall be submitted on black or blue line prints drawn at an acceptable scale such as 50 feet to the inch on sheets no larger than 34 by 44 inches. The principle difference between a Minor and Major Subdivision lies in whether the subdivision proposes the approval of new streets which may be ultimately be dedicated to the City of Marathon (or remain as private streets). The plan drawing shall include the following:

1. All materials required under Section 102.01 "Application Forms", except as modified by specific requirements below.
2. A boundary survey of the lands to subdivided and platted. However, a new boundary survey for a re-plat is required only when the replat affects any boundary of the previously platted property or when improvements which may affect the boundary of the previously platted property have been made on the lands to be re-platted. The boundary survey must be performed and prepared under the responsible direction and supervision of a professional surveyor and mapper preceding the initial submittal of the plat to the City. This subsection does not restrict a legal entity from employing one professional surveyor and mapper to perform and prepare the boundary survey and another professional surveyor and mapper to prepare the plat.
 - a. Every plat offered for recording pursuant to the provisions of this part shall be prepared by a professional surveyor and mapper. The plat must be signed and sealed by that professional surveyor and mapper, who must state on the plat that the plat was prepared under his or her direction and supervision and that the plat complies with all of the survey requirements of this part. Every plat must also contain the printed name and registration

number of the professional surveyor and mapper directly below the statement required by this section, along with the printed name, address, and certificate of authorization number of the legal entity, if any. A professional surveyor and mapper practicing independently of a legal entity must include his or her address.

3. A title opinion of an attorney at law licensed in Florida or a certification by an abstractor or a title company showing that record title to the land as described and shown in the proposed subdivision and subsequent plat or re-plat is in the name of the person, persons, corporation, or executing the dedication. The title opinion or certification shall also show all mortgages not satisfied or released of record nor otherwise terminated by law.

4. The title under which the subdivision is to be recorded, the names of the developer, the engineer, the surveyor, architect and land planner, the tax parcel number(s) and Section, Township, and Range.

a. Every subdivision shall be given a name by which it shall be legally known. For the purpose of this section, that name is the "primary name." The primary name shall not be the same or in any way so similar to any name appearing on any recorded plat in the same county as to confuse the records or to mislead the public as to the identity of the subdivision, except when the subdivision is further divided as an additional unit or section by the same developer or the developer's successors in title. In that case, the additional unit, section, or phase shall be given the primary name followed by the unit, section, or phase number. Words such as "the," "re-plat," or "a" may not be used as the first word of the primary name. Every subdivision's name shall have legible lettering of the same size and type, including the words "section," "unit," or "phase." If the word "re-plat" is not part of the primary name, then it may be of a different size and type. The primary name of the subdivision shall be shown in the dedication and shall coincide exactly with the subdivision name.

b. Any change in a plat, except as provided in s. 177.141, shall be labeled a "re-plat," and a re-plat must conform with this part. After the effective date of this act, the terms "amended plat," "revised plat," "corrected plat," and "re-subdivision" may not be used to describe the process by which a plat is changed.

5. A location map to show the relationship of the proposed development to existing community facilities, developments and streets.

6. North point, scale and date.

7. The location of present property and section lines, boundaries of incorporated areas, land description, existing streets and/or driveways within 150 feet of the property boundaries, buildings, wetlands, and other natural resources.
8. Existing utilities, including sanitary sewer, water, stormwater, electricity lines, telephone, gas, cable television, etc., within the parcel and immediately adjacent to it.
9. Contours of the land at one-foot intervals. Contours shall be based on National Geodetic Vertical Datum 1929 or later.
10. Subsurface conditions of the parcel.
11. Approximate location of the 100-year floodplain and data used to establish its location.
12. The names and boundaries of all adjoining subdivisions. The names of record owners and City tax parcel numbers of all adjoining parcels of un-subdivided land. Adjoining land uses, in accordance with the City of Marathon Future Land Use Map shall also be shown.
13. A statement of utility plan indicating types and provider of services.
14. The location of all existing lots must be shown. Proposed lot lines and areas must be shown as well and meet the standards set out in Table ~~102.46.1~~ 102.47.1

Table 102.47.1
Minimum Minor and Major Subdivision Lot Area & Front Lot Width

<u>Land Use District</u>	<u>Minimum Existing Lot Area (Sq. Ft.)</u>	<u>Minimum Subdivided Lot Area (Sq. Ft.)</u>	<u>Street-Front Lot Width (Ft.)</u>
<u>A</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>
<u>C-NA</u>	<u>12 Acres</u>	<u>4 Acres</u>	<u>NA</u>
<u>C-OI</u>	<u>30 Acres</u>	<u>10 Acres</u>	<u>NA</u>
<u>I-G</u>	<u>13,068</u>	<u>4,356</u>	<u>NA</u>
<u>I-M</u>	<u>13,068</u>	<u>4,356</u>	<u>NA</u>
<u>MU</u>	<u>21,780</u>	<u>7,260</u>	<u>NA</u>
<u>MU-M</u>	<u>21,780</u>	<u>7,260</u>	<u>NA</u>
<u>P</u>	<u>5,226</u>	<u>1,742</u>	<u>NA</u>
<u>PR</u>	<u>12 Acres</u>	<u>4 Acres</u>	<u>NA</u>

<u>RH</u>	<u>16,335</u>	<u>5,445</u>	<u>75</u>
<u>RL</u>	<u>6 Acres</u>	<u>2 Acres</u>	<u>NA</u>
<u>RL-C</u>	<u>12 Acres</u>	<u>4 Acres</u>	<u>NA</u>
<u>R-MH</u>	<u>16,335</u>	<u>5,445</u>	<u>NA</u>
<u>RM</u>	<u>26,136</u>	<u>8,712</u>	<u>100</u>
<u>RM-1</u>	<u>30,000</u>	<u>10,000</u>	<u>100</u>
<u>RM-2</u>	<u>26,136</u>	<u>8,712</u>	<u>100</u>

SECTION 3. All other existing provisions of Appendix A, “Land Development Regulations,” Chapter 102, of the Code of Ordinance of the City of Marathon, Florida shall be renumbered accordingly.

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, but they shall remain in effect it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 6. It is the intention of the City Council and it is hereby ordained the provisions of this Ordinance shall become and be made part of the Marathon Code, that sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions, and that the word “Ordinance” shall be changed to “Section” or other appropriate word.

SECTION 7. 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 7. 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 15TH DAY OF NOVEMBER, 2022.

THE CITY OF MARATHON, FLORIDA



Mayor Gonzalez

AYES: Landry, Gonzalez, Matlock, Smith, Still
NOES: None
ABSENT: None
ABSTAIN: None

ATTEST:



Diane Clavier, City Clerk

(City Seal)

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



City Attorney, Steve Williams

**STATE OF FLORIDA
DEPARTMENT OF ECONOMIC OPPORTUNITY**

In re: A LAND DEVELOPMENT REGULATION
ADOPTED BY CITY OF MARATHON,
ORDINANCE NO. 2022-25

**FINAL ORDER
APPROVING CITY OF MARATHON ORDINANCE NO. 2022-25**

The Department of Economic Opportunity (the “Department”) hereby issues its Final Order, pursuant to Section 380.05(6), Florida Statutes, approving land development regulations adopted by the City of Marathon (the “City”), Ordinance No. 2022-25 (the “Ordinance”).

FINDINGS OF FACT

1. The Florida Keys Area is designated by Section 380.0552, Florida Statutes, as an area of critical state concern. The City is a local government within the Florida Keys Area.
2. The Ordinance was adopted by the City on November 15, 2022 and rendered to the Department on December 2, 2022.
3. The Ordinance amends Section 102.46 of the City’s Land Development Code to modify the criteria under Table 102.46.1 relating to subdivided lot area and front width criteria for Simple Subdivisions. The Ordinance also amends Section 102.47 to establish subdivided lot area and front width criteria for Minor and Major Subdivisions under a new Table 102.47.1.

CONCLUSIONS OF LAW

4. The Department is required to approve or reject land development regulations that are adopted by any local government in an area of critical state concern. *See* Section 380.05(6), Florida Statutes.

5. “Land development regulations” include local zoning, subdivision, building, and other regulations controlling the development of land. Section 380.031(8), Florida Statutes. The regulations adopted by the Ordinance are land development regulations.

6. The Ordinance is consistent with the City’s Comprehensive Plan as required by Section 163.3177(1), Florida Statutes, generally, and is specifically consistent with Policy 1-3.1.1 and Policy 1-3.1.3.

7. All land development regulations enacted, amended, or rescinded within an area of critical state concern must be consistent with the principles for guiding development for that area. *See* Section 380.05(6), Florida Statutes. The Principles for Guiding Development for the Florida Keys Area of Critical State Concern are set forth in Section 380.0552(7), Florida Statutes.

8. The Ordinance is consistent with the Principles for Guiding Development in Section 380.0552(7), Florida Statutes and is specifically consistent with the following Principles:

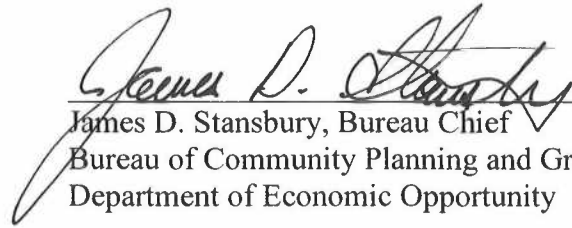
- (a) Strengthening local government capabilities for managing land use and development so that local government is able to achieve these objectives without continuing the area of critical state concern designation.

WHEREFORE, IT IS ORDERED that the Department finds that the City of Marathon Ordinance No. 2022-25 is consistent with the City of Marathon’s Comprehensive Plan and the Principles for Guiding Development for the Florida Keys Area of Critical State Concern and is hereby APPROVED.

This Final Order becomes final 21 days after publication in the Florida Administrative

Register unless a petition is timely filed as described in the Notice of Administrative Rights below.

DONE AND ORDERED in Tallahassee, Florida.


James D. Stansbury, Bureau Chief
Bureau of Community Planning and Growth
Department of Economic Opportunity

NOTICE OF ADMINISTRATIVE RIGHTS

ANY PERSON WHOSE SUBSTANTIAL INTERESTS ARE AFFECTED BY THIS FINAL ORDER HAS THE OPPORTUNITY FOR AN ADMINISTRATIVE PROCEEDING PURSUANT TO SECTION 120.569, FLORIDA STATUTES.

FOR THE REQUIRED CONTENTS OF A PETITION CHALLENGING AGENCY ACTION, REFER TO RULES 28-106.104(2), 28-106.201(2), AND 28-106.301, FLORIDA ADMINISTRATIVE CODE.

DEPENDING ON WHETHER OR NOT MATERIAL FACTS ARE DISPUTED IN THE PETITION, A HEARING WILL BE CONDUCTED PURSUANT TO EITHER SECTIONS 120.569 AND 120.57(1), FLORIDA STATUTES, OR SECTIONS 120.569 AND 120.57(2), FLORIDA STATUTES.

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

AGENCY CLERK
DEPARTMENT OF ECONOMIC OPPORTUNITY
OFFICE OF THE GENERAL COUNSEL
107 EAST MADISON ST., MSC 110
TALLAHASSEE, FLORIDA 32399-4128
FAX 850-921-3230

YOU WAIVE THE RIGHT TO ANY ADMINISTRATIVE PROCEEDING IF YOU DO NOT FILE A PETITION WITH THE AGENCY CLERK WITHIN 21 CALENDAR DAYS OF THE FINAL ORDER BEING PUBLISHED IN THE FLORIDA ADMINISTRATIVE REGISTER.

CERTIFICATE OF FILING AND SERVICE

I HEREBY CERTIFY that the original of the foregoing Final Order has been filed with the undersigned designated Agency Clerk, and that true and correct copies have been furnished to the following persons by the methods indicated this 30th day of January 2023.



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

By U.S. Mail:

The Honorable Luis Gonzalez, Mayor
City of Marathon, City Council
9805 Overseas Highway
Marathon, FL 33050

Diane Clavier, City Clerk
City of Marathon, City Clerk
9805 Overseas Highway
Marathon, FL 33050

Brian Shea, Planning Director
City of Marathon, Planning Department
9805 Overseas Highway
Marathon, FL 33050