

Sponsored By: Garrett
Planning Commission Public Hearing Date: November 17, 2025
City Council Public Hearing Date: December 9, 2025
January 13, 2026
Enactment Date: January 14, 2026

**CITY OF MARATHON, FLORIDA
ORDINANCE 2025-10**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING CHAPTER 102 “DEVELOPMENT APPLICATION REVIEW PROCEDURES” BY CREATING ARTICLE 25 “REQUESTS FOR ACCOMMODATIONS”, AMENDING CHAPTER 104 “SPECIFIC USE REGULATIONS”, SECTION 104.20 ENTITLED “GROUP HOME”, AMENDING CHAPTER 110 “DEFINITIONS”, ARTICLE 3 ENTITLED “DEFINED TERMS”; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE DEPARTMENT OF COMMERCE 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 Commerce ("FloridaCommerce"), pursuant to Chapters 163 and 380, Florida Statutes; and

WHEREAS, the City Council finds it necessary, desirable, and proper to adopt the amendments to the Land Development Regulations in order to reflect required changes, pursuant to Section 397.487 Florida Statute; and

WHEREAS, this Ordinance had a hearing before the Planning Commission on November 17, 2025 and a first hearing before the City Council on December 9, 2025 during which both entities, took staff testimony, all public comment, and having duly deliberated, determined that the Ordinance was in the best interest of the public, supporting the public health, safety, and welfare. The Ordinance was noticed for a second hearing on January 13, 2026, at which time, the Ordinance was passed unanimously, and

WHEREAS, the Ordinance was heard on January 13, 2026, passing on that date,

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 Land Development Regulations, Chapter 102, “Development Application Review Procedures” By Creating Article 25 “Requests For Accommodations”, Amend Chapter 104

“Specific Use Regulations”, Section 104.20 Entitled “Group Home”, and Amend Chapter 110 “Definitions”, Article 3 Entitled “Defined Terms” as attached in Exhibit A.

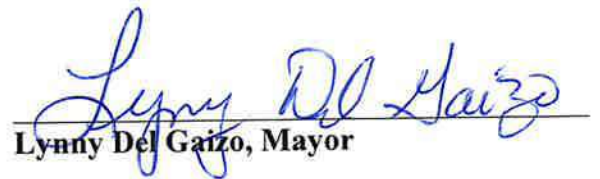
SECTION 3. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases 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 Commerce for review and approval pursuant to Sections 380.05(6) and (11), Florida Statutes.

SECTION 5. This Ordinance shall become effective upon approval by the Florida Department of Commerce pursuant to Chapters 163, 166, and 380, Florida Statutes.

ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 13 DAY OF JANUARY 2026.

THE CITY OF MARATHON, FLORIDA


Lynny Del Gaizo, Mayor

AYES: Landry, Matlock, Still, Struyf, Del Gaizo
NOES: None
ABSENT: None
ABSTAIN: None

ATTEST:


Diane Clavier, City Clerk

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


Steven T. Williams, City Attorney

CHAPTER 110 DEFINITIONS

ARTICLE 110-3 DEFINED TERMS

Recovery residence. A residential dwelling unit, the community housing component of a licensed day or night treatment facility with community housing, or other form of group housing, which is offered or advertised through any means, including oral, written, electronic, or printed means, by any person or entity as a residence that provides a peer-supported, alcohol-free, and drug-free living environment.

Chapter 104 Specific Use Regulations

[Sec 104.20] Group Home

A community residential group home or Recovery Residence may be allowed pursuant to Table 103.15.1, subject to the following standards:

- A. The home shall not be located within a radius of 1,000 feet of another existing small community residential group home unless otherwise approved as part of a conditional use permit.
- B. Such a home shall only be occupied by persons meeting the definition for a resident in Fla. Stat. 419.001 and are clients of the governmental agencies enumerated in Fla. Stat. 419.001 and not by persons found by a court to have committed a delinquent act. Such a home, when used as a recovery residence, shall also comply in all respects with Florida statutes Chapter 397 – Substance Abuse Services.
- C. The establishment must conform to setback and height regulations for the zoning district.
- D. The home shall be located to assure the safe care and supervision of all clients.
- E. Pursuant to Fla. Stat. 419.001, homes with six (6) or fewer residents shall be deemed a single-family dwelling unit for the purposes of zoning and shall be allowed as a permitted use within all residential zoning districts. New residential dwelling units shall be subject to the requirements established in Article 1 "Building Permit Allocation System", of Chapter 107.
- F. Homes with seven (7) to 14 residents shall require a conditional use approval.
- G. The operator or applicant has received provisional certification from the State of Florida's designated licensing or certification entity as established by F.S. § 397.487, as amended, or subsequent state statute. Permanent annual certification must be issued within one hundred eighty (180) calendar days of the date on which provisional certification was granted.

H. A recovery community residence which does not comply with all of the standards of this section may be approved only by way of a reasonable accommodation issued pursuant Chapter 102 Article 25.

I. The City may establish additional requirements for the review or approval of reasonable accommodation requests for establishing a certified recovery residence, provided such requirements are consistent with federal law and do not conflict with Florida Statutes 397.487.

J. The operation of a certified recovery residence may be revoked for cause, including, but not limited to, a violation of the conditions of approval or the lapse, revocation, or failure to maintain certification or licensure required under Florida Statutes 397.487, if not reinstated within 180 days.

ARTICLE 25 REQUESTS FOR ACCOMMODATION

Sec. 102.149 General

A. This ordinance shall be consistent with the Fair Housing Amendments Act of 1988, 42 U.S.C. ss. 3601 et seq., and Title II of the Americans with Disabilities Act, 42 U.S.C. ss. 12131 et seq. In the application of this ordinance, the City shall not facially discriminate against or otherwise disparately impact the applicant.

B. The Director of Planning shall establish a written application process to permit reasonable accommodation requests for the establishment of a certified recovery residence, which application must be submitted to the Planning Department.

Sec. 102.150 Application

A. Application. A request by an applicant for reasonable accommodation under this section shall be in writing. A request may be submitted by completion of a reasonable accommodation request form, which form is maintained by (and shall be submitted to) the Planning Department. The reasonable accommodation request form shall contain such questions and requests for information as are necessary for processing the reasonable accommodation request. The reasonable accommodation request form shall be substantially in the form set forth in subsection 102.150 (A)(1), below.

(1) Contents of reasonable accommodation request form:

a. Name and contact information of the applicant, and as applicable, the applicant's authorized representative;

b. Information regarding property at which reasonable accommodation is requested, including the address of such location;

c. Describe the accommodation and the specific regulation(s) and/or procedure(s) from which accommodation is sought;

d. Reasons the accommodation may be necessary for the applicant or the individuals with disabilities seeking the specific accommodation; and if relating to housing, why the requested reasonable accommodation is necessary to use and enjoy the housing;

e. Description of the qualifying disability or handicap;

f. Other relevant information pertaining to the disability or property that may be needed by the City in order for it to be able to evaluate the request for reasonable accommodation;

g. A statement as to whether the applicant is seeking the accommodation in order to make housing and/or provision of housing financially viable, with supporting documentation;

h. A statement as to the therapeutic necessity of the accommodation for the applicant, with supporting documentation;

i. If seeking a reasonable accommodation from the definition of family:

1. Proof of state licensure, as applicable to the location for which the reasonable accommodation is requested; or

2. Proof of certification pursuant to Section 397.487, Fla. Stat. as amended, or alternatively, certification under a nationally accredited agency or recognition or sanction by Congress if the accommodation is for or related to a recovery residence, as defined in Section 397.311, Fla. Stat.; and

3. All applicants must provide proof of satisfactory fire, safety, and health inspections as required by Section 397.487, Fla. Stat. or other applicable statute, as amended from time to time for the location for which the reasonable accommodation is requested;

j. Signature of applicant;

k. Date of application;

l. If on-site supervisor or manager, provide the name and contact information (phone and email) for each;

m. Disclosure of ownership interests of property; and

n. Consent of all property owners for application.

(2) Each application shall be date stamped upon receipt. If additional information is required, the City shall notify the applicant in writing within the first 30 days after receipt of the application and allow the applicant at least 30 days to respond.

(3) Confidential information. Should the information provided by the applicant to the City include medical information or records, including records indicating the medical condition, diagnosis or medical history of the disabled individual, such individual may, at the time of

submitting such medical information, request that the City, to the extent allowed by law, treat such medical information as confidential information of the disabled individual. The City shall thereafter endeavor to provide written notice to the disabled individual, and/or their representative, of any request received by the City for disclosure of the medical information or documentation which the disabled individual has previously requested be treated as confidential by the City. The City will cooperate with the disabled individual, to the extent allowed by law, in actions initiated by such individual to oppose the disclosure of such medical information or documentation, but the City shall have no obligation to initiate, prosecute or pursue any such action, or to incur any legal or other expenses (whether by retention of outside counsel or allocation of internal resources) in connection therewith, and may comply with any judicial order without prior notice to the disabled individual.

(4) Fee. There shall be no fee imposed by the City in connection with a request for reasonable accommodation under this section or an appeal of a determination on such request to the City Council, and the City shall have no obligation to pay a requesting party's (or an appealing party's, as applicable) attorney's fees or costs in connection with the request, or an appeal.

(5) City assistance. The City shall provide such assistance and accommodation as is required pursuant to FHA and ADA in connection with an applicant's request for reasonable accommodation, including, without limitation, assistance with reading application questions, responding to questions, completing the form, filing an appeal, and appearing at a hearing, etc., to ensure the process is accessible.

(6) The City may establish additional requirements for the review or approval of reasonable accommodation requests for establishing a certified recovery residence, provided such requirements are consistent with federal law and Florida Statutes 397.487.

Sec. 102.151 Procedure

(A) Findings for reasonable accommodation. In determining whether the reasonable accommodation request shall be granted or denied, the requesting party shall be required to establish, at a minimum, that:

(1) They are protected under the FHA and/or ADA by demonstrating that they are handicapped or disabled, or a qualifying entity, as defined in the FHA and/or ADA.

(2) The proposed reasonable accommodations sought are reasonable and necessary to afford the subject individual(s) with disabilities an equal opportunity to use and enjoy the housing that is the subject of the request.

The foregoing, in addition to applicable federal standards, (all as interpreted by the courts) shall be the basis for a decision upon a reasonable accommodation request made by the City Manager, or his/her designee, or by the City Council in the event of an appeal.

(B) Decision process. The City Manager, or his/her designee, shall have the authority to consider and act on requests for reasonable accommodation, recertification of an approved reasonable accommodation, and amendment to an approved reasonable accommodation. When a reasonable accommodation request form has been completed and submitted to the Planning Department, it will be referred to the City Manager, or his/her designee, for review and consideration. The City Manager, or his/her designee, shall issue a written determination within sixty (60) days of the date of receipt of a completed application and may, in accordance with federal law:

- (1) Grant the accommodation request,
- (2) Grant a portion of the request and deny a portion of the request, and/or impose conditions upon the grant of the request, or
- (3) Deny the request, in accordance with federal law. Any such denial shall be in writing and shall state the grounds therefore.

All written determinations shall give notice of the right to appeal. The notice of determination shall be sent to the requesting party (i.e. the disabled individual or his/her representative) by certified mail, return receipt requested.

If reasonably necessary to reach a determination on the request for reasonable accommodation, the City Manager, or his/her designee, may, prior to the end of said sixty (60) day period, request additional information from the requesting party, specifying in sufficient detail what information is required. The requesting party shall have fifteen (15) days after the date of the request for additional information to provide the requested information.

In the event a request for additional information is made, the sixty (60) day period to issue a written determination shall no longer be applicable, and the City Manager, or his/her designee, shall issue a written determination within thirty (30) days after receipt of the additional information.

If the requesting party fails to provide the requested additional information within said fifteen (15) day period, the City Manager, or his/her designee, shall issue a written notice advising that the requesting party had failed to timely submit the additional information and therefore the request for reasonable accommodation shall be deemed abandoned and/or withdrawn and no further action by the City with regard to said reasonable accommodation request shall be required.

Except as provided otherwise provided above, if a final written determination is not issued within 60 days after receipt of a completed application, the request shall be deemed approved unless the parties agree in writing to a reasonable extension of time.

(C) Appeal. The appeal of any decision of the City Manager or his/her designee regarding a request for reasonable accommodation, recertification of an approved reasonable accommodation, or amendment to an approved reasonable accommodation shall be considered pursuant to the requirements Chapter 102 Development Application Review Procedure – Article 102-17 Appeals. Within thirty (30) days after the City Manager's, or his/her designee's, determination regarding a reasonable accommodation request is mailed to the requesting party, such applicant may appeal the decision by filing a notice of appeal with the City Clerk. The City Clerk or designee shall act as clerk to the special magistrate for purposes of an appeal from a decision under this section.

All appeals shall contain a statement containing sufficient detail of the grounds for the appeal. Appeals shall be to the special magistrate who shall, after public notice and a public hearing, render a determination as soon as reasonably practicable, but in no event later than sixty (60) days after an appeal has been filed.

The appeal shall be conducted as a de novo review of the evidence on record for the original review under the required findings of this section. The decision of the City Council shall be considered final City action and may be appealed within thirty (30) days to a court of competent jurisdiction as provided by law.

(D) Expiration of approvals. Approvals of requests for reasonable accommodation shall expire within one hundred eighty (180) days if not implemented.

(E) Revocation of reasonable accommodation.

(1) Any reasonable accommodation received shall be deemed revoked if the applicant or the property upon which the accommodation is granted is found in violation of any provision of the approval granting the reasonable accommodation by a court of law or by the special magistrate hearing code enforcement cases.

(2) Failure to obtain state certification or a required state license, or failure to maintain state certification or a required state license or alternate certification permitted by this section, shall result in revocation of the reasonable accommodation and cessation of operations within sixty (60) days of termination of the license or certification.

(F) Annual certification. All reasonable accommodation requests approved by the City shall be valid for no more than one (1) year and shall require annual recertification each year on or before February 1st.

Recertification requests must be filed at least ninety (90) days before the conclusion of the end of the one-year period of effectiveness of the reasonable accommodation approval. The failure of the applicant to timely apply for annual recertification, or the denial of an annual recertification application, shall result in the revocation of the approved reasonable accommodation.

Recertification requests shall follow the same submittal, review and procedural requirements as set forth above for new applications. If a reasonable accommodation is for a property which is required to be licensed or certified pursuant to this section or applicable state or federal law, then to be recertified an applicant must provide proof of active licensure or certification consistent with the requirements of State and Federal law.

(G) Revisions. Any changes to the use or property desired by the applicant or identified by the City, state, or any certifying or licensing entity after approval or during the recertification process which require an additional reasonable accommodation or amendment to the original reasonable accommodation approval shall be processed as an amendment to the original approval and such amendment application shall follow the same application and review process set forth herein for an original reasonable accommodation request and shall be consistent with Chapter 102 Development Application Review Procedures – Article 102-13 Conditional Use Permits.

(H) Severability. If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Section is declared unconstitutional by the final and valid judgment or decree of any court of competent jurisdiction, this declaration of unconstitutionality or invalidity shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Section.

STATE OF FLORIDA
DEPARTMENT OF COMMERCE

In re: A LAND DEVELOPMENT REGULATION
ADOPTED BY CITY OF MARATHON,
ORDINANCE NO. 2025-10

FINAL ORDER
APPROVING CITY OF MARATHON ORDINANCE NO. 2025-10

The Florida Department of Commerce (“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. 2025-10 (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 January 13, 2026, and rendered to the Department January 21, 2026.
3. The Ordinance amends Chapter 110, Article 110-3, to add a definition for a recovery residence. The Ordinance also amends Chapter 104, Section 104.20, to permit the use of recovery residences; however, homes used as recovery residences shall comply with Chapter 397, Florida Statutes. Additionally, a recovery residence not fully compliant with all of the standards of Section 104.20 may be approved by receiving a reasonable accommodation issued under Chapter 102, Article 25.
4. Furthermore, the Ordinance adds Article 25, titled *Request for Accommodations*, to Chapter 102. Article 25 includes three new sections: Section 102.149, Section 102.150, and Section 102.151. The newly created sections outline the application process for obtaining a reasonable accommodation and the procedure for reviewing reasonable accommodation requests.

CONCLUSIONS OF LAW

5. 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.

6. “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.

7. 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 2-1.1.1 and Policy 2-1.1.12.

8. 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.

9. The Principles for Guiding Development for the Florida Keys Area of Critical State Concern are set forth in Section 380.0552(7), Florida Statutes.

10. 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:

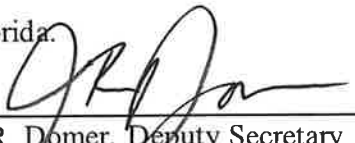
- (a) Strengthening local government capabilities for managing land use and development so that local government is able to achieve these objectives without continuing the area of critical state concern designation; and
- (n) Protecting the public health, safety, and welfare of the citizens of the Florida Keys and maintaining the Florida Keys as a unique Florida resource.

WHEREFORE, IT IS ORDERED that the Department finds that the City of Marathon Ordinance No. 2025-10 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.



Justin R. Damer, Deputy Secretary
Division of Community Development
Florida Department of Commerce

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

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 18th day of March 2026.


Agency Clerk, Karis De Gannes
Florida Department of Commerce
107 East Madison Street, MSC 110
Tallahassee, FL 32399-4128

By U.S. Mail:

The Lynny Del Gaizo, 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