

**ORDINANCE NO. 03-12-02**

**AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA AMENDING THE RESIDENTIAL RATE OF GROWTH REGULATIONS SET FORTH AT SECTION 9.5-124, SECTION 9.5-127, AND SECTION 9.5-266 OF THE CITY CODE CONCERNING AFFORDABLE AND EMPLOYEE HOUSING, PROVIDING FOR SEVERABILITY, THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE, FOR INCLUSION IN THE CODE, FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF COMMUNITY AFFAIRS, AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF COMMUNITY AFFAIRS IN ACCORDANCE WITH STATE LAW.**

**WHEREAS**, the existing land development regulations implementing the various policies in the City's transitional comprehensive plan concerning the provision of affordable and middle income housing have proven inadequate; and

**WHEREAS**, the City Council of the City of Marathon, Florida (the "City") desires to amend the existing provisions of the Marathon City Code (the "Code") regarding the residential permit allocation rate of growth ordinance to facilitate and encourage affordable and middle income housing in the City; and

**WHEREAS**, pursuant to Section 163.3174, *Florida Statutes*, and Section 9.5-22 of the Code, the City's Planning Commission sitting as the Local Planning Agency has publicly considered the amendments to the Code set forth in this Ordinance (the "Amendments") at a properly noticed public hearing and recommended to the City Council the adoption of the Amendments; and

**WHEREAS**, in accordance with Sections 163.3184 and 166.041, *Florida Statutes*, public notice has been given of the public hearings for the proposed adoption of this Ordinance amending the Code; and

**WHEREAS**, the City Council finds the adoption of this Ordinance is in the best interest of the City and complies with applicable State laws and rules; and

**WHEREAS**, the City Council finds that enactment of this Ordinance furthers the objectives, goals and policies of the City's Comprehensive Plan and the Principles for Guiding Development of the Florida Keys Area of Critical State Concern.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA AS FOLLOWS:<sup>1</sup>**

**Section 1.**     **Recitals.** The above recitals are true and correct and incorporated herein by this reference.

**Section 2.**     **Amendment to Section 9.5-4 of the Code.** Section 9.5-4 of the Code of the City of Marathon, Florida is hereby amended to read as follows:

**Sec. 9.5-4. Definitions.**

(M-11) Middle Income Housing. Refers to residential dwelling units that meet the following requirements:

(a) Meet all applicable requirements of the United States Department of Housing and Urban Development minimum property standards as to room sizes, fixtures, landscaping and building materials, when not in conflict with applicable laws of the City of Marathon; and

(b) Restricted for a twenty-year period to use by households that meet Derive at least seventy (70) percent of their household income from gainful employment in Monroe County; and

(c) Earn an income no greater than one hundred sixty (160) percent of the median household income in Monroe County.

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1/ Additions to existing text are shown by underline, deletions are shown as ~~strikethrough~~.

**Section 3. Amendment to Section 9.5-124 of the Code.** Section 9.5-124 of the Code of

the City of Marathon, Florida is hereby amended to read as follows:

**Sec. 9.5-124. Residential Dwelling Unit Allocation Procedures.**

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(c) *Compliance with other requirements:* The ROGO application shall indicate whether the applicant for a residential dwelling unit allocation has satisfied and complied with all county, state and federal requirements otherwise imposed by ~~Monroe County~~ City regarding conditions precedent to issuance of a building permit and shall require that the applicant certify to such compliance.

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(d) *Non-~~County~~ City time periods:* The ~~County~~ City shall develop necessary administrative procedures and, if necessary, enter into agreements with other jurisdictional entities which impose requirements as a condition precedent to development in the ~~County~~ City, to ensure that such non-~~County~~ City approvals, certification and/or permits are not lost due to the increased time requirements necessary for the ~~County~~ City to process and evaluate residential dwelling unit applications and issue allocation awards. The ~~County~~ City may permit evidence of compliance with the requirements of other jurisdictional entities to be demonstrated by “coordinating letters” in lieu of approvals or permits.

(e) *Limitation on number of applications:*

~~(1) An individual entity or organization may submit only one (1) allocation application per parcel in each quarterly allocation period.~~

~~(2) There shall be no limit on the number of separate parcels for which allocation applications may be submitted by an individual, entity or organization.~~

~~(3) A ROGO application for a given parcel shall not be for more dwelling units than are permitted by the applicable zoning, land use regulations or the comprehensive plan. unless the allocation includes an application for a zoning, land use or comprehensive plan amendment and city staff has granted preliminary or conditional approval to the proposed amendment.~~

**Section 4. Amendment to Section 9.5-127 of the Code.** Section 9.5-127 of the Code of the City of Marathon, Florida is hereby amended to read as follows:

**Sec. 9.5- 127. Residential Dwelling Unit Allocation Evaluation Criteria.**

(a) *Evaluation criteria table:* The point values established below are intended to be applied cumulatively except where specified otherwise:

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(6)(a) Affordable Housing. Points are intended to increase the supply of affordable housing.

+5                      Application proposes dwelling unit(s) which meet the definition of *affordable housing* in Article 3, Division 11, and restricts dwelling unit(s) for a period of at least twenty (20) years to households which:

- Derive at least seventy (70) percent of their household income from gainful employment in Monroe County; and
- Earn an income no greater than one hundred twenty (120) percent of the median household income in Monroe County; and

~~for a period of at least twenty (20) years.~~

- The size of the unit does not exceed \_\_\_\_\_ square feet in size.

1. The following documents must accompany the application:

- An affidavit of ownership of all affected lots, parcels, acreage or land; and
- A legally binding restrictive covenant consistent with Sec. 9.5-266(a)(3) and (4).

Such documentation must be approved by the City Council or its designee board before any development approval may be issued pursuant to an award.

(6)(b). Middle Income Housing. Points are intended to increase the supply of reasonably priced housing.

+5 Application proposes dwelling unit(s) which is to be the residence of wage earners living within the City of Marathon, and restricts dwelling unit(s) for a period of at least twenty (20) years to households which:

- Derive at least seventy (70) percent of their household income from gainful employment in Monroe County; and
- Earn an income no greater than one hundred sixty (160) percent of the median household income in Monroe County; and

1. The following documents must accompany the application:

- An affidavit of ownership of all affected lots, parcels, acreage or land; and
- A legally binding restrictive covenant consistent with Sec. 9.5-266(a)(3) and (4).

**Section 5. Amendment to Section 9.5-266 of the Code.** Section 9.5-266 of the Code of

the City of Marathon, Florida is hereby amended to read as follows:

**Sec. 9.5-266. Affordable or Middle Income Housing; Employee Housing.**

(a) *Affordable or Middle Income Housing:*

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(3) Before any certificate of occupancy may be issued for any structure, portion, or phase of a project subject to this section, restrictive covenants(s), limiting the required number of dwelling units to households meeting the income criteria described in paragraph (4)(a) - (4)(b) of this subsection running in favor of ~~Monroe County~~ the City of Marathon and enforceable by the ~~county~~ City, shall be filed in the official records of Monroe County. The covenants(s) shall be effective for twenty (20) years but shall not commence running until a certificate of occupancy has been issued by the building official for the dwelling unit or units to which the covenant or covenants apply.

(4) In order for the owner of a parcel of land to be entitled to the incentives outlined in this section, and Division 3, Article IV, the owner must ensure that:

~~(a) The use of the dwelling unit is restricted to households that derive at least seventy~~

~~(70) percent of their household income from gainful employment in Monroe County;~~

~~(b) The parcel proposed for development is of sufficient area and dimensions to meet~~

~~bulk regulations set out in division 4 of this article (section 9.5-281, et. seq.); and~~

~~(c) The parcel proposed for development is of sufficient area and dimension to meet~~

~~the requirements of chapter 10D-6, Florida Administrative Code, for the installation of an on-site wastewater treatment system; and~~

~~(d) The parcel proposed for development is served by adequate public facilities in accordance with section 9.5-292; and~~

~~(e) The use of the dwelling is restricted for a period of at least twenty (20) years to households with an income no greater than one hundred twenty (120) percent of the median household income of Monroe County; and~~

~~(f) Those dwelling units which are allocated above and beyond the number of units allocated as a matter of right are allocated proportionately to low and moderate income households according to identified demand. For the purpose of this policy, low income households are those whose incomes are below eighty (80) percent of the median household income of Monroe County; and moderate income households are those whose incomes are between eighty (80) percent and one hundred twenty (120) percent of that median.~~

(a) The use or resale of the affordable or middle income housing dwelling unit is restricted to households that meet the adjusted gross annual income limits for the median-income as defined in subsection 9.5-4(A-5) and 9.5-4(M-11); and

(b) If the affordable or middle income dwelling unit is designated for employee housing or commercial apartments, the use of the dwelling is restricted to households that derive at least seventy (70) percent of their household income from gainful employment in Monroe County; and meet the adjusted gross annual income limits for median-income as defined in subsection 9.5-4(A-5) and 9.5-4(M-11); and

(c) The use of the affordable or middle income housing dwelling unit is restricted for

a period of a least twenty (20) years to households that meet the requirements of paragraph (4)(a) or (b); and

(5) The eligibility of a potential owner-occupier or renter of an affordable or middle income housing dwelling unit or an affordable housing or middle income dwelling unit designated as a commercial apartment or employee housing, shall be determined by the planning department as follows:

(a) At the time the potential owner either applies for affordable housing or middle income ROGO allocation, or applies to purchase a unit that utilized an affordable housing or dedicated ROGO allocation; or

(b) At the time the potential renter applies to occupy a residential unit that utilized an affordable or middle income housing ROGO allocation.

(6) The planning department shall:

(a) Review the lease agreement for an affordable or middle income housing unit on an annual basis to ensure that the rent for the unit does not exceed the affordable rent standard for the unit pursuant to subsection 9.5-4(A-5) or 9.5-4 (M-11); and

(b) Review the lease agreement and letter of employment or occupational license of an occupant of a commercial apartment or employee housing on an annual basis to ensure that the occupant is gainfully employed in Monroe County; and

(c) Review annual verification statement from business certifying that employee housing is occupied by employees meeting income criteria in subsection 9.5-266(a)(4)(b) or section 9.5-4(M-11). The planning department will review the lease agreement for the unit on an annual basis to ensure that the rent for the unit does not exceed the affordable rent standard for the unit pursuant to sections 9.5-4(A-5), 9.5-



4(M-11) and 9.5-266.

(b) Employee Housing: Any person undertaking the development of multifamily dwellings, hotels, motels, or other structures to be devoted to commercial or office use, destination resorts or structures devoted to industrial use in any district except Suburban Residential (Limited), Mainland Native, Conservation, and Improved Subdivision shall provide for employee housing in the manner set forth in detail in the form of specific amendments to these land development regulations as adopted by the City Council. Affordable housing projects are exempt from this requirement.

**Section 6. Severability.** The provisions of this Ordinance are declared to be severable. If any section, subsection, sentence, clause, or phrase of this Ordinance shall be for any reason held invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses, or phrases of this Ordinance, but they shall remain in effect, being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 7. Inclusion in the Code.** It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and be made part of the City of Marathon Code of Ordinances; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word “Ordinance” may be changed to “section” or such other appropriate word.

**Section 8. Conflict.** All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of said conflict.

**Section 9. Approval by the State Department of Community Affairs.** 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 Community Affairs for approval pursuant to Sections 380.05(6) and (11), Florida Statutes.

**Section 10. Filing and Effective Date.** This Ordinance shall be effective upon approval by the State Department of Community Affairs, pursuant to Chapter 380, *Florida Statutes*.

The foregoing Ordinance was offered by Councilman Greenman, who moved for its adoption. This motion was seconded by Councilman Worthington, and upon being put to a vote, the vote was as follows:

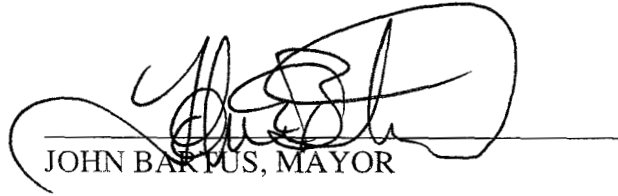
Mayor John Bartus	<u>Yes</u>
Vice Mayor Randy Mearns	<u>Yes</u>
Councilman Frank Greenman	<u>Yes</u>
Councilman John Repetto	<u>Yes</u>
Councilman Pete Worthington	<u>Yes</u>

PASSED on first reading this 13<sup>th</sup> day of November, 2002.

The foregoing Ordinance was offered by Councilman Greenman, who moved for its adoption. This motion was seconded by Councilman Bartus, and upon being put to a vote, the vote was as follows:


Mayor John Bartus	<u>Yes</u>
Vice Mayor Randy Mearns	<u>Yes</u>
Councilman Frank Greenman	<u>Yes</u>
Councilman John Repetto	<u>Yes</u>
Councilman Pete Worthington	<u>Yes</u>

PASSED AND ADOPTED on second reading this 11th day of December, 2002.




JOHN BARTUS, MAYOR

ATTEST:



CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY:

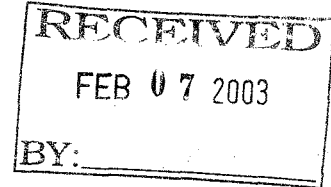


CITY ATTORNEY

592023/Ordinances/ROGO Revisions – Affordable Housing – 2<sup>nd</sup> Reading

DCA Final Order No.: DCA03-OR-039

STATE OF FLORIDA  
DEPARTMENT OF COMMUNITY AFFAIRS



In re: CITY OF MARATHON LAND DEVELOPMENT  
REGULATIONS ADOPTED BY  
CITY OF MARATHON ORDINANCE NO. 03-12-02

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**FINAL ORDER**

The Department of Community Affairs (the "Department") hereby issues its Final Order, pursuant to §§ 380.05(6) and (11), *Fla. Stat.*, and § 380.0552(9), *Fla. Stat.* (2002), approving a land development regulation adopted by a local government within the Florida Keys Area of Critical State Concern as set forth below.

**FINDINGS OF FACT**

1. The Florida Keys Area is a statutorily designated area of critical state concern, and the City of Marathon is a local government within the Florida Keys Area.
2. On December 17, 2002, the Department received for review City of Marathon Ordinance No. 03-12-02 which was adopted by the City of Marathon City Council on December 11, 2002 ("Ord. 03-12-02").
3. Ord. 03-12-02 amends the Section 9.5-4 **Definitions**, Section 9.5-124 **Residential Dwelling Unit Allocation Procedures**, Section 9.5-127 **Residential Dwelling Unit Allocation Evaluation Criteria**, and Section 9.5-266 **Affordable Housing; Employee Housing** of the City's Land Development Regulations to establish a category for middle income housing that will provide more latitude for the City of Marathon to grant a portion of the annual growth allocation for this special class of income.
4. Ord. 03-12-02 is consistent with the City's 2010 Comprehensive Plan.

**CONCLUSIONS OF LAW**

5. The Department is required to approve or reject land development regulations that are

enacted, amended or rescinded by any local government in the Florida Keys Area of Critical State Concern. §§ 380.05(6) and (11), *Fla. Stat.*, and § 380.0552(9), *Fla. Stat.* (2002).

6. The City of Marathon is a local government within the Florida Keys Area of Critical State Concern. § 380.0552, *Fla. Stat.* (2002) and Rule 28-29.002 (superseding Chapter 27F-8), *Fla. Admin. Code*.

7. "Land development regulations" include local zoning, subdivision, building and other regulations controlling the development of land. § 380.031(8), *Fla. Stat.* (2002). The regulations adopted by Ord. 03-12-02 are land development regulations.

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 (the "Principles") set forth in § 380.0552(7), *Fla. Stat.* See *Rathkamp v. Department of Community Affairs*, 21 F.A.L.R. 1902 (Dec. 4, 1998), *aff'd*, 740 So. 2d 1209 (Fla. 3d DCA 1999). The Principles are construed as a whole and no specific provision is construed or applied in isolation from the other provisions.

9. Ord. 03-12-02 promotes and furthers the following Principles:

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

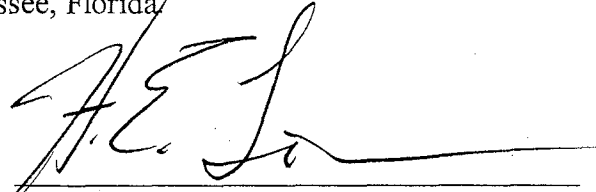
(j) To make available adequate affordable housing for all sectors of the population of the Florida Keys.

10. Ord. 03-12-02 is not inconsistent with the remaining Principles. Ord. 03-12-02 is consistent with the Principles for Guiding Development as a whole.

WHEREFORE, IT IS ORDERED that Ord. 03-12-02 is found to be consistent with the Principles for Guiding Development of the Florida Keys Area of Critical State Concern, and is hereby APPROVED.

This Order becomes effective 21 days after publication in the Florida Administrative Weekly unless a petition is filed as described below.

DONE AND ORDERED in Tallahassee, Florida



H.E. "SONNY" TIMMERMAN, DIRECTOR  
Division of Community Planning  
Department of Community Affairs  
2555 Shumard Oak Boulevard  
Tallahassee, Florida 32399-2100

**NOTICE OF ADMINISTRATIVE RIGHTS**

ANY PERSON WHOSE SUBSTANTIAL INTERESTS ARE AFFECTED BY THIS ORDER HAS THE OPPORTUNITY FOR AN ADMINISTRATIVE PROCEEDING PURSUANT TO SECTION 120.569, FLORIDA STATUTES, REGARDING THE AGENCY'S ACTION. DEPENDING UPON WHETHER YOU ALLEGE ANY DISPUTED ISSUE OF MATERIAL FACT IN YOUR PETITION REQUESTING AN ADMINISTRATIVE PROCEEDING, YOU ARE ENTITLED TO EITHER AN INFORMAL PROCEEDING OR A FORMAL HEARING.

IF YOUR PETITION FOR HEARING DOES NOT ALLEGE ANY DISPUTED ISSUE OF MATERIAL FACT CONTAINED IN THE DEPARTMENT'S ACTION, THEN THE ADMINISTRATIVE PROCEEDING WILL BE AN INFORMAL ONE, CONDUCTED PURSUANT TO SECTIONS 120.569 AND 120.57(2) FLORIDA STATUTES, AND CHAPTER 28-106, PARTS I AND III, FLORIDA ADMINISTRATIVE CODE. IN AN INFORMAL ADMINISTRATIVE PROCEEDING, YOU MAY BE REPRESENTED BY COUNSEL OR BY A QUALIFIED REPRESENTATIVE, AND YOU MAY PRESENT WRITTEN OR ORAL EVIDENCE IN OPPOSITION TO THE DEPARTMENT'S ACTION OR REFUSAL TO ACT; OR YOU MAY EXERCISE THE OPTION TO PRESENT A WRITTEN STATEMENT CHALLENGING THE GROUNDS UPON WHICH THE DEPARTMENT HAS CHOSEN TO JUSTIFY ITS ACTION OR INACTION.

IF YOU DISPUTE ANY ISSUE OF MATERIAL FACT STATED IN THE AGENCY ACTION, THEN YOU MAY FILE A PETITION REQUESTING A FORMAL ADMINISTRATIVE HEARING BEFORE AN ADMINISTRATIVE LAW JUDGE OF THE

DIVISION OF ADMINISTRATIVE HEARINGS, PURSUANT TO SECTIONS 120.569 AND 120.57(1), FLORIDA STATUTES, AND CHAPTER 28-106, PARTS I AND II, FLORIDA ADMINISTRATIVE CODE. AT A FORMAL ADMINISTRATIVE HEARING, YOU MAY BE REPRESENTED BY COUNSEL OR OTHER QUALIFIED REPRESENTATIVE, AND YOU WILL HAVE THE OPPORTUNITY TO PRESENT EVIDENCE AND ARGUMENT ON ALL THE ISSUES INVOLVED, TO CONDUCT CROSS-EXAMINATION AND SUBMIT REBUTTAL EVIDENCE, TO SUBMIT PROPOSED FINDINGS OF FACT AND ORDERS, AND TO FILE EXCEPTIONS TO ANY RECOMMENDED ORDER.

IF YOU DESIRE EITHER AN INFORMAL PROCEEDING OR A FORMAL HEARING, YOU MUST FILE WITH THE AGENCY CLERK OF THE DEPARTMENT OF COMMUNITY AFFAIRS A WRITTEN PLEADING ENTITLED, "PETITION FOR ADMINISTRATIVE PROCEEDINGS" WITHIN 21 CALENDAR DAYS OF PUBLICATION OF THIS NOTICE. A PETITION IS FILED WHEN IT IS RECEIVED BY THE AGENCY CLERK, IN THE DEPARTMENT'S OFFICE OF GENERAL COUNSEL, 2555 SHUMARD OAK BOULEVARD, TALLAHASSEE, FLORIDA 32399-2100.

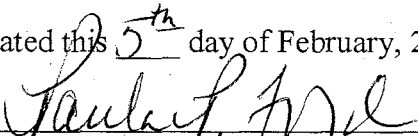
THE PETITION MUST MEET THE FILING REQUIREMENTS IN RULE 28-106.104(2), FLORIDA ADMINISTRATIVE CODE. IF AN INFORMAL PROCEEDING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH RULE 28-106.301, FLORIDA ADMINISTRATIVE CODE. IF A FORMAL HEARING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH RULE 28-106.201(2), FLORIDA ADMINISTRATIVE CODE.

A PERSON WHO HAS FILED A PETITION MAY REQUEST MEDIATION. A REQUEST FOR MEDIATION MUST INCLUDE THE INFORMATION REQUIRED BY RULE 28-106.402, FLORIDA ADMINISTRATIVE CODE. CHOOSING MEDIATION DOES NOT AFFECT THE RIGHT TO AN ADMINISTRATIVE HEARING.

**YOU WAIVE THE RIGHT TO AN INFORMAL ADMINISTRATIVE PROCEEDING OR A FORMAL HEARING IF YOU DO NOT FILE A PETITION WITH THE AGENCY CLERK WITHIN 21 DAYS OF PUBLICATION OF THIS FINAL ORDER.**

**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 persons listed below by the method indicated this 5<sup>th</sup> day of February, 2003.

  
\_\_\_\_\_  
Paula Ford, Agency Clerk

By U.S. Mail:

Honorable John Bartus, Mayor  
City of Marathon  
10054-55 Overseas Highway  
Marathon, Florida 33050

Katherine V. Selchan, City Clerk  
City of Marathon  
210 University Drive  
Coral Springs, Florida 33071

Scott Janke  
City Manager  
City of Marathon  
10054-55 Overseas Highway  
Marathon, Florida 33050

John R. Herin, Jr.  
Weiss, Serota, Helfman, Pastoriza and Guedes, P.A.  
City Attorneys  
City of Marathon  
2665 South Bayshore Drive, Suite 420  
Miami, Florida 33133

By Hand Delivery or Interagency Mail:

Jim Quinn, DCA Tallahassee  
Rebecca Jetton, DCA Florida Keys Field Office  
Richard A. Lotspeich, Assistant General Counsel, DCA Tallahassee



**DCA Final Order No.: DCA03-OR-039**

**STATE OF FLORIDA  
DEPARTMENT OF COMMUNITY AFFAIRS**

In re: CITY OF MARATHON LAND DEVELOPMENT  
REGULATIONS ADOPTED BY  
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**FINAL ORDER**

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**FINDINGS OF FACT**

1. The Florida Keys Area is a statutorily designated area of critical state concern, and the City of Marathon is a local government within the Florida Keys Area.
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4. Ord. 03-12-02 is consistent with the City's 2010 Comprehensive Plan.

**CONCLUSIONS OF LAW**

5. The Department is required to approve or reject land development regulations that are

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9. Ord. 03-12-02 promotes and furthers the following Principles:

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

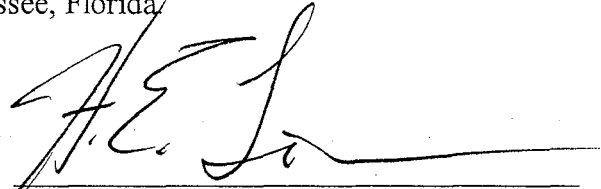
(j) To make available adequate affordable housing for all sectors of the population of the Florida Keys.

10. Ord. 03-12-02 is not inconsistent with the remaining Principles. Ord. 03-12-02 is consistent with the Principles for Guiding Development as a whole.

WHEREFORE, IT IS ORDERED that Ord. 03-12-02 is found to be consistent with the Principles for Guiding Development of the Florida Keys Area of Critical State Concern, and is hereby APPROVED.

This Order becomes effective 21 days after publication in the Florida Administrative Weekly unless a petition is filed as described below.

DONE AND ORDERED in Tallahassee, Florida



H.E. "SONNY" TIMMERMAN, DIRECTOR  
Division of Community Planning  
Department of Community Affairs  
2555 Shumard Oak Boulevard  
Tallahassee, Florida 32399-2100

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IF YOU DISPUTE ANY ISSUE OF MATERIAL FACT STATED IN THE AGENCY ACTION, THEN YOU MAY FILE A PETITION REQUESTING A FORMAL ADMINISTRATIVE HEARING BEFORE AN ADMINISTRATIVE LAW JUDGE OF THE

DIVISION OF ADMINISTRATIVE HEARINGS, PURSUANT TO SECTIONS 120.569 AND 120.57(1), FLORIDA STATUTES, AND CHAPTER 28-106, PARTS I AND II, FLORIDA ADMINISTRATIVE CODE. AT A FORMAL ADMINISTRATIVE HEARING, YOU MAY BE REPRESENTED BY COUNSEL OR OTHER QUALIFIED REPRESENTATIVE, AND YOU WILL HAVE THE OPPORTUNITY TO PRESENT EVIDENCE AND ARGUMENT ON ALL THE ISSUES INVOLVED, TO CONDUCT CROSS-EXAMINATION AND SUBMIT REBUTTAL EVIDENCE, TO SUBMIT PROPOSED FINDINGS OF FACT AND ORDERS, AND TO FILE EXCEPTIONS TO ANY RECOMMENDED ORDER.

IF YOU DESIRE EITHER AN INFORMAL PROCEEDING OR A FORMAL HEARING, YOU MUST FILE WITH THE AGENCY CLERK OF THE DEPARTMENT OF COMMUNITY AFFAIRS A WRITTEN PLEADING ENTITLED, "PETITION FOR ADMINISTRATIVE PROCEEDINGS" WITHIN 21 CALENDAR DAYS OF PUBLICATION OF THIS NOTICE. A PETITION IS FILED WHEN IT IS RECEIVED BY THE AGENCY CLERK, IN THE DEPARTMENT'S OFFICE OF GENERAL COUNSEL, 2555 SHUMARD OAK BOULEVARD, TALLAHASSEE, FLORIDA 32399-2100.

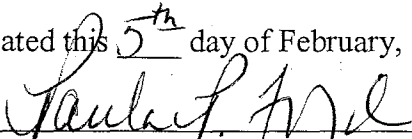
THE PETITION MUST MEET THE FILING REQUIREMENTS IN RULE 28-106.104(2), FLORIDA ADMINISTRATIVE CODE. IF AN INFORMAL PROCEEDING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH RULE 28-106.301, FLORIDA ADMINISTRATIVE CODE. IF A FORMAL HEARING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH RULE 28-106.201(2), FLORIDA ADMINISTRATIVE CODE.

A PERSON WHO HAS FILED A PETITION MAY REQUEST MEDIATION. A REQUEST FOR MEDIATION MUST INCLUDE THE INFORMATION REQUIRED BY RULE 28-106.402, FLORIDA ADMINISTRATIVE CODE. CHOOSING MEDIATION DOES NOT AFFECT THE RIGHT TO AN ADMINISTRATIVE HEARING.

**YOU WAIVE THE RIGHT TO AN INFORMAL ADMINISTRATIVE PROCEEDING OR A FORMAL HEARING IF YOU DO NOT FILE A PETITION WITH THE AGENCY CLERK WITHIN 21 DAYS OF PUBLICATION OF THIS FINAL ORDER.**

**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 persons listed below by the method indicated this 5<sup>th</sup> day of February, 2003.

  
\_\_\_\_\_  
Paula Ford, Agency Clerk

By U.S. Mail:

Honorable John Bartus, Mayor  
City of Marathon  
10054-55 Overseas Highway  
Marathon, Florida 33050

Katherine V. Selchan, City Clerk  
City of Marathon  
210 University Drive  
Coral Springs, Florida 33071

Scott Janke  
City Manager  
City of Marathon  
10054-55 Overseas Highway  
Marathon, Florida 33050

John R. Herin, Jr.  
Weiss, Serota, Helfman, Pastoriza and Guedes, P.A.  
City Attorneys  
City of Marathon  
2665 South Bayshore Drive, Suite 420  
Miami, Florida 33133

By Hand Delivery or Interagency Mail:

Jim Quinn, DCA Tallahassee  
Rebecca Jetton, DCA Florida Keys Field Office  
Richard A. Lotspeich, Assistant General Counsel, DCA Tallahassee



John Bartus  
Mayor

Randy Mearns  
Vice Mayor

Franklin D. Greenman  
Councilman

John Repetto  
Councilman

Pete Worthington  
Councilman

Craig Wrathell,  
Moyer, Ward, Wrathell  
& Associates  
City Manager

Nina L. Boniske  
John R. Herin, Jr.,  
Weiss Serota Helfman  
Pastoriza & Guedes, P.A.  
City Attorneys

December 17, 2002

**Transmitted via Certified Mail**  
**No. 7001 2510 0001 0603 4590**

Department of Community Affairs  
2796 Overseas Highway, #212  
Marathon, Florida 33050

Attention: Ms. Rebecca Jetton  
Planning Manager

Subject: **City of Marathon – Monroe County, Florida  
Ordinance No. 03-12-02**

Dear Ms. Jetton:

On behalf of the City of Marathon, I am pleased to provide you with a certified copy of the following Ordinance adopted by the City Council of the City of Marathon at their meeting held on December 11, 2002 concerning affordable and employee housing. This Ordinance shall be effective upon approval by the State Department of Community Affairs, pursuant to Chapter 380, Florida Statutes:

**ORDINANCE NO. 03-12-02**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING THE RESIDENTIAL RATE OF GROWTH REGULATIONS SET FORTH AT SECTION 9.5-124, SECTION 9.5-127, AND SECTION 9.5-266 OF THE CITY CODE CONCERNING AFFORDABLE AND EMPLOYEE HOUSING, PROVIDING FOR SEVERABILITY, THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE, FOR INCLUSION IN THE CODE, FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF COMMUNITY AFFAIRS, AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF COMMUNITY AFFAIRS IN ACCORDANCE WITH STATE LAW.

If I can be of any further assistance in this matter, please do not hesitate to contact me directly.

Sincerely,

Katherine V. Selchan  
City Clerk  
City of Marathon

:ks

Enclosures

c: Mr. John R. Herin, Jr., City Attorney  
Weiss, Serota, Helfman, Pastoriza & Guedes, P.A.  
2665 South Bayshore Drive, Suite 420  
Miami, Florida 33133

Ms. Sandra Lee  
Calvin, Giordano & Associates, Inc.  
1800 Eller Drive, Suite 600  
Fort Lauderdale, Florida 33316

PLEASE REPLY TO:

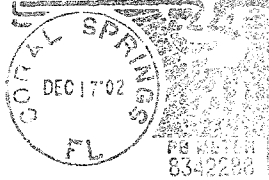
10045-55 Overseas Highway ■ Marathon, Florida 33050 ■ Phone: 305-743-0033 ■ Fax: 305-743-3667  
 210 N. University Drive, Suite 702 ■ Coral Springs, Florida 33071 ■ Phone: 954-753-5841 ■ Fax: 954-345-1292

**U.S. Postal Service**  
**CERTIFIED MAIL RECEIPT**  
*(Domestic Mail Only; No Insurance Coverage Provided)*

0654 E09D T000 0T52 T001

OFFICIAL

Postage	\$ .83
Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	1.75
Restricted Delivery Fee (Endorsement Required)	
<b>Total Postage &amp; Fees</b>	<b>\$ 4.88</b>



Sent To: *Rebecca Jetton @ DCA*  
 Street, Apt. No.;  
 or PO Box No. *2796 Overseas Hwy, #212*  
 City, State, ZIP+4: *Marathon, FL 33050*

PS Form 3800, January 2001 See Reverse for Instructions

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Ms. Rebecca Jetton, Planning Manager  
 Department of Community Affairs  
 2796 Overseas Highway, #212  
 Marathon, FL 33050

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  
 Addressee  
*x Chris Garr*  
 B. Received by (Printed Name) *Chris Garr*  
 C. Date of Delivery *12-19-02*  
 D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

I. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.  
 4. Restricted Delivery? (Extra Fee)  Yes

2. Article Number (Transfer from service label) **7001 2510 0001 0603 4590**