

Sponsored by: Miller
Planning Commission Introduction Date: April 19, 2004
Planning Commission Public Hearing Dates: May 17, 2004
City Council Public Hearing Dates: June 8, 2004
June 22, 2004
Enactment Date: June 22, 2004

**CITY OF MARATHON, FLORIDA
ORDINANCE 2004-11**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA AMENDING SECTION 9.5-11(R-17) (DEFINITION OF "ROOM, HOTEL OR MOTEL") OF THE CODE TO PROVIDE THAT A HOTEL OR MOTEL ROOM MAY INCLUDE A ROOM OR SUITE OF ROOMS WITH A MAXIMUM OF THREE (3) BEDROOMS AND TWO AND ONE-HALF (2.5) BATHROOMS, LIMITING THE SIZE OF A HOTEL OR MOTEL ROOM; AMENDING SECTION 9.5-231 ("GENERAL") OF DIVISION 2 ("PERMITTED USES") OF ARTICLE VII ("LAND USE DISTRICTS") TO PROHIBIT THE USE OF A HOTEL OR MOTEL ROOM AS A PERMANENT RESIDENCE AND THAT A PERSON IS NOT ENTITLED TO CLAIM A HOMESTEAD EXEMPTION FOR A HOTEL OR MOTEL ROOM; AMENDING SECTION 9.5-232 ["URBAN COMMERCIAL (UC)"] LAND USE DISTRICT (ZONING) REGULATIONS; SECTION 9.5-233 ["URBAN RESIDENTIAL (UR)"] LAND USE DISTRICT (ZONING) REGULATIONS; AMENDING SECTION 9.5-235 [SUBURBAN COMMERCIAL (SC)] LAND USE DISTRICT (ZONING) REGULATIONS; SECTION 9.5-236 ["SUBURBAN RESIDENTIAL (SR)"] LAND USE DISTRICT (ZONING) REGULATIONS; SECTION 9.5-241 ["OFFSHORE ISLAND (OS)"] LAND USE DISTRICT (ZONING) REGULATIONS; SECTION 9.5-243 [DESTINATION RESORT (DR)] LAND USE DISTRICT (ZONING) REGULATIONS; SECTION 9.5-244 ["RECREATIONAL VEHICLE (RV)"] LAND USE DISTRICT (ZONING) REGULATIONS; SECTION 9.5-248 ["MIXED USE (MU)"] LAND USE DISTRICT (ZONING) REGULATIONS; SECTION 9.5-250 [MARITIME INDUSTRIES (MI)] LAND USE DISTRICT (ZONING) REGULATIONS; AND SECTION 9.5-253 ["PARKS AND REFUGE (PR)"] LAND USE DISTRICT (ZONING) ESTABLISHING A MANDATORY HURRICANE EVACUATION REQUIREMENT FOR ALL TRANSIENT UNITS LOCATED IN SAID LAND USE DISTRICTS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CITY CODE; PROVIDING FOR TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF COMMUNITY AFFAIRS; PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of Marathon desires to encourage development and redevelopment of hotels and motels in the City to attract tourism, enhance the economy of the City for the benefit of its residents, improve the good appearance of the City, and encourage other redevelopment efforts for the economic growth, prosperity and welfare of the residents of the City of Marathon; and

WHEREAS, in the past number of years, the City of Marathon has not benefited from the economic success of other locales in the Lower and Upper Keys, and is in need of redevelopment and enhancement of its tourist economic base to assist in the City's economic recovery, growth, and continued vitality; and

WHEREAS, the City of Marathon has an abundance of coastline, with beautiful blue water on both the Atlantic Ocean and the Gulf of Mexico, that offers the attractions of swimming, boating, and fishing that families enjoy; and

WHEREAS, the trend in the leisure and hospitality industry is for larger hotel and motel rooms or suites to accommodate families for longer stays; and

WHEREAS, the City Council concludes that the best direction for redevelopment and enhancement of the City's tourist base is as a family attraction area; and

WHEREAS, to attract family visitors, accommodations must be available that meet the special needs of families and offer affordable vacation options; and

WHEREAS, the special needs of families that would provide for their comfort and encourage longer visits include separate sleeping areas for children and adults, living space for games and other family pursuits, and the ability to prepare meals and dine in, to enable families to vacation for long periods of time; and

WHEREAS, the current definition of hotel and motel room in the City Code is too restrictive to allow renovations of hotels and motels that would meet the current trends in the leisure and hospitality industry and provide suitable accommodations to attract families to the City for longer stays; and

WHEREAS, it is in the City's best interests to create flexible regulations and a business environment that allow hotel and motel owners and developers to meet current trends in the leisure and hospitality industry when developing or redeveloping hotel and motel properties in the City while, at the same time, limiting the size of hotel and motel rooms to discourage their conversion to permanent residences, and including in the City Code a prohibition against their use as permanent residences; and

WHEREAS, providing such flexibility in the City's regulations for hotel and motel owners and developers will attract families for longer stays, will provide an economic boost to other businesses in the City that are dependent, in whole or in part, on the tourist trade, including retail shops, specialty and souvenir shops, restaurants, charter and dive boats, bait and tackle shops, and the many other businesses in the City that serve the needs of visitors, and will enhance the City's tourist industry and economy; and

WHEREAS, the City Planning Commission, sitting in its capacity as the Local Planning Agency, has reviewed this Ordinance in accordance with the requirements of Chapter 163, Florida Statutes, and Chapter 9.5 of the City Code; and

WHEREAS, the City Council finds that enactment of this Ordinance will protect the public health, safety and welfare of the residents of the City of Marathon, and further the purposes, goals, objectives and policies of the City's Transitional Comprehensive Plan and the Principles for Guiding Development for 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:

Section 1. That the foregoing recitals are true and are incorporated herein.

Section 2. That Section 9.5-4(R-17) of the Land Development Regulations is amended to read as follows:¹

Sec. 9.5-4. Definitions.

(R-17) *Room, hotel or motel*, means a unit in a public lodging establishment as defined by Florida Statutes section 509.013(4)(a) intended for transient lodging only for periods not exceeding thirty (30) days. Transient occupancy shall conform to the definition contained in Florida Statutes section 509.013(8) as to transient occupancy. For the purposes of density restriction under this chapter:

- (a) Hotel or motel room may be a single room or a suite and may include a kitchenette but no more than ~~one~~ two and one-half (+ 2-1/2) bathrooms and ~~one~~ three (~~1-3~~) bedrooms and one (1) other living area not to exceed an average unit size of 1500 square feet of interior heated and cooled space of the units located on the site;
- (b) All entrances to a hotel or motel room shall share the same key or means of controlling access so that the hotel or motel room as defined herein is not divisible into separately rentable units; and
- (c) ~~Suites containing more than one (1) bedroom and one and one half (1 1/2) baths may be constructed; however, each bedroom/bath combination shall be considered a hotel/motel unit.~~ Maximum net densities shall not be exceeded on site; however, existing hotel units, which exceed allocated densities, may achieve the ability to redevelop existing density without the requirement to obtain transferable development rights.

^{1/} Provisions added to existing text are shown by underline; provisions deleted from existing text are shown by ~~strikethrough~~.

Section 3. That Section 9.5-232 of the Land Development Regulations is amended to read as follows:

Section 9.5-232 Urban Commercial District.

(b) The following uses are permitted as minor conditional uses in the Urban Commercial District, subject to the standards and procedures set forth in article III, division 3:

(5) Hotels of fewer than fifty (50) rooms, provided that:

d. Compliance with all mandatory hurricane evacuation requirements set forth by the City for transient uses.

Section 4. That Section 9.5-233 of the Land Development Regulations is amended to read as follows:

Section 9.5-233 Urban Residential District.

(c) The following uses are permitted as major conditional uses in the Urban Residential District, subject to the standards and procedures set forth in article III, division 3:

(2) Time-share estates, including uses accessory thereto, provided that:

h. Compliance with all mandatory hurricane evacuation requirements set forth by the City for transient uses.

Section 5. That Section 9.5-235 of the Land Development Regulations is amended to read as follows:

Section 9.5-235 Suburban Commercial District.

- (b) The following uses are permitted as minor conditional uses in the Sub Urban Commercial District subject to the standards and procedures set forth in article III, division 3:

- (5) Hotels of fewer than twenty-five (25) rooms, provided that:

- c. Compliance with all mandatory hurricane evacuation requirements set forth by the City for transient uses.

- (c) The following uses are permitted as major conditional uses in the Sub Urban Commercial District subject to the standards and procedures set forth in article III, division 3:

- (4) Hotels providing twenty-five (25) rooms or more, provided that:

- c. Compliance with all mandatory hurricane evacuation requirements set forth by the City for transient uses.

Section 6. That Section 9.5-236 of the Land Development Regulations is amended to read as follows:

Section 9.5-236 Suburban Residential District.

- (c) The following uses are permitted as major conditional uses in the Sub Urban Residential District, subject to the standards and procedures set forth in article III, division 3:

- (6) Hotels of fewer than twelve (12) rooms provided that:

- e. Compliance with all mandatory hurricane evacuation requirements set forth by the City for transient uses.

Section 7. That Section 9.5-241 of the Land Development Regulations is amended to read as follows:

Section 9.5-241 Offshore Island District.

- (a) The following uses are permitted as of right in the Offshore Island District:

- (6) Tourist housing uses, including vacation rental uses, which were established (and held valid state public lodging establishment licenses) prior to January 1, 1996: provided that:

- a. Compliance with all mandatory hurricane evacuation requirements set forth by the City for transient uses.

Section 8. That Section 9.5-243 of the Land Development Regulations is amended to read as follows:

Section 9.5-243 Destination Resort District

- (b) The following uses are permitted as minor conditional uses in the Destination Resort District, subject to the standards and procedures set forth in article III, division 3:

- (1) One (1) or more resort hotels provided that:

- r. Compliance with all mandatory hurricane evacuation requirements set forth by the City for transient uses.

Section 9. That Section 9.5-243 of the Land Development Regulations is amended to read as follows:

Section 9.5-244 Recreational Vehicle District

(b) The following uses are permitted as minor conditional uses in the Destination Resort District, subject to the standards and procedures set forth in article III, division 3:

(1) Hotels providing less than fifty (50) rooms or more, provided that:

c. Compliance with all mandatory hurricane evacuation requirements set forth by the City for transient uses.

Section 10. That Section 9.5-248 of the Land Development Regulations is amended to read as follows:

Section 9.5-248 Mixed Use District

(b) The following uses are permitted as minor conditional uses in the Destination Resort District, subject to the standards and procedures set forth in article III, division 3:

(7) Hotels providing less than fifty (50) rooms provided that:

c. Compliance with all mandatory hurricane evacuation requirements set forth by the City for transient uses.

(c) The following uses are permitted as major conditional uses in the Destination Resort District, subject to the standards and procedures set forth in article III, division 3:

(5) Hotels providing fifty (50) rooms or more provided that:

- d. Compliance with all mandatory hurricane evacuation requirements set forth by the City for transient uses.

Section 11. That Section 9.5-250 of the Land Development Regulations is amended to read as follows:

Section 9.5-250 Maritime Industries District.

- (b) The following uses are permitted as minor conditional uses in the Destination Resort District, subject to the standards and procedures set forth in article III, division 3:

- (2) Hotels providing less than fifty (50) rooms provided that:

- c. Compliance with all mandatory hurricane evacuation requirements set forth by the City for transient uses.

- (c) The following uses are permitted as major conditional uses in the Destination Resort District, subject to the standards and procedures set forth in article III, division 3:

- (1) Hotels providing fifty (50) rooms or more provided that:

- c. Compliance with all mandatory hurricane evacuation requirements set forth by the City for transient uses.

Section 12. That Section 9.5-253 of the Land Development Regulations is amended to read as follows:

Section 9.5-253 Parks and Refuge District.

- (b) The following uses are permitted as minor conditional uses in the Destination Resort District, subject to the standards and procedures set forth in article III, division 3:

- (2) Hotels of fewer than twelve (12) rooms provided that:

- e. Compliance with all mandatory hurricane evacuation requirements set forth by the City for transient uses.

Section 13. 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 14. The provisions of the City Code and all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.


Section 15. It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of Marathon, Florida, that the sections of the Ordinance may be renumbered or re-lettered to accomplish to such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 16. The provisions of this Ordinance constitute a "land development regulation" as State law defines that term. Accordingly, the City Clerk is authorized 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 17. This Ordinance shall be effective immediately upon approval by the State Department of Community Affairs pursuant to Chapter 380, Florida Statutes.

ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, this 22nd day of June, 2004.

THE CITY OF MARATHON, FLORIDA



Jeffrey M. Pinkus, Mayor

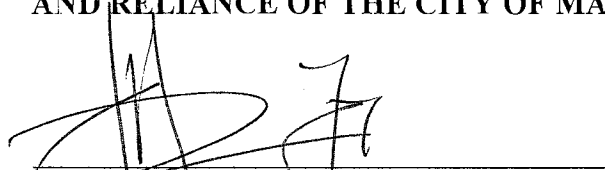
AYES: Bartus, Bull, Mearns, Miller, Pinkus
NOES: None
ABSENT: None
ABSTAIN: None

ATTEST:

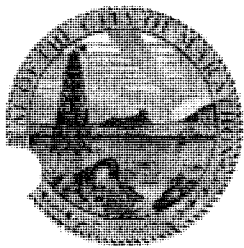


Cindy L. Ecklund
City Clerk

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



City Attorney



CITY OF MARATHON, FLORIDA

10045-55 Overseas Highway, Marathon, Florida 33050
Phone: (305) 743-0033 Fax: (305) 743-3667

26 August 2004

Valerie Hubbard, AICP,
Director of Community Planning
Department of Community Affairs
2555 Shumard Oaks Boulevard
Tallahassee, Florida 32399-2100

Subject: City of Marathon Ordinance 2004-011

Dear Ms. Hubbard:

The City of Marathon transmitted Ordinance 2004-011 amending the definition of a hotel/motel room in the city's Land Development Regulations (LDRs) for review by DCA. As you are aware this ordinance is currently under review by the Department and is nearing the end of the review period.

At this time, the City respectfully requests that the Department suspend its review of this ordinance until the City has the opportunity to formally rescind the existing ordinance and submit an amended hotel/motel room definition that addresses the concerns of the Department brought to the attention of the City.

Thank you in advance for your assistance in this matter.

Sincerely,

Gail Kenson, AICP
Planning Director

Cc: Mike Puto, Interim City Administrator
John Herin, City Attorney
Rebecca Jetton, Manager Florida Keys ASCS
Jim Rhyne, Marathon Hospitality Association

SENDER: COMPLETE THIS SECTION

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- 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:

Mr. Ray Eubanks, Community Program
Administrator
Division of Community Planning
Department of Community Planning
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100

2.

COMPLETE THIS SECTION ON DELIVERY

A. Signature

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Agent

Addressee

B. Received by (*Printed Name*)

C. Date of Delivery

Received

Delivery address different from item 1? Yes
If YES, enter delivery address below: No

JUL 1 2004

City Clerk

3. Service type

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C.O.D.

4. Restricted Delivery? (*Extra Fee*)

Yes

102595-02-M-1540