

Sponsored by: City Council
Introduction Date: November 19, 2007
Public Hearing Dates: November 27, 2007 and December 11, 2007
Enactment date: December 11, 2007

**CITY OF MARATHON, FLORIDA
ORDINANCE 2007-35**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING AND RESTATING TABLE 103.15.2 AND CHAPTER 104 OF THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF MARATHON CITY CODE; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF COMMUNITY AFFAIRS (“DEPARTMENT”) AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE DEPARTMENT IN ACCORDANCE WITH STATE LAW.

WHEREAS, the City Council of the City of Marathon, Florida (the "City") adopted Ordinance 2007-03 on February 13, 2007, which amended and restated the entire City’s Land Development Regulations (the “LDRs”) previously set forth in Chapters 9.5 and 19 of the Code; and

WHEREAS, the State Department of Community Affairs (“DCA”), pursuant to Final Order No. DCA07-OR-087, dated May 1, 2007, found Ordinance 2007-03 (with the exception of Sections 104.01, 106.27 and 106.38) to be consistent with the Principles for Guiding Development of the Florida Keys Area of Critical State Concern and thereby approved the ordinance. With respect to Sections 104.01, 106.27 and 106.38 of the LDRs, DCA rejected them as being inconsistent with the Principles for Guiding Development of the Florida Keys Area of Critical State Concern; and

WHEREAS, the City Council adopted Ordinance 2007-14 on July 10, 2007, which amended the LDRs to address the comments made by DCA and to address certain other issues that had arisen since their original adoption; and

WHEREAS, DCA, pursuant to Final Order No. DCA07-OR-251, dated October 26, 2007, found Ordinance 2007-14 (with the exception of Table 103.15.2, Section 104.01 Levels of Review of Uses (Group Homes) and Section 104.01 Levels of Review of Uses (Hotels or Motels)) to be consistent with the Principles for Guiding Development of the Florida Keys Area of Critical State Concern and thereby approved the ordinance. With respect to Table 103.15.2, Section 104.01 Levels of Review of Uses (Group Homes) and 104.01 Levels of Review of Uses (Hotels or Motels) of the LDRs, DCA rejected them as being inconsistent with the Principles for Guiding Development of the Florida Keys Area of Critical State Concern; and

WHEREAS, the City again wishes to amend the LDRs to address the comments made by DCA; 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 proposed revisions at a properly noticed public hearing and recommended to the City Council the adoption of the proposed revisions; 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 Areas of Critical State Concern.

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

Section 1. Table 103.15.2 of the Land Development Regulations of the City of Marathon, Florida is hereby amended and restated in its entirety to read as set forth in Exhibit A attached hereto.

Section 2. Section 104.01 Levels of Review of Uses (Group Homes) and Section 104.01 Levels of Review of Uses (Hotels or Motels) of the Land Development Regulations of the City of Marathon, Florida are hereby amended and restated in their entirety to read as set forth in Exhibit B attached hereto.

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

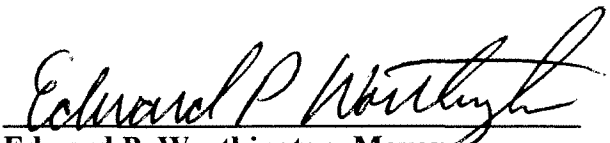
Section 5. It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of Marathon, Florida, that the sections of the Ordinance may be renumbered or re-lettered to accomplish to such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 6. 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 7. 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 11th day of December, 2007.


THE CITY OF MARATHON, FLORIDA



Edward P. Worthington, Mayor

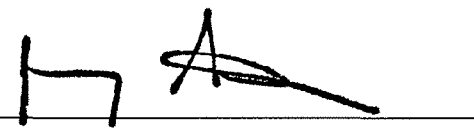
AYES: Tempest, Bull, Cinque, Vasil, Worthington
NOES: None
ABSENT: None
ABSTAIN: None

ATTEST:



Diane Clavier
City Clerk

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



City Attorney

Exhibit A

**Table 103.15.2
DENSITY, INTENSITY AND DIMENSIONS FOR ZONING DISTRICTS**

	A	C-NA	C-OI	I-G	I-M	MU	MU-M	P	PR	RH	R-MH	RM	RM-1	RM-2	RL	RL-C
Density Range (units per acre)		*	*			6-15	6-15		1/4ac	8-25	8-25	5-10	4	5	1	*
Market Rate (maximum)		.25	0.1			6	6			8	8	5	4	5	0.5	0.25
Affordable (maximum) ¹		N/A	N/A	5-10	5-10	15	15	10-25		15-25	25	10	4	5	0.5	N/A
Transient						5-25		3-25	10	0	0	0	0	0	0	0
Min lot area per unit (square feet)																
Market Rate		4 acres	10 acres			7,260	7,260		10,890	5,445	5,445	8,712	10,000	8,712	2 acre	4 acres
Affordable		4 acres	10 acres	2000	2000	2,904	2,904			1,742	1,742	4,356	10,000	8,712	2 acre	4 acres
FAR	0.15-0.50	0.05-0.10	0.05-0.10	0.85	0.85	0.15-0.6 ¹	0.15-0.6 ¹	0.15-0.75	0.15-0.50							N/A
Setbacks																
Front, min	200	25	25	10	10	0-30	20	15	15	10	10	20	20	20	25	25
Rear, min	200	25	25	10	10	20	20	10	10	10	10	20	20	20	25	25
Side 1, min		10	10			0-10	10			5	5	5	10	10	10	10
Interior Side Min	200			5	5	10		5	5				10	5		
Side 2, min		10	10			0-10	10			5	5	5	10	10	10	10
Street Side Min	200			5	5	0-5		5	5							
Height Limit³	37	37	37	37	37	37	37	37	37	37	37	37	37	37	37	37
Units Per Building***										10	N/A					

Max Lot Coverage **		5,000 ft ²	5%													
Open Space, Min. (%)**	0.20	0.50	0.95	0.20	0.20	0.20	0.20	0.20	0.20	.20	.20	.20	.20	.20	0.50	0.50
Minimum Street Frontage (Limited to Coco Plum Dr)													100'	100'		

Footnotes for Table 103.15.2

* determined by the Director, based upon Habitat Analysis

** Subject to Table 106.16.1” Open Space Requirements per Habitat Type”

*** Affordable dwelling units not subject to this limitation

**** Allocated densities for all zoning districts are subject to the following additional requirements:
Salt marsh/ buttonwood association wetlands that are either undisturbed or of high functional capacity as defined in Article 4, of Chapter 106 shall be assigned a density of 0.25 units per acre for the sole purpose of transferring the density out of these habitats.
Submerged lands, salt ponds and mangrove wetlands shall not be assigned density for any purpose (i.e., allocated density = 0).

¹The FAR for mixed use developments may be increased to .75 if mitigated by the development of affordable/workforce housing is provided

² Density bonus limited to deed-restricted affordable housing as established in Article 1, “Affordable Housing” of Chapter 104.

³ Subject to the additional height restrictions of Article 5, Chapter 107.

Exhibit B

Group Home

A community residential group home 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 one thousand (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 F.S. 419.001, and are clients of the governmental agencies enumerated in F.S. 419.001 and not by persons found by a court to have committed a delinquent act.
- 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 F. S. 419.001, homes with six 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 fourteen (14) residents shall require a conditional use approval. **A dwelling unit allocation shall be obtained pursuant to Chapter 107, Article 1 “Building Permit Allocation System” for each housekeeping unit of the group home meeting the definition of “Dwelling Unit”, as provided in Chapter 110.**~~

Hotels or Motels

An existing hotel or motel may be redeveloped pursuant to Table 103.15.1, subject to the following standards:

A. General Provisions:

- 1. Until such time as Council approves the use of residential dwelling unit allocations for hotel or motel units, no new hotel or motel units shall be allowed in the City of Marathon. Approval shall be limited to the

redevelopment of existing hotels and motels, subject to the criteria established in subsection (B), below.

2. Each hotel or motel shall comply with all mandatory hurricane evacuation requirements set forth by the City for hotel, motel, and other transient uses.
3. Each hotel or motel shall establish and maintain shuttle transport services to airports and tourist attraction individually or in conjunction with other hotel or motel operators.
4. All hotel or motels shall provide on- or off-site employee housing living space in an amount equal to a minimum of twenty (20%) percent (as may be adjusted from time to time by Council policy to reflect economic conditions) of the approved floor area in guest units; and such housing shall be of any of the following types:
 - (a) Dormitory;
 - (b) Studio; or
 - (c) One (1) or two (2) bedroom units;
5. All entrances to a hotel or motel unit 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.

B. Redevelopment Criteria:

1. An existing hotel or motel room may be redeveloped to a unit not exceeding one thousand five hundred (1,500 ft²) square feet ~~of interior space and~~ consisting of no more than two and one-half bathrooms, three (3) bedrooms and one (1) other living area, subject to the following rates of redevelopment:
 - (a) A one bedroom unit may redevelop as a one (1) bedroom unit, without a reduction in the number of units;
 - (b) A one bedroom unit may redevelop as a two (2) bedroom unit at the rate of ninety (90%) percent of the one (1) bedroom units being redeveloped as two (2) bedroom units; and
 - (c) A one (1) bedroom unit may redevelop as a three (3) bedroom unit at the rate of eighty-five (85%) percent of the one (1) bedroom units being redeveloped as three (3) bedroom units.

2. The number of units reduced and not included in the redevelopment shall be tracked over time and registered with the City as Conditional Redevelopment Units and reflected in the data and analysis of the Comprehensive Plan as it is amended.
3. Existing hotel units, which exceed allocated densities, may redevelop provided: (1) the parcel has a stormwater management system which meets the requirements of Article 11, of Chapter 107; (2) the wastewater treatment system meets Best Available Treatment wastewater standards; and (3) the structures meet the shoreline setback criteria as established in Article 4 "Open Water, Surface Waters and Wetlands" of Chapter 106.
4. As a condition of redevelopment, the developer and the City shall enter into a Development Agreement, in addition to compliance with all other provisions of the Code.
5. The City may consider, at a future time, proposed amendments to the LDRs to authorize the construction of Conditional Redevelopment Units. Prior to the consideration of such amendment, the City must demonstrate that: (1) a significant reduction in Hurricane Clearance Time has been achieved for the mandatory evacuation of permanent residents, (2) the Conditional Redevelopment Units have been tracked, and (3) other environmental and land use issues have been addressed.
6. Notwithstanding the foregoing, the developer of a hotel or motel containing less than twelve (12) units may convert existing, lawfully established accessory floor area in the hotel or motel to a second bedroom or third bedroom, as the case may be, to an adjacent existing hotel or motel unit without triggering the requirements of B.1 or B.4 above; provided, however, that the additional floor area hereunder shall not exceed four hundred twenty-five (425 ft²) square feet per unit or eight hundred fifty (850 ft²) square feet in the aggregate per property.