

Sponsored by: Lindsey
Introduction Date: August 20, 2018
Public Hearing Dates: December 17, 2018
January 8, 2019
Enactment date: January 22, 2019

**CITY OF MARATHON, FLORIDA
ORDINANCE 2019-01**

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA AMENDING CHAPTER 102, ARTICLE 15, "TEMPORARY PLACEMENT PERMITS;" CHAPTER 103, ARTICLE 3, SECTION 103.15, TABLE 103.15.1, "USES BY ZONING DISTRICT;" AND CHAPTER 104, ARTICLE 1, SECTION 104.55, "TEMPORARY PLACEMENT," OF THE CITY CODE OF ORDINANCES, TO PROVIDE MINOR MODIFICATIONS TO ALLOWANCES FOR THE TEMPORARY PLACEMENT OF RECREATIONAL VEHICLES, MOTOR HOMES, MOBILE HOMES, OR OTHER TEMPORARY RESIDENTIAL UNITS AFTER THE IMPACT OF A HURRICANE OR OTHER NATURAL DISASTER; PROVIDING FOR THE REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES FOUND TO BE IN CONFLICT, AND PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE

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

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

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

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

WHEREAS, the Planning Commission reviewed this Ordinance on December 17, 2018 providing a unanimous recommendation of approval to the City Council with no proposed changes; and

WHEREAS, the City Council reviewed this Ordinance on January 8, 2019 and again on January 22, 2019 adopting the Ordinance in its second hearing and directing staff to transmit the Ordinance to the Florida Department of Economic Opportunity for final approval; and

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

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

SECTION 2. Amend Chapter 102, Article 15, Temporary Placement permits, to read as follows:

CHAPTER 102, DEVELOPMENT APPLICATION PROCEDURES

ARTICLE 15. - TEMPORARY PLACEMENT PERMITS

An application for a temporary placement permit (TPP) shall be submitted in accordance with Article 2, "Common Development Application Elements", of this Chapter.

Section 102.82. - Temporary Placement of Manufactured or Mobile Homes.

A. Temporary Placement Permitted: A recreational vehicle, motor home, ~~or~~ mobile home, or other temporary residential unit, may be permitted on a limited basis by the issuance of a temporary placement permit (TPP) by the Department.

B. Removal of Temporary Home: Unless otherwise provided in this article, ~~a manufactured home or a mobile home~~ recreational vehicle, motor homes, or mobile home, or other temporary residential unit, permitted by a TPP shall be removed from the site within ~~60~~ 30 days after ~~completion of the activity~~ issuance of either a final inspection or Certificate of Occupancy associated with the approved permit, or at the time of the expiration of the TPP, whichever is earlier.

Section 102.83. - Types of Temporary Placement Permits.

A TPP may be granted as indicated below:

A. Emergency Residence:

1. Emergency Residence Permitted : Within any Residential Zoning District (R-C, RL, RM, RM-1, RM-2, RH, R-MH), Aa TPP may be issued for the purposes of providing an emergency residence for displaced owner-occupants or tenants on a site where the existing living unit(s) has (have) become uninhabitable due to adverse weather damage or other acts of God, Habitability of the existing residential unit(s) shall be as determined by an inspection by the City building official, Florida certified building inspector, architect, or engineer, ~~due to adverse weather damage or other acts of God,~~ The TPP shall only be allowed while the damaged living unit is being repaired or a replacement living unit is being constructed (Section 102-82 B above).

2. Placement on Nonresidential and Public Properties: A TPP may be approved for displaced owner-occupants or tenants of lawfully-established dwelling units to

place a recreational vehicle on all properties in nonresidential land use districts and on public lands, excluding lands designated for conservation and resource protection.

(a) If larger properties are to be rented or leased to Agencies or entities providing multiple unit emergency housing, then such rentals/leases shall be made with the approval of the City's Executive Committee under an Emergency Declaration or by the City Council as is most expeditious.

3. Placement in Existing RV/Mobile Home Parks Zoned R-MH: A TPP may be approved for displaced owner-occupants, tenants, or other displaced residents of lawfully-established permanent (market rate) dwelling units to place a recreational vehicle, travel trailer, or other temporary residential unit on all properties in Residential-Mobile Home (R-MH) land use districts.

(a) If RV / Mobile Home spaces or fee-simple lots are to be rented or leased to Agencies or entities providing emergency housing, then such rentals/leases shall be made with the approval of the Mobile Home Park in question and with the knowledge and approval of the City's Executive Committee under an Emergency Declaration or by the City Council as is most expeditious.

(b) The City's Executive Committee or its City Council, as appropriate, may approve such areas as identified in (a) for the placement of workforce housing for those individuals who have come to the City for the purposes of assisting in clean-up or recovery efforts post storm impact.

2.4. Restrictions:

(a) ~~Placement on Nonresidential and Public Properties: A TPP may be approved for displaced owner-occupants or tenants of lawfully established dwelling units to place a recreational vehicle on all properties in nonresidential land use districts and on public lands, excluding lands designated for conservation and resource protection. No more than one RV, mobile home, travel trailer, or other temporary housing unit shall be allowed per residential unit made uninhabitable.~~

(b) Tie-down and Contractor Required: Placement of all temporary housing on a site must meet all State requirements for tie-downs. Mobile homes shall be installed by a licensed mobile home contractor and in accordance with requirements of Florida Statutes and the Florida Building Code.

(c) Maximum Period of Time: A TPP shall be issued in increments of six (6) months by review of the City Council and shall not be issued for a period of time in excess of eighteen (18) months from the date of the declaration of emergency ~~or until the final inspection or issuance of Certificate of Occupancy, whichever comes first.~~ Notwithstanding this constraint, the City Council may grant extensions to a TPP permit in excess of eighteen (18) months if a TPP permit holder demonstrates that a significant "hardship" exists. Determination of hardship shall be made by the City Manager or his designee based upon an indication by the permit holder that they have exercised all due diligence in obtaining permits either for repair or replacement of the affected structure. The Manager may consider whether the applicant has had difficulties in completing insurance claims, obtaining an architect or engineer, or obtaining

a contractor, and if relevant, whether they have had difficulty in obtaining grants or loans to assist in repair or replacement of the affected structure. A TPP shall remain in effect only as long as the building permit is valid.

(d) Validity of Temporary Placement Permit: The holder of the TPP shall apply for a ~~no-fee~~ building permit for the damaged dwelling unit no later than six (6) months after the date of the declaration of emergency; noncompliance may result in revocation of the TPP. **Exceptions to this sub-section may be considered by the City Manager or his designee based upon determinations in sub-section 4.**

(c).

(e) Hurricane Evacuation: Occupants of the temporary housing must comply with all mandatory hurricane evacuation requirements. Failure to do so may result in the revocation of the TPP.

3.5. Submission Requirements:

(a) Completed TPP application; and

(b) Map or other documentation indicating the proposed location of the temporary housing unit; and

(c) City, State Department of Health, or State Department of Environmental Protection permit authorizing the connection of the temporary housing to an on-site or existing community wastewater treatment system.

4.6. Administrative Relief: If the applicant is unable to apply for a building permit for the repair or replacement of the damaged non-transient dwelling unit within the required time limit, the applicant may apply, at no cost, to the Council for administrative relief from the provision of Subsection 2.(d) above. Appeal of Decisions: Appeal of any decision made under Sections 102.82 or 102.83 may be made pursuant to the provisions found in Chapter 102, Article 17, of the City's Land Development Regulations.

B. Construction and Sales and Leasing Office:

1. Office, Sales and Leasing Permitted: A manufactured home meeting the requirements of the Building LDRs may be utilized as a temporary construction office or a sales and leasing office on a construction site for which a building permit has been issued. The location of such temporary office shall be shown on the approved site plan.

2. Restrictions:

(a) Single-family Dwelling: A TPP for an office of this nature shall not include a construction project which is limited to the building of only one (1) single-family residential structure.

(b) Use as a Living Quarters: A construction office shall not be used as a living unit.

(c) Validity of Temporary Placement Permit: A TPP for an office of this nature may be issued for a period not to exceed one (1) year, and may be renewed by the Department as long as the project is under active construction, development and

sales or leasing. The temporary unit shall be removed within 90 days after construction is completed.

SECTION 3. Amend Chapter 103, Zoning Districts, Article 3, Use and Intensity Tables, to read as follows:

CHAPTER 103, ZONING DISTRICTS

ARTICLE 3 – USE AND INTENSITY TABLES

Section 103.15, Table 103.15.1. Uses By Zoning District

Uses in bold have specific conditions listed in Chapter 104																
Zoning Districts	C-NA	C-OI	RL-C	RL	RM	RM-1	RM-2	R-MH	RH	MU	MU-M	I-G	I-M	A	P	PR

Temporary Placement			P	LP	LP	LP	LP	LP	LP	LP	LP	P	P	P	P	P

SECTION 4. Amend Chapter 104, Specific Use Regulations, Article 1, General Provisions to read as follows:

CHAPTER 104 SPECIFIC USE REGULATIONS,

ARTICLE 1 - GENERAL PROVISIONS

[Section 104.55.] - Temporary Placement.

Temporary placements of recreational vehicles, motor homes, ~~or~~ mobile home, or other temporary residential unit, may be permitted pursuant to Table 103.15.1 on a limited basis provided the conditions in Article 15 of Chapter 102 are met.

SECTION 5. The provisions of the Code of Ordinances, City of Marathon, Florida and all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 6. The provisions of this Ordinance are declared to be severable, and if any sentence, section, clause or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sentences, sections, clauses or phrases of the Ordinance, but they shall remain in effect it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 7. It is the intention of the City Council and it is hereby ordained the provisions of this Ordinance shall become and be made part of the Marathon Code, that sections of this Ordinance

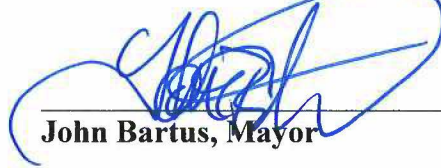
may be renumbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

SECTION 8. The provisions of this Ordinance constitute a "land development regulation" as state law defines that term. Accordingly, the City Clerk is authorized and directed to forward a copy of this Ordinance to the State Department of Economic Opportunity for approval pursuant to Sections 380.05(6) and (11), Florida Statutes.

SECTION 9. This Ordinance shall be effective immediately upon approval by the State Department of Economic Opportunity pursuant to Chapter 380, Florida Statutes.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 22nd DAY OF JANUARY, 2019.

THE CITY OF MARATHON, FLORIDA



John Bartus, Mayor

AYES: Zieg, Gonzalez, Senmartin, Cook, Bartus
NOES: None
ABSENT: None
ABSTAIN: None

ATTEST:



Diane Clavier, City Clerk

(City Seal)

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



David Migut, City Attorney

STATE OF FLORIDA
DEPARTMENT OF ECONOMIC OPPORTUNITY

In re: A LAND DEVELOPMENT REGULATION
ADOPTED BY CITY OF MARATHON
ORDINANCE NO. 2019-01

FINAL ORDER
APPROVING CITY OF MARATHON ORDINANCE NO. 2019-01

The Department of Economic Opportunity (“Department”) hereby issues its Final Order, pursuant to sections 380.05(6), Florida Statutes, approving land development regulations adopted by the City of Marathon, Florida, Ordinance No. 2019-01 (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 of Marathon (“City”) is a local government within the Florida Keys Area.
2. The Ordinance was adopted by the City on January 22, 2019, and rendered to the Department on May 7, 2019.
3. The Ordinance amends Section 103.15 (Table 13.15.2) of the City’s Land Development Regulations (“LDRs”) to allow the issuance of Temporary Placement Permits (“TPP”) within zoning districts RL-C, RL, RM, RM-1, RM-2, R-MH, RH, MU, MU-M, I-G, I-M, A, P, and PR.
4. The Ordinance amends Section 102.83 of the LDRs to establish that a TPP may be approved for displaced owner-occupants or tenants under specified conditions in Residential Zoning Districts (R-C, RL, RM, RM-1, RM-2, RH, R-MH) and nonresidential land use districts

and on public lands (excluding designated conservation and resource protection lands). The Ordinance further amends Section 102.83 to clarify the process of granting TPPs.

5. The Ordinance amends Sections 102.82 and 104.55 of the LDRs to include “other temporary residential units” to the list of residences allowed to be permitted under Section 103.14 (Table 13.15.2).

CONCLUSIONS OF LAW

6. 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* § 380.05(6), Fla. Stat.

7. “Land development regulations” include local zoning, subdivision, building, and other regulations controlling the development of land. § 380.031(8), Fla. Stat. The regulations adopted by the Ordinance are land development regulations.

8. 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 4-1.22.5 of the Plan.

9. 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* § 380.05(6), Fla. Stat. 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 of the Florida Keys Area of Critical State Concern as a whole, 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;

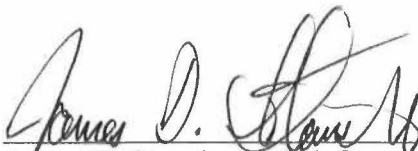
(m) Providing adequate alternatives for the protection of public safety and welfare in the event of a natural or manmade disaster and for a postdisaster reconstruction plan; and

(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. 2019-01 is consistent with the City of Marathon Comprehensive Plan and the Principles for Guiding Development for the Florida Keys Area of Critical State Concern, and is hereby APPROVED.

This Order becomes effective 21 days after publication in the *Florida Administrative Register* unless a petition is timely filed as described in the Notice of Administrative Rights below.

DONE AND ORDERED in Tallahassee, Florida.


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

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.

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. MEDIATION IS NOT AVAILABLE.


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

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

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

CERTIFICATE OF FILING AND SERVICE

I HEREBY CERTIFY that the original of the foregoing Final Order has been filed with the undersigned designated Agency Clerk, and that true and correct copies have been furnished to the following persons by the methods indicated this 25th day of June, 2019.



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

By U.S. Mail:

John Bartus, 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

George Garrett, Planning Director
City of Marathon, Planning Department
9805 Overseas Highway
Marathon, FL 33050