



## CITY COUNCIL AGENDA STATEMENT

**Meeting Date:** November 12, 2024  
**To:** Honorable Mayor and City Council  
**From:** Brian Shea, Planning Director  
**Through:** George Garrett, City Manager

**Agenda Item:** **Ordinance 2024-10**, Amending the City’s Land Development Regulations Relating to Chapter 107, Article 5, “Setbacks and Height”, Section 107.36 “Exception To Setback”; Providing For The Repeal Of All Ordinances Or Parts Thereof Found To Be In Conflict; Providing For Severability; Providing For The Transmittal Of This Ordinance To Florida Commerce After Final Adoption By The City Council; Providing For Inclusion In The Code Of Ordinances And Providing For An Effective Date.

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### **RECOMMENDATION:**

Staff recommends APPROVAL.

**APPLICANT:** City of Marathon

### **REQUEST:**

The proposed ordinance has been drafted to create an exception to the side setback for the allowance of steps to access electric meters.

### **Purpose of Proposed Amendment:**

The purpose of the amendment is to expand upon existing exceptions to setback, recognizing the importance of elevating electrical equipment above flood, while still providing access to the raised electrical.

### **AUTHORITY**

#### **Section 102.26. Planning Commission Recommendation.**

A. *Authority:* The PC shall consider a proposed text amendment at the request of the Council.

B. *Review Criteria:* The PC shall review such proposed amendment, based upon the criteria listed below:

1. The need and justification for the change;
2. The consistency of the proposed amendment with the Comprehensive Plan; and

3. Whether the proposed change shall further the purposes of the LDRs and other City Codes, regulations and actions designed to implement the Comprehensive Plan.
- C. *Findings:* The PC shall make a finding of whether the proposed amendment is consistent with the Comprehensive Plan and a recommendation shall be prepared and forwarded to the Council, indicating if the proposed amendment should be:
1. Approved as proposed;
  2. Approved with amendments proposed by the PC; or
  3. Denied

**Section 102.27. - Hearing(s) by Council.**

- A. The decision to process a text amendment is within the sole discretion of the Council.
- B. For any proposed text amendment, the Council shall hold a minimum of two (2) public hearings, conforming to the requirements of Fla. Stat. Ch. 166, before taking action on the amendment.

**Section 102.28. - Action by Council.**

Following the public hearings, the Council shall make a finding of whether the proposed text amendment is consistent with the Comprehensive Plan and may approve, approve with changes, or deny the proposed amendment.

As noted, review of proposed LDR text amendments is to be made based on three basic criteria: need and justification for change, consistency with the adopted Comprehensive Plan, and whether the proposed amendment will further the purposes of the LDRs, other ordinances, and actions taken to further the implementation of the Comprehensive Plan. The Planning Commission, in reviewing the proposed amendment, may recommend approval as is, approval with changes, or denial to the City Council.

**ANALYSIS OF LAND DEVELOPMENT REGULATION TEXT AMENDMENTS:**

Section 102.26(B) of the Land Development Regulations requires that the following standards and criteria be considered for any proposed text amendment. Each criteria and explanation of relevance to this proposed amendment are listed below:

**A. The need and justification for the change;**

The City of Marathon has language requiring mechanical, electrical, and plumbing to be located above flood. The Florida Keys Electric Cooperative has specific requirements for access platforms for meters. These reference platform depth requirements with NEC 110.26(A)(1). In effort to ensure the equipment is located above flood but still accessible requires an exception to be included for the platforms.

**B. The consistency of the proposed amendment with the Comprehensive Plan; and**

The proposed text amendment is consistent with the Comprehensive Plan and LDRs. This ordinance will aid in implementing Policy 4-1.3.3 entitled Surface Water Management and Flood Damage Prevention. New development encroaching into the 100 year floodplain shall incorporate elevation and flood protection measures sufficient to protect against the 100 year flood. The City

shall maintain consistency with program policies of the National Flood Insurance Program. The City shall monitor new cost effective programs for minimizing flood damage. Such programs may include modifications to construction setback requirements or other site design techniques, as well as upgraded building and construction techniques. Specifically, this addresses “modifications to construction setback requirements” to further allow for the elevation of equipment servicing the building.

**C. Weather regulations change shall further the purposes of the LDRs and other City Codes, regulations and actions designed to implement the Comprehensive Plan.**

The proposed text amendments further the purposes of the LDRs and other City Codes, regulations and actions designed to implement the Comprehensive Plan by code consistency. It also is consistent with the language of the other jurisdictions in the Florida Keys Electric Cooperative service area.

**CONCLUSION:**

Staff indicates that the proposed text amendments are consistent with the standards and tenants of Chapter 163 and 380 F.S., and the City’s Comprehensive Plan adopted under the requirements of these statutes and rules.

**RECOMMENDATION:**

Staff recommends APPROVAL  
Planning Commission recommended approval 5-0.

**NOTES:**

FLORIDA KEYS ELECTRIC COOPERATIVE DOES NOT REQUIRE ELECTRIC METERS AND MAIN DISCONNECTS BE PLACED ABOVE FLOOD LEVELS. THE FOLLOWING REQUIREMENTS MUST BE FOLLOWED WHEN THE AUTHORITY HAVING JURISDICTION REQUIRES THE ELECTRIC METER TO BE PLACED ABOVE FLOOD LEVEL AND AN NEC COMPLIANT PLATFORM IS REQUIRED.

**FKEC ACCESS REQUIREMENTS:**

TO ENSURE FKEC METER SERVICE AND LINE WORKERS HAVE SAFE ACCESS TO FKEC'S ELECTRIC METERS, FIXED STAIRS AND AN ADEQUATELY SIZED WORK AREA MUST BE PROVIDED FOR ANY METER SOCKET LOCATED GREATER THAN SIX FEET ABOVE GRADE.

- THIS WORK AREA MUST BE BUILT IN COMPLIANCE WITH THE MOST RECENT VERSION OF THE NATIONAL ELECTRICAL CODE (NEC)
- IF STAIRS ARE DIRECTLY BEHIND THE METER, A MOVABLE GUARD MUST BE INSTALLED TO BLOCK A WORKER FACING THE METER FROM STEPPING BACKWARDS ONTO THE STAIRS.
- THE ELECTRIC METER MAY BE LOCATED WHERE FIXED OUTSIDE STAIRS HAVE BEEN CONSTRUCTED, INCLUDING STAIRS THAT LEAD TO A LANDING ON A PORCH OR DECK SERVING EITHER A FRONT OR REAR ENTRANCE OF THE DWELLING. IF FKEC DETERMINES THAT THE METER IS TO BE INSTALLED ON THE SIDE OF THE RESIDENCE, OR ON A PART OF THE BUILDING THAT IS NOT SERVED BY STAIRS, THEN STAIRS AND A PLATFORM THAT COMPLY WITH THE REQUIREMENTS OF BOTH THE AUTHORITY HAVING JURISDICTION AND THE SIZE OF THE WORK AREA DESIGNATED BY THE NEC WILL BE REQUIRED TO BE CONSTRUCTED AND MAINTAINED.
- THE STAIRS AND THE LANDING, INCLUDING THE SPECIFIED WORK AREA, MUST BE MAINTAINED IN GOOD AND SOUND CONDITION AND MAY NOT BE REMOVED. EITHER THE REMOVAL OF OR FAILURE TO MAINTAIN THE STAIRS, LANDING, AND WORK AREA THAT PROVIDE ACCESS TO THE ELECTRIC METER COULD RESULT IN DISCONTINUANCE OF ELECTRIC SERVICE.

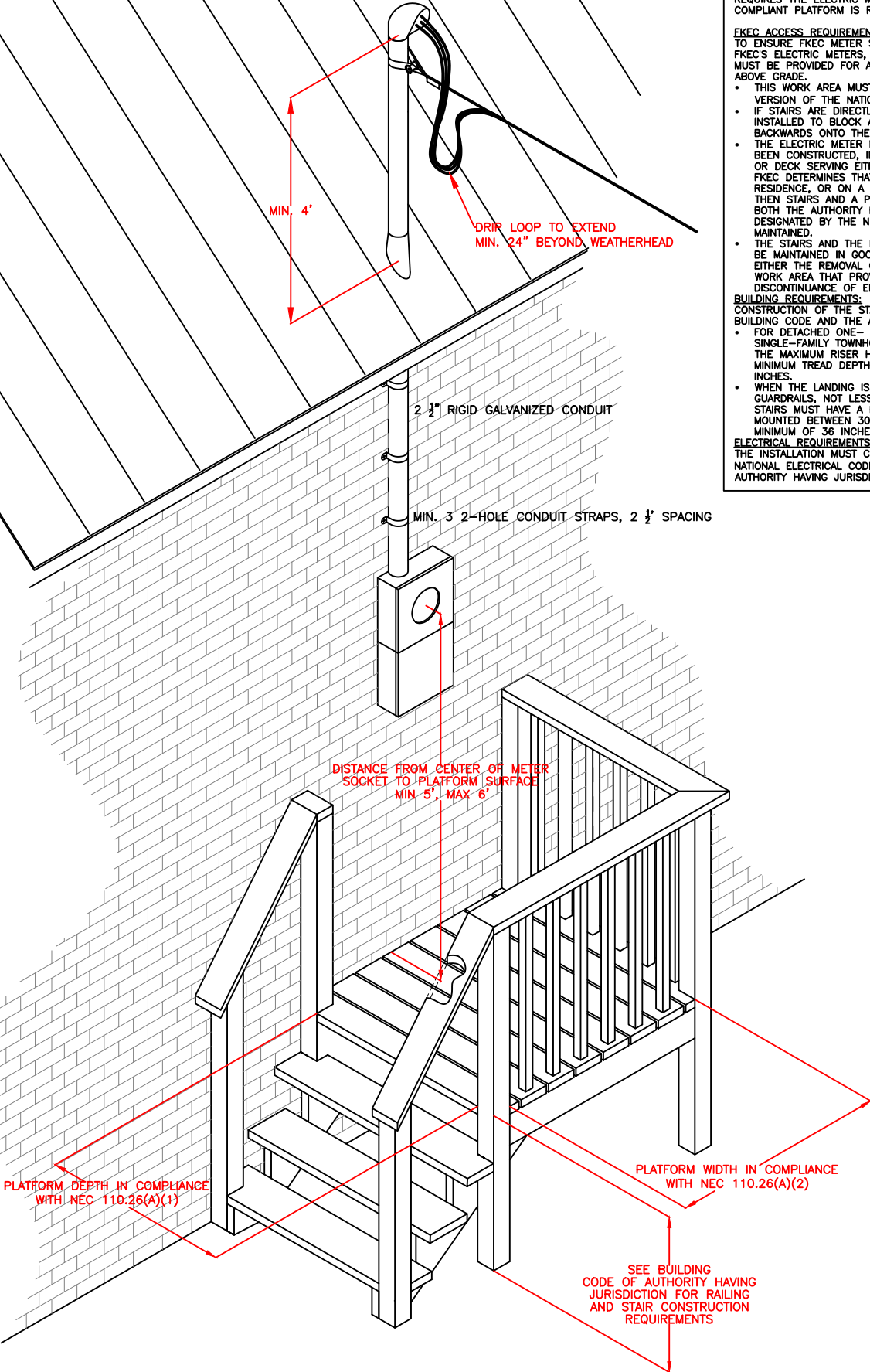
**BUILDING REQUIREMENTS:**

CONSTRUCTION OF THE STAIRS AND LANDING ARE SUBJECT TO THE FLORIDA BUILDING CODE AND THE AUTHORITY HAVING JURISDICTION.

- FOR DETACHED ONE- AND TWO-FAMILY DWELLINGS AND ATTACHED SINGLE-FAMILY TOWNHOUSES, THE MINIMUM TREAD DEPTH IS 9 INCHES AND THE MAXIMUM RISER HEIGHT IS 8 INCHES. FOR ALL OTHER BUILDINGS, THE MINIMUM TREAD DEPTH IS 11 INCHES AND THE MAXIMUM RISER HEIGHT IS 7 INCHES.
- WHEN THE LANDING IS MORE THAN 30 INCHES ABOVE THE ADJOINING GRADE, GUARDRAILS, NOT LESS THAN 36 INCHES IN HEIGHT, ARE REQUIRED. THE STAIRS MUST HAVE A HANDRAIL ON AT LEAST ONE SIDE AND MUST BE MOUNTED BETWEEN 30 AND 38 INCHES IN HEIGHT. THE STAIRS MUST BE A MINIMUM OF 36 INCHES IN WIDTH.

**ELECTRICAL REQUIREMENTS:**

THE INSTALLATION MUST COMPLY WITH APPLICABLE REQUIREMENTS OF THE NATIONAL ELECTRICAL CODE (NEC), THE FLORIDA BUILDING CODE, AND ALL AUTHORITY HAVING JURISDICTION CODE REQUIREMENTS.



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FLORIDA KEYS  
ELECTRIC  
COOPERATIVE  
ASSOCIATION INC.  
TAVERNIER, FLORIDA  
ENGINEERING SERVICES

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DESIGN	366JE
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SERVICE ENTRANCE REQ' S			
OVERHEAD METER INSTALLATION REQUIREMENTS (ELEVATED PLATFORM)			
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REV.	0		

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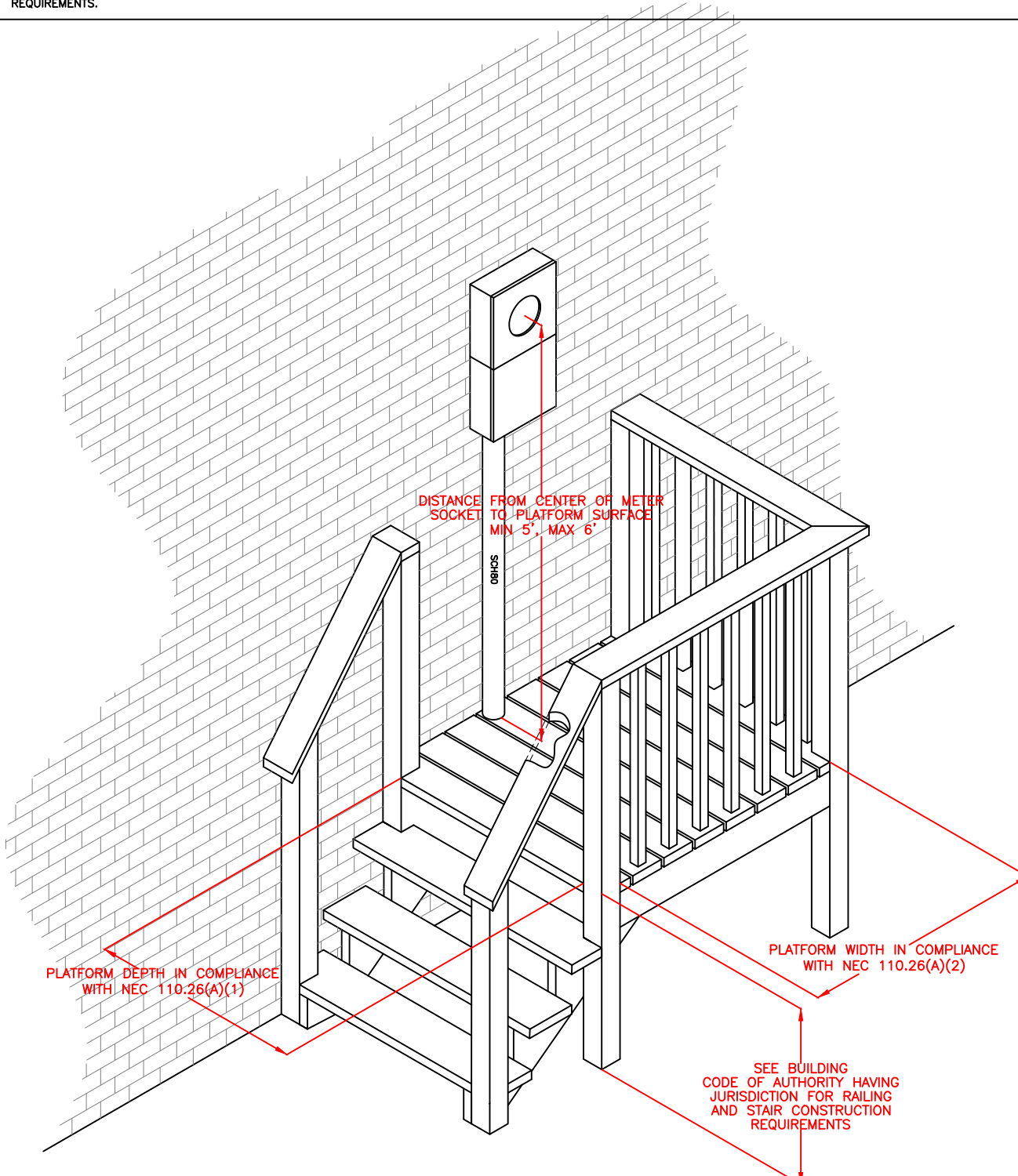
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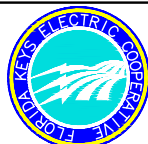
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SERVICE ENTRANCE REQ' S			
UNDERGROUND METER INSTALLATION REQUIREMENTS (ELEVATED PLATFORM)			
DWG. NO.	SHEET	SCALE	REV.
-	4 of 7	NONE	0

**Sponsored By:** Shea  
**Public Hearing Dates:** September 16, 2024  
October 8, 2024  
November 12, 2024  
**Enactment Date:** November 12, 2024

**CITY OF MARATHON, FLORIDA  
ORDINANCE 2024-10**

**AN ORDINANCE AMENDING THE CITY’S LAND DEVELOPMENT REGULATIONS RELATING TO CHAPTER 107, ARTICLE 5, “SETBACKS AND HEIGHT”, SECTION 107.36 “EXCEPTION TO SETBACK”; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS THEREOF FOUND TO BE IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO FLORIDA COMMERCE AFTER FINAL ADOPTION BY THE CITY COUNCIL; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Local Government Comprehensive Planning and Land Development Regulations 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, pursuant to Sections 380.05 and 380.0552, *Florida Statutes*; and

**WHEREAS**, Florida 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**, the City of Marathon (“City”) is a municipal corporation of the State of Florida with such power and authority as has been conferred upon it by the Florida Constitution and Chapter 166, *Florida Statutes*; and

**WHEREAS**, it is the intent of the City Council to ensure FEMA compliance with new construction; and

**WHEREAS**, it is the intent of the City Council to amend the setback exceptions to allow for access platforms; and

**WHEREAS**, The City Council intends to adopt the language and further the policies of the Comprehensive Plan.

**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.** Chapter 107, Article 5, Section 107.36 “Exception To setback” is hereby amended as attached in Exhibit A.

**SECTION 3.** Any provisions of the Code of Ordinances of the City of Marathon, Florida or Ordinances or parts of Ordinances that are in conflict with the provisions of this Ordinance are hereby repealed.

**SECTION 4.** 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, or 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 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 part of the Marathon Code, that sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions, and that the “Ordinance” shall be changed to “Section” or other appropriate word.

**SECTION 6.** This Ordinance shall become effective immediately upon approval.

**ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 12TH DAY OF NOVEMBER, 2024.**

**THE CITY OF MARATHON, FLORIDA**

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**Mayor**

AYES:

NOES:

ABSENT:

ABSTAIN:

**ATTEST:**

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Diane Clavier, City Clerk

(City Seal)

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

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Steven Williams, City Attorney



## Sec 107.36 Exception To Setback

### A. *Side Yard.*

1. For parcels in the MU districts, and for duplexes and multi-unit, affordable dwellings in certain residential zoning districts, the required interior side yard setbacks may be reduced through the conditional use process established in Article 13, Chapter 102.
  2. Driveways, which may include a turnaround area; walkways not to exceed five (5) feet wide and landscape features such as, but not limited to; decorative fountains and landscape lighting may be allowed provided that:
    - a. All accessory structures in the front yard setback shall maintain the required side setback;
    - b. Must be detached from ~~principle~~ principal structure and be nonenclosed;
    - c. Must maintain all required bufferyard and landscape street treatments of Article 8 "Landscaping" of this Chapter;
    - d. The open space requirements of Article 9 of this Chapter are met;
    - e. Shall be located within existing cleared areas before encroaching into areas of native vegetation;
    - f. All new impervious area is subject to the stormwater management requirements established in Article 11 of this Chapter.
  3. Accessory stairs and platforms to elevate mechanical, plumbing and electrical equipment. Accessory structures, limited to stairs and platforms, may be permitted within a required side yard setback on a parcel developed exclusively with a residential use if the following provisions are met:
    - a. The accessory structure is required to elevate mechanical, plumbing and electrical equipment at or above required flood elevations;
    - b. The accessory structures are situated at least two (2) feet from the side yard property line; and
    - c. The accessory structures must be constructed to avoid any off-site discharge of stormwater from the subject parcel in accordance with Article 11 of this Chapter; and
    - d. In no event shall the total combined area of all accessory structures occupy more than 80 percent (80%) of the required side yard setback area.
- B. *Small Lots.* In all residentially zoned districts, for parcels 4,500 square feet or less in size, the front and rear setback requirements are reduced to ten (10) feet each.
- C. *Front Yard.* In all residentially zoned districts, driveways, which may include a turnaround area; walkways not to exceed five (5) feet wide and landscape features such as, but not limited to, decorative fountains and landscape lighting may be allowed provided that:
1. All accessory structures in the front yard setback shall maintain the required side setback;
  2. Must be detached from ~~principle~~ principal structure and be nonenclosed;
  3. Must maintain all required bufferyard and landscape street treatments of Article 8 "Landscaping" of this Chapter;
  4. The open space requirements of Article 9 of this Chapter are met;

5. Shall be located within existing cleared areas before encroaching into areas of native vegetation;
  6. All new impervious area is subject to the stormwater management requirements established in Article 11 of this Chapter.
- D. *Rear Yard.* For landlocked residential parcels an exception to the rear yard setback may be allowed for detached accessory structures provided that:
1. The entire parcel is brought into compliance with the stormwater management requirements established in Article 11 of this Chapter;
  2. A minimum five-foot setback from each property line in the rear setback is maintained;
  3. Must maintain all required bufferyard and landscape street treatments of Article 8 "Landscaping" of this Chapter;
  4. The open space requirements of Article 9 of this Chapter are met;
  5. Shall be located within existing cleared areas before encroaching into areas of native vegetation.
  6. Accessory stairs and platforms to elevate mechanical, plumbing and electrical equipment. Accessory structures, limited to stairs and platforms, may be permitted within a required rear setback on a parcel developed exclusively with a residential use if the following provisions are met:
    - a. The accessory structure is required to elevate mechanical, plumbing and electrical equipment at or above required flood elevations;
    - b. The accessory structures are situated at least five (5) feet from the rear yard property line; and
    - c. Maximum shoreline setbacks are to be maintained and, in no event shall a shoreline setback be less than ten (10) feet from mean high water;
    - d. The accessory structures must be constructed to avoid any off-site discharge of stormwater from the subject parcel in accordance with Article 11 of the Chapter; and
    - e. In no event shall the total combined area of all accessory structures occupy more than 60 percent (60%) of the required rear yard setback area.