



CITY COUNCIL AGENDA STATEMENT

Meeting Date: September 8, 2025

To: Honorable Mayor & City Council

From: Brian Shea, Planning Director

Through: Steve Williams, Interim City Manager

Agenda Item: **Ordinance 2026-25** Amending The City's Land Development Regulations, Chapter 110 "Definitions", Article 3 "Defined Terms"; 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 Commerce; And Providing For An Effective Date Upon The Approval Of This Ordinance By The Department Of Commerce In Accordance With State Law.

Ordinance 2026-26 Amending The City's Land Development Regulations, Chapter 107, "General Development Standards," Article 5, "Setbacks And Height," Section 107.36, "Exception To Setback"; 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 Commerce; And Providing For An Effective Date Upon The Approval Of This Ordinance By The Department Of Commerce In Accordance With State Law

RECOMMENDATION:

Staff recommends APPROVAL.

APPLICANT: City of Marathon

REQUEST:

The proposed ordinance has been drafted to amend the definition and exception to setback ordinances to adopt language consistent with House Bill 929 as adopted into Chapter 2026-55 of the laws of Florida. The purpose of the amendment is to codify consistent language for tikis and chickees based upon the amendments to State law.

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Purpose of Proposed Amendment:

The purpose of the amendments is are to adopt language consistent with new State Law.

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 needs to amend these sections to be consistent with Florida Statute.

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

Nothing in the comprehensive plan directly pertains to tikis or chickees.

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

These required statutory changes still further the purposes of the LDRs and reduce discrimination based upon housing type.

CONCLUSION:

Staff indicates that the proposed text amendments are consistent with the standards and tenets 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 recommends approval (3-0).

Sponsored By: Williams
Planning Commission Public Hearing Date: August 24, 2026
City Council Public Hearing Date: September 8, 2026
October 13, 2026
Enactment Date: October 13, 2026

CITY OF MARATHON, FLORIDA
ORDINANCE 2026-26

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, AMENDING THE CITY'S LAND DEVELOPMENT REGULATIONS, CHAPTER 107, "GENERAL DEVELOPMENT STANDARDS," ARTICLE 5, "SETBACKS AND HEIGHT," SECTION 107.36, "EXCEPTION TO SETBACK"; 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 COMMERCE; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE DEPARTMENT OF COMMERCE IN ACCORDANCE WITH STATE LAW.

WHEREAS, the City of Marathon (the "City") has adopted a Comprehensive Plan which has been found to be in compliance by the State Department of Commerce ("FloridaCommerce"), pursuant to Chapters 163 and 380, Florida Statutes; and

WHEREAS, the City Council finds it necessary, desirable, and proper to adopt the amendments to the Land Development Regulations based upon changes to Florida Statute 125.489, 166.04845, 553.73(10)(i).; and

WHEREAS, this Ordinance had a hearing before the Planning Commission on August 24, 2026 and a first hearing before the City Council on September 8, 2026 during which both entities, took staff testimony, all public comment, and having duly deliberated, determined that the Ordinance was in the best interest of the public. The Ordinance was noticed for a second hearing on October 13, 2026, at which time, the Ordinance was passed unanimously, and

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. Amend the Land Development Regulations, Section 107.36 as attached in Exhibit A.

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 this Ordinance constitute an amendment to the Land Development Regulations as defined by State law. Accordingly, the City shall forward a copy of this Ordinance to the Department of Commerce for review and approval pursuant to Sections 380.05(6) and (11), Florida Statutes.

SECTION 5. This Ordinance shall become effective upon approval by the Florida Department of Commerce pursuant to Chapters 163, 166, and 380, Florida Statutes.

ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 13 DAY OF OCTOBER 2026.

THE CITY OF MARATHON, FLORIDA

Lynny Del Gaizo, Mayor

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Diane Clavier, City Clerk

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

Steven T. Williams, City Attorney

¹Additions to existing text are shown by underline/red print; deletions are shown as ~~strikethrough~~

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 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.

4. Chikees and Tikis shall maintain a ten (10) feet side yard setback from the property line.

- 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 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;
 - a. Chikees and Tikis are not accessory structures eligible for this exemption and shall maintain a ten (10) feet rear yard setback from the property line.

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.