

**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Florida or Ordinances or parts of Ordinances that are in conflict with the provisions of this Ordinance are hereby repealed.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**

  
\_\_\_\_\_  
**Mayor Landry**

AYES: Smith, Matlock, Still, DelGaizo, Landry  
NOES: None  
ABSENT: None  
ABSTAIN: None

**ATTEST:**

  
\_\_\_\_\_  
Diane Clavier, City Clerk  
  
(City Seal)

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

  
\_\_\_\_\_  
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.



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.

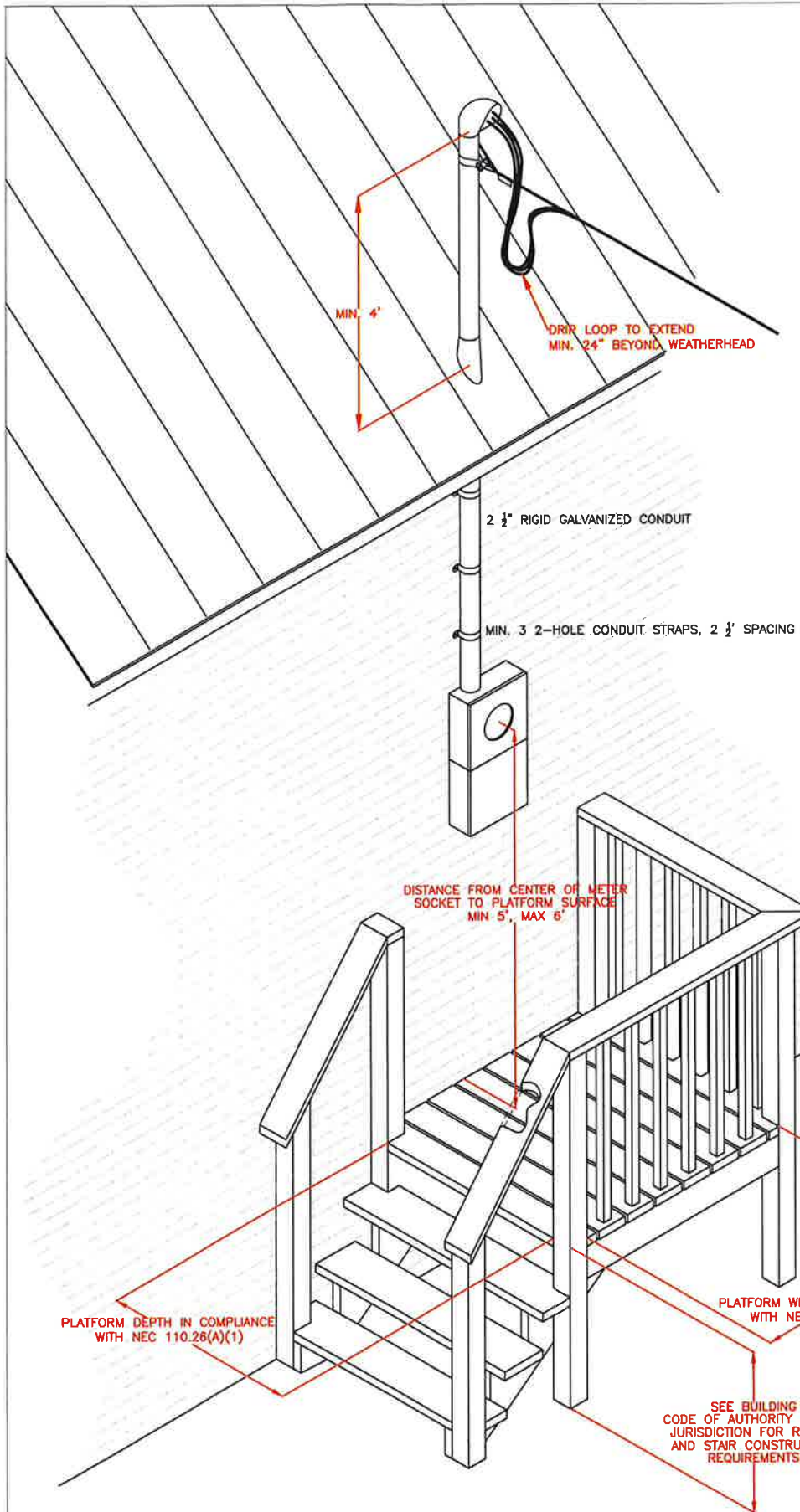
BUILDING REQUIREMENTS:

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	388JE
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APPD.	-
DATE	10/10/19

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

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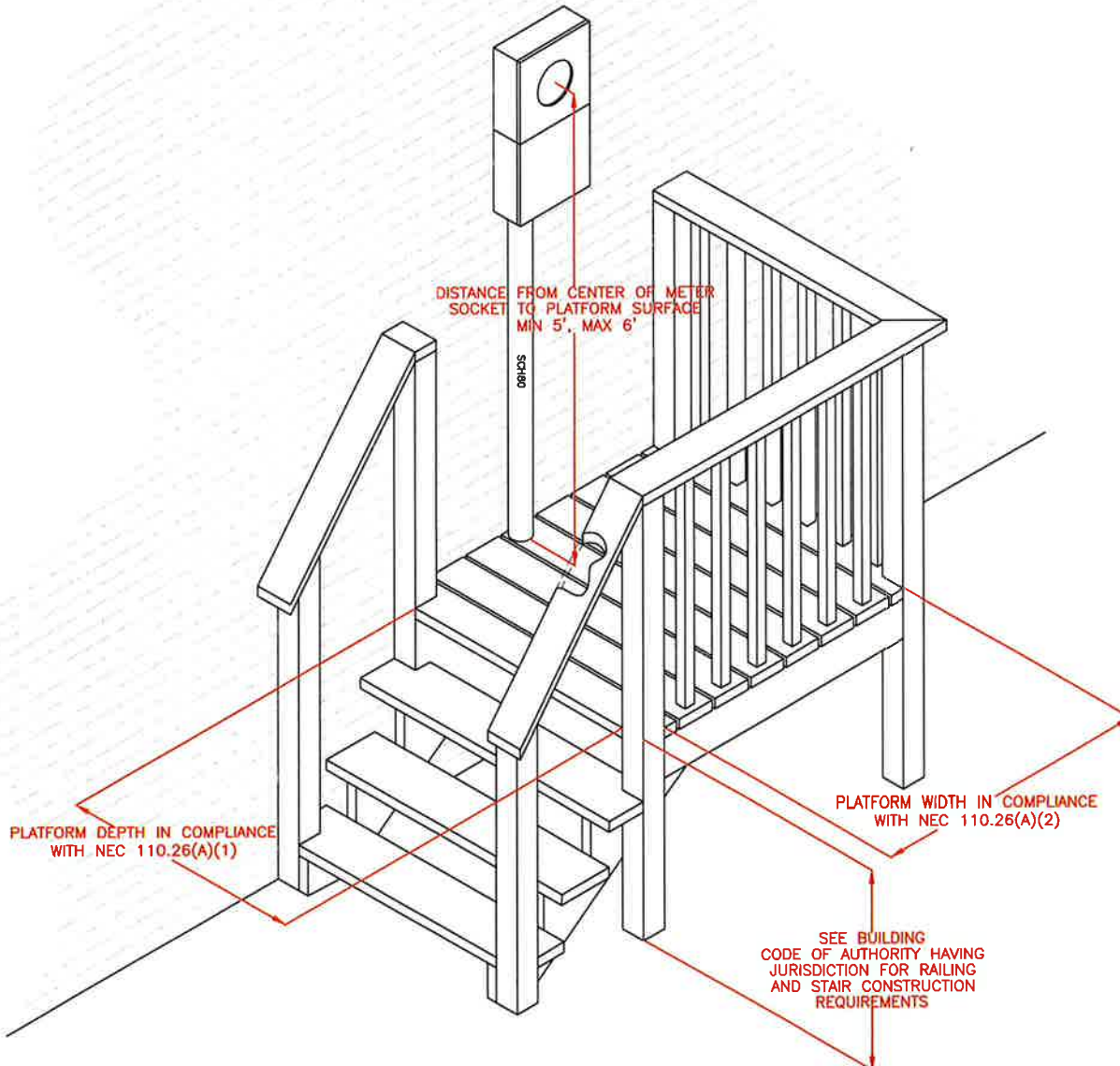
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FLORIDA KEYS  
ELECTRIC  
COOPERATIVE  
ASSOCIATION INC.  
TAVERNIER, FLORIDA  
ENGINEERING SERVICES

DRAWN	388JE	SERVICE ENTRANCE REQ' S			
DESIGN	388JE	UNDERGROUND METER INSTALLATION REQUIREMENTS (ELEVATED PLATFORM)			
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APPD.	-	DWG. NO.	SHEET	SCALE	REV.
DATE	10/10/19	-	4 of 7	NONE	0

## Miscellaneous

### DEPARTMENT OF COMMERCE Division of Community Development

COM Final Order No. COM-25-002

STATE OF FLORIDA

DEPARTMENT OF COMMERCE

In re: A LAND DEVELOPMENT REGULATION ADOPTED BY CITY OF MARATHON, ORDINANCE NO. 2024-10

FINAL ORDER APPROVING CITY OF MARATHON ORDINANCE NO. 2024-10

The Florida Department of Commerce ("Department") hereby issues its Final Order, pursuant to Section 380.05(6), Florida Statutes, approving land development regulations adopted by the City of Marathon (the "City"), Ordinance No. 2024-10 (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 is a local government within the Florida Keys Area.
2. The Ordinance was adopted by the City on November 12, 2024, and rendered to the Department on November 14, 2024.
3. The Ordinance amends Section 107.36 of the City's Land Development Code to create an exception to the side setback for the allowance of accessory stairs and platforms to access raised electrical meters. The Ordinance also expands upon existing exceptions to setback to recognize the importance of elevating electrical equipment above flood level, while still providing access to the raised electrical.

#### CONCLUSIONS OF LAW

4. 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 Section 380.05(6), Florida Statutes.
5. "Land development regulations" include local zoning, subdivision, building, and other regulations controlling the development of land. Section 380.031(8), Florida Statutes. The regulations adopted by the Ordinance are land development regulations.
6. 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 Objective 1-3.1.
7. 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 Section 380.05(6), Florida Statutes.
8. The Principles for Guiding Development for the Florida Keys Area of Critical State Concern are set forth in Section 380.0552(7), Florida Statutes.
9. The Ordinance is consistent with the Principles for Guiding Development in Section 380.0552(7), Florida Statutes and is specifically consistent with the following Principles:
  - (a) Strengthening local government capabilities for managing land use and development so that local government can achieve these objectives without continuing the area of critical state concern designation.
  - (k) Limiting the adverse impacts of public investments on the environmental resources of the Florida Keys.
  - (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. 2024-10 is consistent with the City of Marathon's Comprehensive Plan and the Principles for Guiding Development for the Florida Keys Area of Critical State Concern and is hereby APPROVED.

This Final Order becomes final 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.

/s/ Justin Domer, Justin Domer, Deputy Secretary, Division of Community Development, Florida Department of Commerce

NOTICE OF ADMINISTRATIVE RIGHTS



ANY PERSON WHOSE SUBSTANTIAL INTERESTS ARE AFFECTED BY THIS FINAL 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.

ANY PETITION MUST BE FILED WITH THE AGENCY CLERK OF THE FLORIDA DEPARTMENT OF COMMERCE 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, FLORIDA DEPARTMENT OF COMMERCE, OFFICE OF THE GENERAL COUNSEL, 107 EAST MADISON ST., MSC 110, TALLAHASSEE, FLORIDA 32399-4128, FAX (850)921-3230, AGENCY.CLERK@COMMERCE.FL.GOV

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 10th day of January 2025.

/s/ Gabrielle Ekberg for Agency Clerk, Karis De Gannes, Florida Department of Commerce, 107 East Madison Street, MSC 110, Tallahassee, FL 32399-4128

By U.S. Mail:

Lynn Landry, 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

Brian Shea, Planning Director, City of Marathon, Planning Department, 9805 Overseas Highway, Marathon, FL 33050