



MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

To: Monroe County Development Review Committee and
Emily Schemper, AICP, CFM, Senior Director of Planning & Environmental Resources

From: Mayté Santamaria, Senior Planning Policy Advisor

Date: December 20, 2021

Subject: AN ORDINANCE BY MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADOPTING AMENDMENTS TO MONROE COUNTY LAND DEVELOPMENT CODE SECTION 138-25 APPLICATION PROCEDURES FOR RESIDENTIAL ROGO, SECTION 138-28 EVALUATION CRITERIA (ROGO), SECTION 138-52 APPLICATION PROCEDURES FOR NROGO, AND SECTION 138-55 EVALUATION CRITERIA (NROGO); TO REQUIRE UPDATED SCORES BASED ON THE UPDATED FEMA FLOOD INSURANCE RATE MAPS AND TO REQUIRE PLAN REVISIONS PRIOR TO PERMIT ISSUANCE DEMONSTRATING FULL COMPLIANCE WITH THE CURRENT FLORIDA BUILDING CODE AND THE UPDATED FEMA FLOOD INSURANCE RATE MAPS FOR PERMITS REQUIRING A ROGO OR NROGO ALLOCATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR AMENDMENT TO AND INCORPORATION IN THE MONROE COUNTY LAND DEVELOPMENT CODE; PROVIDING FOR AN EFFECTIVE DATE. (FILE 2019-094)

Meeting: February 22, 2022

I. REQUEST

The Monroe County Planning & Environmental Resources Department is proposing amendments to Section 138-25 Application Procedures for Residential ROGO, Section 138-28. Evaluation Criteria (ROGO), Section 138-52 Application Procedures for NROGO, and Section 138-55 Evaluation Criteria (NROGO); to require updated scores based on the updated FEMA Flood Insurance Rate Maps and to require applicants to submit plan revisions to prior to permit issuance demonstrating full compliance with the current Florida Building Code and the updated FEMA Flood Insurance Rate Maps, for permits requiring a ROGO or NROGO allocation.

Updated FEMA Flood Insurance Rate Maps are the maps adopted subsequent to FEMA Flood Insurance study and the accompanying Flood Insurance Rate Maps, dated February 18, 2005 (or the current FIRMs).

II. BACKGROUND INFORMATION

The National Flood Insurance Program (NFIP) is a federally-subsidized flood damage insurance program administered by the Federal Emergency Management Agency (FEMA). Residents and business owners are eligible to purchase NFIP flood insurance policies in communities that agree to regulate development in special flood hazard areas. These special flood hazard areas are delineated by FEMA on Flood Insurance Rate Maps.

The NFIP makes federally-backed flood insurance available in those states and communities that agree to adopt and enforce floodplain management ordinances to reduce future flood damage. These regulations must meet or exceed the minimum administrative and technical requirements in the NFIP regulations (44 CFR Part 59 and Part 60). FEMA administers the NFIP and provides technical assistance and training on NFIP requirements and mitigation measures. FEMA also has extensive publications on the NFIP, including detailed guidance on mitigation measures that can minimize or eliminate future flood damages.

Floodplain management is a community-based effort to prevent or reduce the risk of flooding, resulting in a more resilient community. Per FEMA, meeting NFIP requirements is the most cost-effective way to reduce the flood risk to new buildings and infrastructure. FEMA provides tools and resources to help navigate NFIP requirements and implement higher standards of floodplain management.

Communities must incorporate NFIP requirements into their zoning codes, subdivision ordinances, and/or building codes or adopt special purpose floodplain management ordinances. The NFIP requirements apply to areas mapped as Special Flood Hazard Areas (SFHA) on Flood Insurance Rate Maps (FIRMs) issued by FEMA. The SFHA is the area that would be flooded by the "base flood" (defined as the flood that has a 1 percent chance of occurring in any given year; also known as the "100-year flood").

The NFIP requirements include, but are not limited to:

- Elevation of new and substantially improved residential structures above the base flood level.
- Elevation or dry floodproofing (made watertight) of new or substantially improved non-residential structures.
- Prohibition of development in floodways, the central portion of a riverine floodplain needed to carry deeper and faster moving water.
- Additional requirements to protect buildings in coastal areas from the impacts of waves, high velocity, and storm surge.

FIRMs inform communities about the local flood risk and set minimum floodplain standards for communities to build with safety and resiliency in mind. FIRMs also currently determine the cost of flood insurance and the mandatory purchase requirement. As risks change, insurance premiums also change to reflect those risks, but property owners may be able to reduce premiums if they build their home or business to be safer, higher, and stronger.

The Florida Division of Emergency Management (DEM) serves as the State Coordinating Agency of the NFIP to work with Florida's municipalities and counties to administer their local flood damage reduction

1 regulations. The State Floodplain Management Program works to promote and ensure sound land use
2 development in floodplain areas in order to promote the health and safety of the public, minimize loss
3 of life and property, and reduce economic losses caused by flood damages.
4

5 The State Floodplain Management Office is a unit in the Florida DEM, Bureau of Mitigation. Floodplain
6 Management Specialists work with Florida's communities to help them successfully manage
7 development in flood zones. The State Floodplain Management Office provides/offers technical
8 assistance to improve administration of local floodplain management ordinances and the flood
9 provisions of the *Florida Building Code* and to monitor community performance to ensure compliance
10 with the NFIP development regulations in Special Flood Hazard Areas.
11

12 The State Floodplain Management Office also coordinates and collaborates on the following activities:

- 13 • Map Modernization and FEMA Risk MAP priorities
- 14 • Integration of flood-resistant standards into the Florida Building Code
- 15 • Coordination with Federal flood mitigation grant programs
- 16 • Integration of floodplain management concepts and tasks into multi-jurisdictional local
17 mitigation strategies developed by counties and municipalities
- 18 • Participation in maintaining the State Enhanced Hazard Mitigation Plan and planning process
- 19 • Consultation with State agencies on state-owned facilities in special flood hazard areas
- 20 • Training of local floodplain managers and building officials, in partnership with the Florida
21 Floodplain Managers Association (FFMA)
- 22 • Coordination with the Florida Dam Safety Program
- 23 • Partnerships with federal, state and local organizations pertinent to floodplain management
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25 In 2012, State Floodplain Management Office developed a **Model Floodplain Management Ordinance**
26 for communities, written explicitly to rely on the flood provisions in the *Florida Building Code*. FEMA
27 approved the **Model Floodplain Management Ordinance** in 2013.
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29 Since the 2010 edition, the flood provisions of the *Florida Building Code (FBC)* meet or exceed the
30 minimum NFIP requirements for buildings and structures. Nearly all Florida communities administer
31 local floodplain management ordinances that are written to rely on the *FBC* to meet the NFIP
32 requirements.
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34 Over the past 10 years, DEM has worked with nearly all of Florida's 468 NFIP communities to transition
35 to the **Model Floodplain Management Ordinance**, providing assistance, to tailor the model as
36 appropriate for each community. At this time, 10 communities, including Monroe County, are still
37 preparing the required amendments to their existing regulations.
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39 Amendments to the County's Floodplain Management Ordinance (Ch. 122 of the Land Development
40 Code) are necessary to be consistent with FEMA provisions, incorporate DEM's **Model Floodplain**
41 **Management Ordinance** and to continue to fulfill the NFIP requirements. Additionally, the update will
42 allow the County to continue to meet and improve the requirements and activities of the Community
43 Rating System.
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45 The Community Rating System (CRS) is a voluntary incentive program that recognizes and encourages
46 communities to establish sound programs that recognize and encourage floodplain management
47 activities that *exceed* the minimum NFIP requirements. By conducting mitigation and outreach activities

1 that increase safety and resilience, including CRS credits for regulating to higher standards, communities
2 can earn credits and discounts (up to 45 percent within the Special Flood Hazard Area) on flood insurance
3 premiums for property owners.

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6 **FEMA Flood Maps**

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8 On December 27, 2019, FEMA issued Preliminary Flood Insurance Rate Maps (FIRMs) and a Flood
9 Insurance Study (FIS) report for Monroe County, Florida. The preliminary FIRMs were released after
10 a multi-year study of Monroe County's coastal flood risks. The current County FIRMs are based on 30-
11 plus-year-old studies.

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13 The Preliminary FIRMs can be viewed here: [https://www.monroecounty-fl.gov/1151/New-Preliminary-
14 Coastal-Flood-Maps](https://www.monroecounty-fl.gov/1151/New-Preliminary-Coastal-Flood-Maps).

15
16 Coastal Flood Maps, otherwise known as Flood Insurance Rate Maps (FIRMs) are used to determine the
17 minimum elevation needed for construction to reduce the chances of flooding, as well as construction
18 methods required in certain zones.

19
20 The County hired a consultant, Woods Hole Group, to analyze how flood risks are changing in
21 Unincorporated Monroe County based on the FEMA provided studies using updated information and
22 the best available science and technology.

23
24 During the week of January 27, 2020, FEMA held Community meetings throughout the Florida Keys,
25 offering the public an opportunity to view and comment in person on the proposed preliminary FIRMs.
26 Following this, Monroe County, through its consultant, examined the maps and the accompanying Flood
27 Insurance Studies.

28
29 The consultant, Woods Hole Group, completed a review of FEMA's December 2019 RiskMap study for
30 Monroe County. The review identified the following primary areas of concern identified with FEMA's
31 Risk Map study:

- 32 1) Storm Climatology and Selection for Florida Keys,
- 33 2) Statistical Analysis of Storm Sets, Low-Frequency Water Levels and Waves,
- 34 3) Wave Model Validation,
- 35 4) Hydrodynamic/Wave Model Mesh Resolution,
- 36 5) Hydrodynamic/Wave Model Parameterization of Reefs, and
- 37 6) Number and Location of Coastal Transects.

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39 These areas of concern were identified because of (a) the use of a non-standard approach, (b)
40 inconsistencies in methodology with other FEMA Coastal Risk Map studies, (c) discrepancies between
41 the study's documentation and the analyses, or (d) errors made in the analysis.

42
43 Information on the consultant's review can accessed here: [https://www.monroecounty-fl.gov/1151/New-
44 Preliminary-Coastal-Flood-Maps](https://www.monroecounty-fl.gov/1151/New-Preliminary-Coastal-Flood-Maps).

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46 FEMA issued the required notices in the Federal Register and local newspapers for the FIRMs and a
47 Flood Insurance Study (FIS) report for Monroe County, FL. The 90-day appeal period for Monroe
48 County commenced on March 19, 2021 and ended on June 17, 2021.

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Monroe County submitted its appeal of the preliminary FEMA Flood Insurance Rate Maps and Flood Insurance Study on June 11, 2021. The appeal is ongoing.

Once FEMA reviews and processes all appeals, the agency will issue a Letter of Final Determination (LFD) and publish the final FIRMS. The County anticipates the appeal process may take until December 2022 to complete and, if necessary, the Scientific Resolution Panel may process may take until 2024 to complete.

APPEAL PROCESS TIMELINE (approximated)			MAP ADOPTION				
APPEAL	May 2021 (Starts)	April 2022 (Ends)	December 2022				
				COUNTY NOT SATISFIED WITH APPEAL RESULTS	SRP PROCESS TIMELINE (approximated)	MAP ADOPTION	
					SRP	June 2022 (Starts)	May 2023 (Ends)

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The County anticipates the Final FIRMs will most likely become effective sometime in 2022-2024. **When FEMA issues a Letter of Final Determination (LFD), which is a letter to the County that the updated FIRM will become effective in 6 months, the County must formally adopt the FIRMs and must adopt a compliant floodplain management ordinance by the map effective date to remain a participant in good standing in the NFIP.**

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Along with the adoption of the Final FIRMs, the County will need make updates to both the Comprehensive Plan and Land Development Code and Code or Ordinances to adopt and implement the maps and ensure compliance with the DEM Model Floodplain Ordinance. **The County must begin processing County amendments to the Comprehensive Plan and Land Development Code in advance, due to the County’s public noticing and meeting requirements as well as the required State review and approval process for Areas of Critical State Concerns, to meet the 6-month deadline.**

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Additionally, when the Final FIRMs are effective, the County will use the FIRMs to review building permits; establish what a finished floor elevation needs to be and determine building and site design requirements to reduce future risk of flooding. New lender requirements may go into effect along with flood insurance requirements, as well as changes in flood insurance rates as a result of map changes.

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It should be noted that the County’s proposed amendments to Ch. 122 of the Land Development Code (the County’s Floodplain Management Ordinance) do not “automatically adopt” any revised FIS and/or FIRMs when FEMA issues the Final effective products. The County will have to take legislative action when the LFD is issued to formally adopt the FIRMs, FIS and any necessary amendments to ensure a compliant floodplain management ordinance.

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In summary, the County is proposing the following connected amendments:

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- Update Land Development Code Chapter 122 to be consistent with the State of Florida (DEM) Model Floodplain Management Ordinance, include updated FEMA policies, explicitly to rely on

1 the flood provisions in the *Florida Building Code* and to eliminate obsolete or unnecessary
2 regulations.

- 3 ○ Amendments does not include any updated FIRM maps. Maintains the 2005 FIRMs.
- 4 ○ Amendments to Land Development Code Chapter 122 are critical for DEM to deem the
5 County's Floodplain Management Ordinance compliant with NFIP requirements and for
6 the County's next CRS verification.
- 7 ● Update Code of Ordinances Chapter 6 to be consistent with the *Florida Building Code* and adopt
8 amendments for local higher floodplain standards, including:
 - 9 ○ Shifting local higher floodplain standards from Chapter 122 to Chapter 6 (for example:
10 299SF downstairs enclosure limitation and foundation requirements [anchoring to rock]).
 - 11 ○ Including technical amendments to the *Florida Building Code* for additional local higher
12 floodplain standards (for example: elevation certificate requirements).
 - 13 ○ Amendments to Code of Ordinances Chapter 6 are critical for DEM to deem the County's
14 Floodplain Management Ordinance compliant with NFIP requirement and for the
15 County's next CRS verification.
- 16 ● Amend the Comprehensive Plan and Land Development Code to provide for an increase to the
17 maximum height of residential buildings, which would be available on the adoption and effective
18 date of updated FEMA Flood Insurance Rate Maps.
 - 19 ○ The County is considering a maximum height limit of 40 feet (exception of up to a
20 maximum of five (5) feet above the 35-foot height limit) in order to elevate to or maintain
21 the required elevation based on the *Florida Building Code*, (exception of up to a
22 maximum of five (5) feet above the 35-foot height limit). Exception shall not result in a
23 new building or a substantially improved building or a lawfully existing building to
24 exceed a maximum height of 40 feet.
 - 25 ○ Amendment intended to address additional difference in elevation due to a change in the
26 updated FIRMs requiring the use of North American Vertical Datum of 1988 or NAVD88
27 (on average there is -1.5 foot conversion), potential increased base flood elevation
28 requirements with the updated FIRM maps, and changes in construction requirements
29 based on revised base flood elevations.
- 30 ● Amend Land Development Code Chapter 138 to require applicants to submit plan revisions to
31 prior to permit issuance, demonstrating full compliance with the current *Florida Building Code*
32 and the updated FIRM maps, for permits requiring an ROGO/NROGO allocation.
 - 33 ○ Establishing that all applications in or entering into the ROGO system on or after the
34 effective date of the updated FIRMs, shall have the application scores reevaluated and
35 updated based on the updated FIRMs.

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39 **The subject of this staff report is the proposed amendments to the ROGO and NROGO Sections**
40 **of the Monroe County Land Development Code.**

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42 The amendment is proposed to address:

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44 1. The potential for **flood zone changes** within the updated FEMA Flood Insurance Rate Maps, and
45 how a potential flood zone change from an AE zone to a VE Zone, or vice versa, may affect a
46 ROGO or NROGO application score.

- 1 2. The potential for FEMA Flood Insurance Rate Maps updates and the *Florida Building Code*
2 updates while an application is completing in the ROGO and NROGO process and ensuring the
3 building permit plans are revised to be in compliance with the current *Florida Building Code* and
4 the adopted FIRM in effect.
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7 **Community Meeting and Public Participation**

8 In accordance with LDC Section 102-159(b)(3), a Community Meeting was held on December 2, 2021,
9 at 5:05pm, to provide for public input. There were six (6) attendees and five (5) County staff members.
10 In general, the comments provided for the proposed amendment, are summarized below:

- 11 • Question regarding substantial improvements and the scenario/types of improvements that
12 required elevation to the new design flood.
13 • Concerns regarding requiring 3ft of freeboard and this requiring a substantial number of
14 properties to be reviewed for substantial improvement/substantial damage concerns.
15 • Question of how the 35% insurance discount, derived from CRS participation, is applied.
16 • Question regarding the establishment of buoyancy calculation requirements for swimming pools.
17 • Question regarding the 299ft enclosure limit.
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19 A supplemental Community Meeting was held on January 20, 2022, at 3:00pm, to provide for public
20 input. There were six (6) attendees and five (5) County staff members. In general, the comments provided
21 for the proposed amendment, are summarized below:

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26 A second supplemental Community Meeting was held on February 3, 2022, at 5:05pm, to provide for
27 public input. There were six (6) attendees and five (5) County staff members. In general, the comments
28 provided for the proposed amendment, are summarized below:

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33 **Development Review Committee and Public Input**

34 The Development Review Committee considered the proposed amendment at a regular meeting on
35 _____ and received public input. In general, the comments provided for the proposed
36 amendment, are summarized below:

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42 **Planning Commission and Public Input**

43 The Planning Commission considered the proposed amendment at a regular meeting
44 on _____, provided for public input and recommended _____.
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III. PROPOSED LAND DEVELOPMENT CODE AMENDMENTS

Proposed Amendments are shown with deletions ~~stricken through~~ and additions are underlined.

Sec. 138-25. - Application Procedures for Residential ROGO.

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(h) **Expiration of allocation award.** Except as provided for in this article, an allocation award shall expire when its corresponding building permit is not picked up after 60 days of notification by certified mail of the award, or, after issuance of the building permit, upon expiration of the permit or after failure of the applicant to submit required plan revisions by the required date set forth in subsection (l) or after the failure to conclude the required coordination with FWS under the Permit Referral Process in Section 122-~~128~~(d)(5).

(i) **Revisions of ROGO applications and awards.**

(1) An applicant may elect to revise a ROGO application to increase the competitive points in the application without prejudice or change in the controlling date if a revision is submitted on a form approved by the Planning Director to the Planning and Environmental Resources Department no later than 30 days following the Planning Commission approval of the previous ROGO rankings. Any such revision shall not involve changes to the approved building permit application. All other applications that are withdrawn and resubmitted that do not increase the competitive points or involve revisions to the approved building permit application shall be considered new, requiring payment of appropriate fees and receiving a new controlling date.

(2) After receipt of an allocation award, and either before or after receipt of a building permit, but prior to receipt of a certificate of occupancy, no revisions shall be made to any aspect of the proposed residential development which formed the basis for the evaluation review, determination of points and allocation rankings, unless such revision would have the effect of increasing the points awarded, without the removal of any lot aggregation or land dedication or removal of an affordable housing deed restriction or density reduction restrictive covenant.

(j) **Clarification of application data.**

(1) At any time during the residential ROGO allocation review and approval process, the applicant may be requested by the Planning Director or the Planning Commission to submit additional information to clarify the relationship of the allocation application, or any elements thereof, to the evaluation criteria. If such a request is made, the Planning Director shall identify the specific evaluation criterion at issue and the specific information needed and shall communicate such request to the applicant.

(2) Upon receiving a request from the Planning Director for such additional information, the applicant may provide such information, or the applicant may decline to provide such information and allow the allocation application to be evaluated as submitted.

(k) Re-review of Criteria and Scores. All applications in or entering into the ROGO system on or after the effective date of the updated FEMA Flood Insurance Rate Maps, and all other applications competing in the ROGO system that have not received an allocation award on the effective date of the updated FEMA Flood Insurance Rate Maps, shall have the application scores reevaluated and updated based on the updated FEMA Flood Insurance Rate Maps (FIRM). Updated FEMA Flood Insurance Rate Maps are the maps adopted subsequent to FEMA Flood Insurance study and the accompanying Flood Insurance Rate Maps, dated February 18, 2005; and included by reference within Ch. 122 of the Monroe County Land Development Code.

1 **(1) Revisions of building permit applications requiring the ROGO allocation(s).** A building permit
 2 application for a proposed dwelling unit requiring a ROGO allocation must be approved prior to
 3 submitting a ROGO application. In the event that the Florida Building Code and/or a FEMA Flood
 4 Insurance Rate Map (FIRM) is amended between the date that a ROGO application is submitted
 5 and the date on which a building permit, requiring the ROGO allocation(s) applied for, is issued
 6 (which follows the date on which the required allocation(s) is awarded), if necessary, the applicant
 7 shall submit plan revisions to the building permit application demonstrating full compliance with
 8 the current Florida Building Code and the adopted FIRM in effect. These plan revisions shall be
 9 submitted within 180 days of the ROGO allocation award date or the applicant shall forfeit the
 10 ROGO allocation award. Following receipt of the plan revisions, the Building Department shall
 11 review the revisions as if the application is new (however retaining the same building permit number
 12 for administrative purposes), based on the building code and the adopted FIRM, for compliance
 13 prior to issuance of the building permit requiring the ROGO allocation(s) by the Building Official.
 14 Such mandatory revisions and review are limited to the modifications necessary to demonstrate
 15 compliance with the Florida Building Code and the adopted FIRM in effect at the time of building
 16 permit issuance. This is not applicable to the Land Development Code. Any mandatory revisions
 17 that affect the footprint of a dwelling unit, increases clearing of habitat or increases the height of
 18 the structure shall be reviewed for compliance with the Land Development Code in effect at the
 19 time of permit issuance.

20
 21 **Sec. 138-28. Evaluation Criteria (ROGO).**

22 (a) **Residential Evaluation Criteria.** The point values established on the following pages are to be
 23 applied cumulatively:

24 For all applications entering the Residential Permit Allocation system after July 13, 2016, the
 25 following points and criteria shall apply:

26 * * * * *

27
 28
 29 (7) *Special flood hazard areas.* The following points shall be assigned to allocation applications
 30 for proposed dwelling unit(s) to provide a disincentive for locating within certain coastal
 31 high flood hazard areas:

Point Assignment:	Criteria:
-6	Proposes structures requiring an allocation within "V" zones on the FEMA flood insurance rate maps.
-4	An application for which development is proposed within a CBRS unit.
<u>All applications in or entering into the ROGO system on or after the effective date of the updated FEMA Flood Insurance Rate Maps, and all other applications competing in the ROGO system that have not received an allocation award on the effective date of the updated FEMA Flood Insurance Rate Maps, shall have the application scores reevaluated and updated based on the updated FEMA Flood Insurance Rate Maps (FIRM). Updated FEMA Flood Insurance Rate Maps are the maps adopted subsequent to FEMA Flood Insurance study and the accompanying Flood Insurance Rate Maps, dated February 18, 2005; and included by reference within Ch. 122 of the Monroe County Land Development Code.</u>	

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1 **Sec. 138-52. - Application Procedures for NROGO.**

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5 (i) **Expiration of allocation award.** Except as provided for in this article, an allocation award shall
6 expire when its corresponding building permit is not picked up after 60 days of notification by
7 certified mail of the award, or, after issuance of the building permit, upon expiration of the permit
8 or after failure of the applicant to submit required plan revisions by the required date set forth in
9 subsection (n~~nn~~) or after the failure to conclude the required coordination with FWS under the Permit
10 Referral Process in Section 122-~~128~~ (d)(5).

11 (j) **Withdrawal of NROGO application.** An applicant may elect to withdraw an NROGO application
12 without prejudice at any time up to finalization of the evaluation rankings by the Planning
13 Commission. Revision and resubmission of the withdrawn application must be in accordance with
14 subsection (k) of this section.

15 (k) **Revisions to applications and awards.**

16 (1) Upon submission of an NROGO application, an applicant may revise the application if it is
17 withdrawn and resubmitted prior to the allocation date for the allocation period in which the
18 applicant wishes to compete. Resubmitted applications shall be considered new, requiring
19 payment of appropriate fees and receiving a new controlling date.

20 (2) After receipt of an allocation award, and either before or after receipt of a building permit being
21 obtained, but prior to receipt of a certificate of occupancy or final inspection, no revisions shall
22 be made to any aspect of the proposed nonresidential development which formed the basis for
23 the evaluation review, determination of points and allocation rankings, unless such revision
24 would have the effect of increasing the points awarded without the removal of any land
25 dedication or removal of an affordable housing deed restriction.

26 (3) After the receipt of an allocation award, a building permit and a certificate of occupancy or final
27 inspection, no revision shall be made to any aspect of the completed nonresidential development
28 which formed the basis for the evaluation, review, determination of points and allocation
29 rankings, unless such revisions are accomplished pursuant to a new building permit and unless
30 such revisions would have the net effect of either maintaining or increasing the number of points
31 originally awarded.

32 (l) **Clarification of application data.**

33 (1) At any time during the NROGO allocation review and approval process, the applicant may be
34 requested by the Planning Director or the Planning Commission, to submit additional
35 information to clarify the relationship of the allocation application, or any elements thereof, to
36 the evaluation criteria. If such a request is made, the Planning Director shall identify the specific
37 evaluation criterion at issue and the specific information needed and shall communicate such
38 request to the applicant.

39 (2) Upon receiving a request from the Planning Director for such additional information, the
40 applicant may provide such information; or the applicant may decline to provide such
41 information and allow the allocation application to be evaluated as submitted.

42 (m) **Re-review of Criteria and Scores.** All applications in or entering into the NROGO system on or
43 after the effective date of the updated FEMA Flood Insurance Rate Maps, and all other applications
44 competing in the NROGO system that have not received an allocation award on the effective date
45 of the updated FEMA Flood Insurance Rate Maps, shall have the application scores reevaluated and
46 updated based on the updated FEMA Flood Insurance Rate Maps (FIRM). Updated FEMA Flood
47 Insurance Rate Maps are the maps adopted subsequent to FEMA Flood Insurance study and the

[accompanying Flood Insurance Rate Maps, dated February 18, 2005; and included by reference within Ch. 122 of the Monroe County Land Development Code.](#)

(n) **Revisions of building permit applications requiring the NROGO allocation(s).** A building permit application for proposed nonresidential floor area requiring an NROGO allocation must be approved prior to submitting an NROGO application. In the event that the Florida Building Code [and/or a FEMA Flood Insurance Rate Map \(FIRM\)](#) is amended between the date on which an NROGO application is submitted and the date on which a building permit requiring the NROGO allocation(s) applied for is issued (which follows the date on which the required allocation(s) is awarded), if necessary, the applicant shall submit plan revisions to the building permit application demonstrating full compliance with the current Florida Building Code [and the adopted FIRM](#) in effect. These plan revisions shall be submitted within 180 days of the NROGO allocation award date or the applicant shall forfeit the NROGO allocation award. Following receipt of the plan revisions, the Building Department shall review the revisions as if the application is new (however retaining the same building permit number for administrative purposes), based on the building code [and the adopted FIRM](#), for compliance prior to issuance of the building permit requiring the NROGO allocation(s) by the Building Official. Such mandatory revisions and review are limited to the modifications necessary to demonstrate compliance with the Florida Building Code [and the adopted FIRM](#) in effect at the time of building permit issuance. ~~This is not applicable to the Land Development Code.~~ [Any mandatory revisions that affect the footprint of the structure, increases clearing of habitat or increases the height of the structure shall be reviewed for compliance with the Land Development Code in effect at the time of permit issuance.](#)

Sec. 138-55. Evaluation Criteria (NROGO).

(a) **Evaluation point values.** The following point values established are to be applied cumulatively except where otherwise specified. For all applications entering the Nonresidential Permit Allocation system after July 13, 2016, the following points and criteria shall apply:

* * * * *

(4) *Special Flood Hazard Area.* The following points shall be assigned to allocation applications to discourage development within high risk special flood hazard zones:

Point Assignment:	Criteria:
-6	Proposes a structure requiring an allocation within a "V" zone on the FEMA Flood Insurance Rate Map.
-4	An application for which development is proposed within a CBRS unit.
All applications in or entering into the NROGO system on or after the effective date of the updated FEMA Flood Insurance Rate Maps, and all other applications competing in the NROGO system that have not received an allocation award on the effective date of the updated FEMA Flood Insurance Rate Maps, shall have the application scores reevaluated and updated based on the updated FEMA Flood Insurance Rate Maps (FIRM). Updated FEMA Flood Insurance Rate Maps are the maps adopted subsequent to FEMA Flood Insurance study and the accompanying Flood Insurance Rate Maps, dated February 18, 2005; and included by reference within Ch. 122 of the Monroe County Land Development Code.	

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2 **IV. CONSISTENCY WITH THE MONROE COUNTY LAND DEVELOPMENT CODE**
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4 The proposed amendment is consistent with one or more of the required provisions of LDC Section 102-
5 158(d)(7)(b):
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- 7 1. Changed projections (e.g., regarding public service needs) from those on which the text or
8 boundary was based;

9
10 N/A
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- 12 2. Changed assumptions (e.g., regarding demographic trends);

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14 N/A
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- 16 3. Data errors, including errors in mapping, vegetative types and natural features described in
17 volume 1 of the plan;

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19 N/A
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- 21 4. New issues;

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23 On December 27, 2019, FEMA issued Preliminary Flood Insurance Rate Maps (FIRMs) and a
24 Flood Insurance Study (FIS) report for Monroe County, Florida. FEMA issued the required
25 notices in the Federal Register and local newspapers for the FIRMs and a Flood Insurance Study
26 (FIS) report for Monroe County, Florida. The 90-day appeal period for Monroe County
27 commenced on March 19, 2021 and ended on June 17, 2021. Monroe County submitted its appeal
28 of the preliminary FEMA Flood Insurance Rate Maps and Flood Insurance Study on June 11,
29 2021. The appeal is ongoing.
30

31 Once FEMA reviews and processes all appeals, the agency will issue a Letter of Final
32 Determination (LFD) and publish the final FIRMS. The County anticipates the Final FIRMs will
33 most likely become effective sometime in 2022-2024. When FEMA issues a Letter of Final
34 Determination (LFD), which is a letter to the County that the updated FIRM will become
35 effective in 6 months, the County must formally adopt the FIRMs and must adopt a compliant
36 floodplain management ordinance by the map effective date to remain a participant in good
37 standing in the NFIP.
38

39 Along with the adoption of the Final FIRMs, the County will need make updates to both the
40 Comprehensive Plan and Land Development Code and Code or Ordinances to provide
41 regulations to implement and conform to the updated FIRMs.
42

43 The proposed amendments to the ROGO and NROGO Sections of the Monroe County Land
44 Development Code are proposed to address:

- 45 1. The potential for flood zone changes within the updated FEMA Flood Insurance Rate
46 Maps, and how a potential flood zone change from an AE Zone to a VE Zone, or vice
47 versa, may affect a ROGO or NROGO application score. For example, a property
48 changing from a VE Zone to an AE Zone, would not be subject to the negative six (-6)

1 points in the ROGO/NROGO Evaluation Criteria. Further, a property changing from an
2 AE Zone to a VE Zone, would be subject to the negative six (-6) points in the
3 ROGO/NROGO Evaluation Criteria.

4 2. The potential for FEMA Flood Insurance Rate Maps updates and the *Florida Building*
5 *Code* updates while an application is completing in the ROGO and NROGO process and
6 ensuring the building permit plans are revised to be in compliance with the current
7 *Florida Building Code* and the adopted FIRM in effect at the time of the permit issuance.
8

9 5. Recognition of a need for additional detail or comprehensiveness; or

10
11 N/A

12
13 6. Data updates;

14
15 N/A

16
17 **In no event shall an amendment be approved which will result in an adverse community change**
18 **to the planning area in which the proposed development is located or to any area in accordance**
19 **with a livable communities master plan pursuant to findings of the board of county**
20 **commissioners.**

21
22 The proposed text amendment is not anticipated to have an adverse community change.
23

24 **V. CONSISTENCY WITH THE MONROE COUNTY COMPREHENSIVE PLAN, THE**
25 **PRINCIPLES FOR GUIDING DEVELOPMENT, AND FLORIDA STATUTES.**

26
27 **A. The proposed amendment is consistent with the Goals, Objectives and Policies of the Monroe**
28 **County 2030 Comprehensive Plan. Specifically, it furthers:**

29
30 **GOAL 101:** Monroe County shall manage future growth to enhance the quality of life, ensure the safety of
31 County residents and visitors, and protect valuable natural resources.
32

33 **Policy 101.5.30:** In order to preserve the existing community character and natural environment, Monroe
34 County shall limit the height of structures including landfills to 35 feet. Height is defined as the vertical
35 distance between grade and the highest part of any structure, including mechanical equipment, but excluding
36 spires and/or steeples on structures used for institutional and/or public uses only; chimneys; radio and/or
37 television antennas; flagpoles; solar apparatus; utility poles and/or transmission towers; and certain antenna
38 supporting structures with attached antennas and/or collocations. However, in no event shall any of the
39 exclusions enumerated above be construed to permit any habitable or usable space to exceed the applicable
40 height limitations, except as specifically permitted in Policies 101.5.31, 101.5.32 and 101.5.33. In the case of
41 airport districts, there shall be no exceptions to the 35-foot height limitation.
42

43 **Policy 101.5.32:** Within 1 year of the effective date of this policy, Monroe County shall adopt Land
44 Development Regulations which provide a Flood Protection Height Exception to Policy 101.5.30 to promote
45 public health, safety and general welfare; allow adaptation to coastal flooding, storm surge and other hazards;
46 protect property from flooding and minimize damages; minimize public and private losses due to flooding;
47 minimize future expenditures of public funds for flood control projects and for recovery from flood events;
48 and mitigate rising flood insurance premiums. A Flood Protection Height Exception of up to a maximum of
49 five (5) feet above the 35-foot height limit shall be provided to allow lawfully existing buildings to be

1 voluntarily elevated up to three (3) feet above FEMA base flood elevation; and a flood protection height
2 exception of a maximum of three (3) feet above the 35-foot height limit shall be provided to allow new (new
3 construction or substantially improved) buildings to voluntarily elevate up to three (3) feet above FEMA base
4 flood elevation. These exceptions are in order to promote flood protection, minimize flood damage, reduce
5 flood insurance premiums and minimize future expenditures of public funds for recovery from flood events.
6 In no case shall a Flood Protection Height Exception result in a new building exceeding a maximum height
7 of 38 feet or a lawfully existing building exceeding a maximum height of 40 feet.
8

9 **Policy 101.5.33:** Within 1 year of the effective date of this policy, Monroe County shall adopt Land
10 Development Regulations which provide a Flood Protection Height Exception for lawfully established
11 existing buildings which exceed the 35-foot height limit, to promote public health, safety and general welfare;
12 allow adaptation to coastal flooding, storm surge and other hazards; protect property from flooding and
13 minimize damages; minimize public and private losses due to flooding; minimize future expenditures of
14 public funds for flood control projects and for recovery from flood events; and mitigate rising flood insurance
15 premiums. A lawfully established existing building may be repaired, improved, redeveloped and/or elevated
16 to meet required FEMA base flood elevation (BFE) provided the building does not exceed a total maximum
17 building height of 40 feet, and the building is limited to the existing lawfully established intensity, floor area,
18 building envelope (floor to floor height), density and type of use. For lawfully established existing buildings
19 that are proposed to exceed a total height of 40 feet, a public hearing before the Planning Commission and the
20 Board of County Commissioners shall be required to review and specify the maximum approved height prior
21 to issuance of any county permit or development approval. The Planning Commission shall provide a
22 recommendation to the BOCC on the maximum height of a building. The BOCC shall adopt a resolution
23 specifying the maximum approved height.
24

25 **Policy 101.9.5:** Existing manufactured homes which are damaged or destroyed so as to require substantial
26 improvement shall be required to meet the most recent HUD standards, and the floodplain management
27 standards set forth by FEMA.
28

29 **Objective 101.10:** Monroe County shall provide for drainage and stormwater management so as to protect
30 real and personal property and to protect and improve water quality.
31

32 **Policy 101.12.3:** Monroe County shall coordinate the siting of new public facilities with the appropriate local,
33 state and federal agencies to resolve potential regulatory conflicts and ensure compliance with all applicable
34 state and federal regulations.
35

36 **Objective 101.14:** Monroe County shall maintain land development regulations which direct future growth
37 away from areas within the Coastal High Hazard Area (CHHA).
38

39 **GOAL 102:** Monroe County shall direct future growth to lands which are most suitable for development and
40 shall encourage conservation and protection of environmentally sensitive lands (wetlands, beach berm and
41 tropical hardwood hammock).
42

43 **Policy 102.1.1:** The County shall protect submerged lands and wetlands. The open space requirement shall
44 be one hundred (100) percent of the following types of wetlands:

- 45 1. submerged lands
- 46 2. mangroves
- 47 3. salt ponds
- 48 4. fresh water wetlands
- 49 5. fresh water ponds
- 50 6. undisturbed salt marsh and buttonwood wetlands

1 Allocated density (dwelling units per acre) shall be assigned to freshwater wetlands and undisturbed salt marsh
2 and buttonwood wetlands only for use as transferable development rights (TDRs) away from these habitats.
3 Submerged lands, salt ponds, freshwater ponds, and mangroves shall not be assigned any density or intensity.
4

5 **Objective 102.3:** Monroe County shall maintain land development regulations which will direct new
6 development to areas having appropriate topography and soil conditions and to where site disturbance and
7 man's activities will have fewer adverse effects on natural vegetation, terrestrial wildlife, natural landforms
8 and marine resources.
9

10 **Objective 102.7:** Monroe County shall take actions to discourage new private development in areas
11 designated as units of the Coastal Barrier Resources System (CBRS).
12

13 **Objective 105.1:** Monroe County shall continue to implement smart growth initiatives in conjunction with its
14 Livable CommuniKeys and Land Acquisition Programs which promote innovative and flexible development
15 processes to preserve the natural environment, maintain and enhance the community character and quality of
16 life, redevelop blighted commercial and residential areas, remove barriers to design concepts, reduce sprawl,
17 and direct future growth to appropriate infill areas.
18

19 **GOAL 202:** The environmental quality of Monroe County's estuaries, nearshore waters (canals, harbors, bays,
20 lakes and tidal streams,) and associated marine resources shall be maintained and, where possible, improved
21 or restored.
22

23 **Policy 202.4.1:** Monroe County shall support state and federal policies and regulations concerning the
24 permitting of dredge and fill activity, except in those instances where more stringent regulations adopted by
25 Monroe County shall be maintained.
26

27 **GOAL 203:** The health and integrity of living marine resources and marine habitat, including mangroves,
28 seagrasses, coral reefs, other hard bottom communities and fisheries, shall be protected and, where possible,
29 restored and enhanced.
30

31 **Objective 203.1:** Monroe County shall protect its mangrove wetlands by continuing to implement regulations
32 which will further reduce disturbances to mangroves and which will mitigate the direct and indirect impacts
33 of development upon mangroves.
34

35 **GOAL 204:** The health and integrity of Monroe County's marine and freshwater wetlands shall be protected
36 and, where possible, restored and enhanced.
37

38 **Policy 204.2.2:** To protect submerged lands and wetlands, the open space requirement shall be 100 percent of
39 the following types of wetlands:

- 40 1. submerged lands;
- 41 2. mangroves;
- 42 3. salt ponds;
- 43 4. fresh water wetlands;
- 44 5. fresh water ponds; and
- 45 6. undisturbed salt marsh and buttonwood wetlands.

46 Allocated density (dwelling units per acre) shall be assigned to freshwater wetlands and undisturbed salt marsh
47 and buttonwood wetland only for use as transferable development rights away from these habitats. Submerged
48 lands, salt ponds, freshwater ponds and mangroves shall not be assigned any density or intensity. Within one
49 (1) year after the adoption of the 2030 Comprehensive Plan, the County shall revise the LDC to include a
50 prohibition of development in salt ponds.
51

1 **GOAL 205:** The health and integrity of Monroe County's native upland vegetation shall be protected and,
2 where possible, enhanced.
3

4 **GOAL 206:** Monroe County shall protect and conserve existing wildlife and wildlife habitats.
5

6 **Policy 206.1.4:** Monroe County shall implement a "Permit Referral Process" for review of all development
7 that occurs within areas designated as "Species Focus Areas (SFAs)" or "Species Buffer Areas (SBAs)". The
8 SFAs or SBAs are areas identified by the U.S. Fish and Wildlife Service (USFWS) which contain potentially
9 suitable habitat for nine federally protected species including: Eastern Indigo Snake, Key Deer, Key Largo
10 Cotton Mouse, Key Largo Woodrat, Key Tree-Cactus, Lower Keys Marsh Rabbit, Schaus Swallowtail
11 Butterfly, Silver Rice Rat, and Stock Island Tree Snail.
12

13 Monroe County shall work cooperatively with USFWS and the Federal Emergency Management Agency
14 (FEMA) to review permit applications for compliance with the Federal Endangered Species Act through the
15 "Permit Referral Process" within the floodplain regulations. The purpose of the "Permit Referral Process" is
16 to implement regulations that will assure, consistent with the 10th Amendment to the U.S. Constitution, state
17 and county regulations, proper record retention, coordination, and notification of FEMA and USFWS
18 regarding permit applications filed with or issued by Monroe County.
19

20 **Policy 206.1.5:** Monroe County shall work cooperatively with USFWS in requiring any development permit
21 application within Critical Habitat or designated potentially suitable habitat for federally listed threatened and
22 endangered species that are not included in the USFWS April 30, 2010 Biological Opinion, and/or are not
23 included in the species addressed under the "Permit Referral Process" in Policy 206.1.4 above, to consult
24 directly with USFWS and provide authorization from USFWS to Monroe County before commencement of
25 development.
26

27 **Objective 206.2:** Monroe County shall provide guidance to private landowners to reduce disturbances to
28 wildlife species designated by the FWS as threatened or endangered.
29

30 **GOAL 208:** Monroe County shall discourage private land uses on its mainland, offshore islands and
31 undeveloped coastal barriers, and shall protect existing conservation lands from adverse impacts associated
32 with private land uses on adjoining lands.
33

34 **GOAL 210:** The health and integrity of Monroe County's beach/berm resources shall be protected and, when
35 possible, restored and enhanced.
36

37 **Objective 212.5:** Monroe County shall maintain land development regulations pertaining to shoreline
38 stabilization.
39

40 **GOAL 216:** Monroe County shall maintain a program of hazard mitigation and post-disaster redevelopment
41 to increase public safety and reduce damages and public expenditures.
42

43 **Objective 216.1:** Monroe County shall maintain a program of hazard mitigation in the Coastal High Hazard
44 Area (CHHA) which reduces floodplain alteration and damage or loss due to natural disasters.
45

46 **Policy 216.1.4:** Monroe County shall continue its policy of reviewing the current Building Code and, as
47 appropriate, adopting structural standards and site alteration restrictions that meet or exceed the minimum
48 FEMA requirements. The Building Code shall be reviewed and revised at least every five years. The
49 recommendations of the applicable interagency hazard mitigation report shall be considered in revisions to
50 the Code.
51

1 **Policy 216.1.5:** Monroe County shall continue to participate in the National Flood Insurance Program(NFIP)
2 Community Rating System (CRS) to the maximum extent possible and shall seek to improve its current CRS
3 Class rating.
4

5 **Policy 216.1.6:** Monroe County shall continue to enforce federal, state and local setback and elevation
6 requirements to promote the protection and safety of life and property. Revisions to the existing setback
7 requirements contained in the land development regulations shall be considered as a means of reducing
8 property damage caused by storms.
9

10 **Policy 216.1.7:** Monroe County shall consider floodplain management and CHHA issues in making public
11 acquisition decisions.
12

13 **Policy 216.1.8:** Monroe County shall require that, to the greatest extent practicable, development activity,
14 such as land clearing, grading and filling will not disturb natural drainage patterns.
15

16 **Policy 216.2.2:** Monroe County shall maintain a Post-Disaster Redevelopment Plan which specifies
17 procedures for implementing programs for immediate repair, replacement, and cleanup, and long-term
18 rebuilding and redevelopment. The plan shall also include procedures for the identification of damaged
19 infrastructure and consideration of alternatives to its repair or replacement in the CHHA.
20

21 **Policy 216.2.3:** The Post-Disaster Redevelopment Plan shall identify areas particularly susceptible to damage
22 within the CHHA such as the FEMA designated V-zones and repetitive loss areas as defined by FEMA and
23 shall specify procedures for relocating or replacing public infrastructure away from them, where feasible.
24

25 **Policy 216.2.4:** Monroe County shall update the Post-Disaster Redevelopment Plan and coordinate with
26 Emergency Management to include in the Local Mitigation Strategy considerations for repetitive loss and
27 severe repetitive loss structures and limits to redevelopment in areas within the CHHA particularly susceptible
28 to repeated damage.
29

30 **Objective 216.3:** Monroe County shall maintain land development regulations which directs future growth
31 away from the Coastal High Hazard Area (CHHA).
32

33 **Objective 601.3:** Monroe County shall continue implementation efforts to eliminate substandard housing and
34 to preserve, conserve and enhance the existing housing stock, including historic structures and sites.
35

36 **Policy 601.3.1:** Monroe County shall coordinate with other County agencies to monitor housing conditions.
37 Standards for evaluation of the structural condition of the housing stock are summarized below:

38 Sound: Most housing units in this category are in good condition and have no visible defects. However,
39 some structures with slight defects are also included.

40 Deteriorating: A housing unit in this category needs more repair than would be provided in the course of
41 regular maintenance, such as repainting. A housing unit is classified as deteriorating when its deficiencies
42 indicate a lack of proper upkeep.

43 Dilapidated (Substandard): A housing unit in this category indicates that the unit can no longer provide
44 safe and adequate shelter or is of inadequate original construction including being constructed below the
45 minimum required elevation by FEMA or the County's Floodplain Regulations.
46

47 **Policy 601.3.2:** The County Code Compliance Office and Building Department will enforce building code
48 regulations and County ordinances governing the structural condition of the housing stock, to ensure the
49 provision of safe, decent and sanitary housing and stabilization of residential neighborhoods.
50

51 **GOAL 1501:** Monroe County shall coordinate with the municipalities of Key West, Key Colony Beach,
52 Islamorada, Layton and Marathon; regional, State, and federal government agencies, nongovernmental

1 organizations and private organizations to exchange data and develop coordinated strategies to address energy
2 conservation and impacts from climate change.

3
4 **Objective 1501.1:** Monroe County shall coordinate and collaborate with municipalities and other public and
5 private entities to address energy conservation strategies and unique climate change impacts, including
6 adaptation and mitigation strategies.

7
8 **Policy 1501.1.4:** Monroe County shall seek the support of agencies, such as the National Oceanic and
9 Atmospheric Administration (NOAA), U.S. Geological Survey (USGS), Federal Emergency Management
10 Agency (FEMA), the U.S. Department of Interior, the U.S. Army Corps of Engineers (ACOE), as well as
11 universities and not-for-profit organizations to coordinate support for updating, exchanging and analyzing
12 data regarding potential changes in climate change vulnerability.

13
14 **Objective 1502.1:** In conjunction with future updates to the 2030 Comprehensive Plan and land development
15 regulations, the County shall update the data and assumptions related to climate change impacts to
16 infrastructure based on the latest scientific predictions and observed(monitored) impacts. Monroe County
17 shall also consider climate change impacts such as increased temperatures, sea level rise, potentially shifting
18 habitat and ecosystem types and the need to withstand increased storm surge in evaluating public infrastructure
19 decisions.

20
21 **Policy 1503.1.4:** Monroe County shall review the most updated FEMA maps within one (1) year of their
22 release and evaluate floor elevation requirements, as necessary, for all new construction in vulnerable areas.

23
24 **Policy 1503.4.1:** Within five (5) years after the adoption of the 2030 Comprehensive Plan, Monroe County
25 shall review its post-disaster redevelopment plan and land development regulations to include, as appropriate,
26 consideration of climate change impacts, repetitive loss structures and shoreline stabilization needs.

27
28 **Objective 1504.1:** Within five (5) years after the adoption of the 2030 Comprehensive Plan, the County shall
29 revise its land acquisition and preservation policies to consider the climate change-related values of natural
30 areas for sequestering carbon and providing climate adaptation and mitigation benefits such as the resource's
31 strategic capacity to absorb floodwaters and address coastal ecosystem migration.

32
33 **B. The amendment is consistent with the Principles for Guiding Development for the Florida Keys Area,
34 Section 380.0552(7), Florida Statutes.**

35
36 For the purposes of reviewing consistency of the adopted plan or any amendments to that plan with the
37 principles for guiding development and any amendments to the principles, the principles shall be construed
38 as a whole and no specific provision shall be construed or applied in isolation from the other provisions.

- 39
40 (a) Strengthening local government capabilities for managing land use and development so that local
41 government is able to achieve these objectives without continuing the area of critical state concern
42 designation.
- 43 (b) Protecting shoreline and benthic resources, including mangroves, coral reef formations, seagrass beds,
44 wetlands, fish and wildlife, and their habitat.
- 45 (c) Protecting upland resources, tropical biological communities, freshwater wetlands, native tropical
46 vegetation (for example, hardwood hammocks and pinelands), dune ridges and beaches, wildlife, and
47 their habitat.
- 48 (d) Ensuring the maximum well-being of the Florida Keys and its citizens through sound economic
49 development.
- 50 (e) Limiting the adverse impacts of development on the quality of water throughout the Florida Keys.
- 51 (f) Enhancing natural scenic resources, promoting the aesthetic benefits of the natural environment, and
52 ensuring that development is compatible with the unique historic character of the Florida Keys.

- 1 (g) Protecting the historical heritage of the Florida Keys.
- 2 (h) Protecting the value, efficiency, cost-effectiveness, and amortized life of existing and proposed major
- 3 public investments, including:
- 4
- 5 1. The Florida Keys Aqueduct and water supply facilities;
- 6 2. Sewage collection, treatment, and disposal facilities;
- 7 3. Solid waste treatment, collection, and disposal facilities;
- 8 4. Key West Naval Air Station and other military facilities;
- 9 5. Transportation facilities;
- 10 6. Federal parks, wildlife refuges, and marine sanctuaries;
- 11 7. State parks, recreation facilities, aquatic preserves, and other publicly owned properties;
- 12 8. City electric service and the Florida Keys Electric Co-op; and
- 13 9. Other utilities, as appropriate.
- 14
- 15 (i) Protecting and improving water quality by providing for the construction, operation, maintenance, and
- 16 replacement of stormwater management facilities; central sewage collection; treatment and disposal
- 17 facilities; and the installation and proper operation and maintenance of onsite sewage treatment and
- 18 disposal systems.
- 19 (j) Ensuring the improvement of nearshore water quality by requiring the construction and operation of
- 20 wastewater management facilities that meet the requirements of ss. 381.0065(4)(1) and 403.086(10), as
- 21 applicable, and by directing growth to areas served by central wastewater treatment facilities through
- 22 permit allocation systems.
- 23 (k) Limiting the adverse impacts of public investments on the environmental resources of the Florida Keys.
- 24 (l) Making available adequate affordable housing for all sectors of the population of the Florida Keys.
- 25 (m) Providing adequate alternatives for the protection of public safety and welfare in the event of a natural or
- 26 manmade disaster and for a postdisaster reconstruction plan.
- 27 (n) Protecting the public health, safety, and welfare of the citizens of the Florida Keys and maintaining the
- 28 Florida Keys as a unique Florida resource.
- 29

30 Pursuant to Section 380.0552(7) Florida Statutes, the proposed amendment is not inconsistent with the

31 Principles for Guiding Development as a whole and is not inconsistent with any Principle.

32

33 **C. The proposed amendment is consistent with the Part II of Chapter 163, Florida Statute (F.S.).**

34 **Specifically, the amendment furthers:**

35

36 163.3161(4), F.S. – It is the intent of this act that local governments have the ability to preserve and enhance

37 present advantages; encourage the most appropriate use of land, water, and resources, consistent with the

38 public interest; overcome present handicaps; and deal effectively with future problems that may result

39 from the use and development of land within their jurisdictions. Through the process of comprehensive

40 planning, it is intended that units of local government can preserve, promote, protect, and improve the

41 public health, safety, comfort, good order, appearance, convenience, law enforcement and fire prevention,

42 and general welfare; facilitate the adequate and efficient provision of transportation, water, sewerage,

43 schools, parks, recreational facilities, housing, and other requirements and services; and conserve,

44 develop, utilize, and protect natural resources within their jurisdictions.

45

46 163.3161(6), F.S. – It is the intent of this act that adopted comprehensive plans shall have the legal status set

47 out in this act and that no public or private development shall be permitted except in conformity with

48 comprehensive plans, or elements or portions thereof, prepared and adopted in conformity with this act.

49

50 163.3164(14), F.S. – “Development” has the same meaning as in s. 380.04.

51

1 163.3177(1), F.S. – The comprehensive plan shall provide the principles, guidelines, standards, and strategies
2 for the orderly and balanced future economic, social, physical, environmental, and fiscal development of
3 the area that reflects community commitments to implement the plan and its elements. These principles
4 and strategies shall guide future decisions in a consistent manner and shall contain programs and activities
5 to ensure comprehensive plans are implemented. The sections of the comprehensive plan containing the
6 principles and strategies, generally provided as goals, objectives, and policies, shall describe how the local
7 government’s programs, activities, and land development regulations will be initiated, modified, or
8 continued to implement the comprehensive plan in a consistent manner. It is not the intent of this part to
9 require the inclusion of implementing regulations in the comprehensive plan but rather to require
10 identification of those programs, activities, and land development regulations that will be part of the
11 strategy for implementing the comprehensive plan and the principles that describe how the programs,
12 activities, and land development regulations will be carried out. The plan shall establish meaningful and
13 predictable standards for the use and development of land and provide meaningful guidelines for the
14 content of more detailed land development and use regulations.
15

16 163.3177(6)(d), F.S. –A conservation element for the conservation, use, and protection of natural resources
17 in the area, including air, water, water recharge areas, wetlands, waterwells, estuarine marshes, soils,
18 beaches, shores, flood plains, rivers, bays, lakes, harbors, forests, fisheries and wildlife, marine habitat,
19 minerals, and other natural and environmental resources, including factors that affect energy conservation.
20

21 163.3178(2)(a), F.S. – A land use and inventory map of existing coastal uses, wildlife habitat, wetland and
22 other vegetative communities, undeveloped areas, areas subject to coastal flooding, public access routes
23 to beach and shore resources, historic preservation areas, and other areas of special concern to local
24 government.
25

26 163.3178(2)(f), F.S. – A redevelopment component that outlines the principles that must be used to eliminate
27 inappropriate and unsafe development in the coastal areas when opportunities arise. The component must:
28 1. Include development and redevelopment principles, strategies, and engineering solutions that reduce
29 the flood risk in coastal areas which results from high-tide events, storm surge, flash floods, stormwater
30 runoff, and the related impacts of sea-level rise.
31 2. Encourage the use of best practices development and redevelopment principles, strategies, and
32 engineering solutions that will result in the removal of coastal real property from flood zone designations
33 established by the Federal Emergency Management Agency.
34 3. Identify site development techniques and best practices that may reduce losses due to flooding and
35 claims made under flood insurance policies issued in this state.
36 4. Be consistent with, or more stringent than, the flood-resistant construction requirements in the Florida
37 Building Code and applicable flood plain management regulations set forth in 44 C.F.R. part 60.
38 5. Require that any construction activities seaward of the coastal construction control lines established
39 pursuant to s. 161.053 be consistent with chapter 161.
40 6. Encourage local governments to participate in the National Flood Insurance Program Community
41 Rating System administered by the Federal Emergency Management Agency to achieve flood insurance
42 premium discounts for their residents.
43

44 163.3194(1)(a), F.S. – After a comprehensive plan, or element or portion thereof, has been adopted in
45 conformity with this act, all development undertaken by, and all actions taken in regard to development
46 orders by, governmental agencies in regard to land covered by such plan or element shall be consistent
47 with such plan or element as adopted.
48

49 163.3201, F.S. – Relationship of comprehensive plan to exercise of land development regulatory authority.—
50 It is the intent of this act that adopted comprehensive plans or elements thereof shall be implemented, in
51 part, by the adoption and enforcement of appropriate local regulations on the development of lands and
52 waters within an area. It is the intent of this act that the adoption and enforcement by a governing body of

1 regulations for the development of land or the adoption and enforcement by a governing body of a land
2 development code for an area shall be based on, be related to, and be a means of implementation for an
3 adopted comprehensive plan as required by this act.
4

5 163.3202(2), F.S. – Local land development regulations shall contain specific and detailed provisions
6 necessary or desirable to implement the adopted comprehensive plan and shall at a minimum:

7 (a) Regulate the subdivision of land.

8 (b) Regulate the use of land and water for those land use categories included in the land use element and
9 ensure the compatibility of adjacent uses and provide for open space.

10 (c) Provide for protection of potable water wellfields.

11 (d) Regulate areas subject to seasonal and periodic flooding and provide for drainage and stormwater
12 management.

13 (e) Ensure the protection of environmentally sensitive lands designated in the comprehensive plan.
14
15
16
17

18 **IV. PROCESS**

19
20 Land Development Code Amendments may be proposed by the Board of County Commissioners, the
21 Planning Commission, the Director of Planning, private application, or the owner or other person having
22 a contractual interest in property to be affected by a proposed amendment. The Director of Planning
23 shall review and process applications as they are received and pass them onto the Development Review
24 Committee and the Planning Commission.
25

26 The Planning Commission shall hold at least one public hearing. The Planning Commission shall review
27 the application, the reports and recommendations of the Department of Planning & Environmental
28 Resources and the Development Review Committee and the testimony given at the public hearing. The
29 Planning Commission shall submit its recommendations and findings to the Board of County
30 Commissioners (BOCC). The BOCC holds a public hearing to consider the adoption of the proposed
31 amendment, and considers the staff report, staff recommendation, Planning Commission
32 recommendation and the testimony given at the public hearing. The BOCC may adopt the proposed
33 amendment based on one or more of the factors established in LDC Section 102-158(d)(7).
34
35

36 **V. STAFF RECOMMENDATION**

37 **Approval** 38 39