

The proposed rule language is as follows:

**Rule \_\_\_\_\_.** **Hotel Unit Allocation Program for the Florida Keys and City of Key West Areas of Critical State Concern.**

- (1) **Purpose.** This rule establishes a program to award to Florida Keys local governments Hotel Unit Allocations for hotel development in exchange for extinguishment of residential development rights on vacant buildable environmentally sensitive lots. The purpose of the program is to reduce residential development entitlements and increase acquisition of vacant buildable environmentally sensitive platted lots, reduce state and local government exposure to potential takings claims, and ensure the safe evacuation of residents of the Florida Keys and City of Key West Areas of Critical State Concern during tropical hurricane events.
- (2) **Definitions.** As used in this rule the following terms have the following meanings:
  - (a) “Florida Keys” means the Florida Keys Area of Critical State Concern and the City of Key West Area of Critical State Concern.
  - (b) A “Hotel Unit Allocation” means an allocation for development of one Hotel Unit consisting of one bedroom and up to two bathrooms.
  - (c) “Recipient(s)” means a non-government entity or an individual who receives a Hotel Unit Allocation award from a local government.
  - (d) Department and DEO means the State Land Planning Agency
  - (e) “Environmentally Sensitive” means lands targeted for acquisition by the Florida Department of Environmental Protection, lands designated Tier I and Tier II under the Monroe County comprehensive plan, or wetlands scoring 4 to 5 on the Keys Wetland Evaluation Program (KEYWEP)
- (3) **Communities; Local Government Hotel Unit Allocation Awards; Expiration.** The Department of Economic Opportunity may designate up to three local governments in the Florida Keys as communities under this rule. The Department shall issue a Hotel Unit Allocation Award Letter to the community or communities awarding a combined total of up to 300 Hotel Unit Allocations. If more than one community is designated, the Department may award all Hotel Unit Allocations simultaneously or may stagger the Hotel Unit Allocation awards.
- (4) **Use of Hotel Unit Allocations for Development.**
  - (a) **Local Hotel Unit Allocation Program.** A local government in possession of Hotel Unit Allocations may award those Hotel Unit Allocations to a Recipient for development of hotel units. Prior to any award to a Recipient, the local government shall establish a Hotel Unit Allocation Program that:
    1. includes application, award, tracking, and record-keeping requirements,
    2. requires development of affordable housing units or, if authorized by the local government’s comprehensive plan or land development regulations, contribution of a fee for each hotel unit built, and

3. requires the extinguishment of residential development rights as provided in this rule.
- (b) **Conditional Use Approval; Expiration of Hotel Unit Allocation to a Recipient.** Hotel Unit Allocations shall be awarded pursuant to a conditional use approval conditioning the award on the Recipient extinguishing development rights on three vacant buildable environmentally sensitive platted residential lots for each one Hotel Unit Allocation awarded. For the purpose of this rule, an environmentally sensitive platted residential lot is a platted lot designated as Tier I or II, targeted for acquisition by the Florida Department of Environmental Protection, or a lot that scores between 4.0 and 5.0 under the Florida Keys Wetland Identification Program and must have been platted on or before the effective date of this rule. The lots on which development rights are extinguished must be located within unincorporated Monroe County, Islamorada, or Marathon exclusive of offshore islands and Mainland Monroe. Residential development rights shall be extinguished within two years after the date of the conditional use approval or the Hotel Unit Allocation award shall automatically expire. Upon expiration, the Hotel Unit Allocations shall revert to the Department for further award pursuant to its adopted Hotel Unit Allocation program. Once the required residential development rights are extinguished in a manner consistent with this rule, the Hotel Unit Allocations are the sole property of the Recipient.
- (c) **Extinguishing Residential Development Rights.** Residential development rights shall be extinguished by the Recipient recording a written instrument in the public records of Monroe County, Florida, extinguishing such development rights. The instrument shall be in a form acceptable to the local government in which the lots are located. The Recipient shall provide a copy of the recorded instrument to the Department and to the local government in which the lots are located no later than 10 days after the recording information is made available to the Recipient by the Clerk's Office. The Recipient shall not be entitled to receive a building permit for hotel units to be developed pursuant to a Hotel Unit Allocation award until the required residential development rights have been extinguished.
- (d) **Plan Amendment Designating Lots as Conservation.** The local government in whose jurisdiction the lots on which development rights have been extinguished are located shall amend its comprehensive plan to designate the lots as "Conservation" on its Future Land Use Map within six months after the receipt of the recorded written instrument extinguishing such development rights. The local government in whose jurisdiction the lots are located may require the Recipient to apply for the plan amendment required by this section.
- (e) **Land Management.** For the purpose of land management, the Recipient may convey the lots on which development rights have been extinguished to the Monroe County Land Authority or to the local government in which they are located to manage the lots.

- (5) **Evaluation and Report to the Administration Commission.** Local governments participating in the program shall provide DEO an annual Report by July 30 of each year indicating the status of the program and reporting the number of units that have been transferred or acquired. Adjustments to the ten year building permit allocation shall be reflected in a plan amendment by the donor and receiver local governments within 12 months of adoption of a resolution to transfer units to another local government. Department of Economic Opportunity shall include in its Florida Keys annual report an assessment of the success or failure of the program and a recommendation whether the program should be expanded.

*Rulemaking Authority: 380.05(22)(b), FS; Law Implemented: 380.05, 380.0552, FS; New.*

#### **Recommendations**

Staff at DEO recommend promulgation of the above rule.