

**Land Development Code
Amendment to eliminate the
1-for-1 exchange for the
remaining workforce
affordable housing early
evacuation unit building
permit allocations.**

Community Meeting November 24, 2025

Land Development Code Text Amendment
File 2025-221

Proposed Amendment: deletions are shown in ~~red strike-through~~; additions are shown in red underline.

Sec. 138-24. - Residential ROGO Allocations.

(a) **Number of available annual residential ROGO allocations.** The number of market rate residential ROGO allocations available in each subarea of the unincorporated county and the total number of affordable residential ROGO allocations and affordable workforce housing early evacuation unit allocations available countywide shall be as follows:

<i>Subarea</i>	Number of Dwelling Units	
	ROGO Years: July 13, 2020- July 12, 2021 July 13, 2021- July 12, 2022 July 13, 2022- July 12, 2023	ROGO Years: July 13, 2023- July 12, 2024 July 13, 2024- July 12, 2025 July 13, 2025- July 12, 2026
Upper Keys	31	30
Lower Keys	29	28
Big Pine and No Name Keys	4	4
<i>Total market rate</i>	64	62
<i>Affordable Dwelling Units</i>		
Very Low, Low, and Median Incomes	360*	
Moderate Incomes	350*	
*Includes one annually for Big Pine Key and No Name Key		
<u>Affordable Workforce Housing Early Evacuation Initiative</u>		
		300**
** <u>Affordable</u> W orkforce housing early evacuation unit <u>building permit</u> allocations shall be distributed on a first-come first-serve basis <u>in the Upper and Lower Keys subareas</u> . Requests for dwelling units developed and/or deed-restricted utilizing the <u>affordable</u> workforce housing early evacuation unit <u>building permit</u> allocations are subject to the provisions of Policy 101.3.12 and Section 138-24(e). <u>Additionally, pursuant to Comprehensive Plan Policy 101.3.10, affordable workforce housing early evacuation unit building permit allocations may be transferred to another government jurisdiction for County-initiated affordable housing projects, as approved by a resolution of the BOCC.</u>		

ROGO Year	Annual Allocation			<u>Affordable Workforce Housing Early Evacuation Initiative</u>	
	Market Rate	Workforce Initiative	Affordable Housing		
July 13, 2013—July 12, 2014	126 U: 61, L: 57, BPK/NNK: 8	N/A	71	N/A	
July 13, 2014—July 12, 2015	126 U: 61, L: 57, BPK/NNK: 8		71		
July 13, 2015—July 12, 2016	126 U: 61, L: 57, BPK/NNK: 8		568 total AFH (total available immediately)		
July 13, 2016—July 12, 2017	126 U: 61, L: 57, BPK/NNK: 8				
July 13, 2017—July 12, 2018	126 U: 61, L: 57, BPK/NNK: 8				
July 13, 2018—July 12, 2019	126 126 U: 61, L: 57, BPK/NNK: 8				
July 13, 2019—July 12, 2020	126 U: 61, L: 57, BPK/NNK: 8				
July 13, 2020—July 12, 2021	64 U: 31, L:29, BPK/NNK: 4				
July 13, 2021—July 12, 2022	64 U: 31, L:29, BPK/NNK: 4				300**
July 13, 2022—July 12, 2023	64 U: 31, L:29, BPK/NNK: 4				
July 13, 2023—July 12, 2024	62 U: 30, L:28, BPK/NNK: 4				

July 13, 2024—July 12, 2025	62 U: 30, L:28, BPK/NNK: 4			
July 13, 2025—July 12, 2026	62 U: 30, L:28, BPK/NNK: 4			
TOTAL	1,260	300**	710*	<u>300**</u>

*Includes two annual affordable ROGO allocations for the Big Pine Key/No Name Key subarea) through the Incidental Take Permit (ITP) ending in 2023.

** Affordable Workforce housing early evacuation unit building permit allocations are available within the in the Upper and Lower Keys subareas and shall be distributed on a first-come first-serve basis. Requests for dwelling units developed and/or deed-restricted utilizing the workforce housing early evacuation unit allocations are subject to the provisions of Policy 101.3.12 and Section 138-24(e). Additionally, pursuant to Comprehensive Plan Policy 101.3.10, affordable workforce housing early evacuation unit building permit allocations may be transferred to another government jurisdiction for County-initiated affordable housing projects, as approved by a resolution of the BOCC.

The State of Florida, pursuant to Administration Commission Rules, may modify the annual allocation rate. The County adopted a slower rate of annual allocations for market rate development to extend the allocation timeframe to 2026 without exceeding the total of 1,970 allocations. By July 12, 2023, if substantial financial support is provided by State and Federal partners, the County may reevaluate the ROGO distribution allocation schedule and consider an extended timeframe for the distribution of market rate allocations. If necessary, Monroe County will request a Rule change from the Administration Commission to authorize an alternative allocation timeframe and rate.

- (1) *Yearly residential ROGO allocation ratio.* Each subarea shall have its number of market rate residential ROGO allocations available per ROGO year. Affordable ROGO allocations and affordable workforce housing early evacuation unit building permit allocations shall be available for countywide allocation except for Big Pine Key and No Name Key. The allocations for Big Pine Key and No Name Key shall be limited to maximums established in Big Pine Key/No Name Key Livable CommuniKeys Plan, Incidental Take Permit and Habitat Conservation Plan.
- (2) *Quarterly residential ROGO allocation ratio.* Each subarea shall have its number of market rate housing residential ROGO allocations available per ROGO quarter determined by the following formula:
 - a. Market rate residential ROGO allocations available in each subarea per quarter is equal to the market rate residential ROGO allocations available in each subarea divided by four.
 - b. Affordable housing residential ROGO for all four ROGO quarters, including the allocations available for Big Pine Key, shall be made available at the beginning of the first quarter for a ROGO year. Beginning July 13, 2016, the balance of all remaining affordable housing residential ROGO allocations shall be made available for award.

- c. Affordable Workforce Initiative housing early evacuation unit building permit allocations shall be made available at the beginning of the first quarter of ROGO year July 13, 2021—July 12, 2022. All affordable workforce early evacuation unit building permit allocations shall be available for award, and shall be distributed on a first-come first-serve basis. Requests for affordable workforce housing early evacuation unit building permit allocations shall require a reservation via BOCC resolution.
- (3) *Ratio of very low income, low income, and median income allocations to moderate income allocations.* The Planning Commission may amend these proportions for affordable housing during any ROGO quarter.
- (4) *Big Pine Key and No Name Key.*
- a. All allocation awards on Big Pine Key and No Name Key are subject to the provisions of the Incidental Take Permit (ITP), the Habitat Conservation Plan (HCP) and Livable CommuniKeys Plan (LCP) for the Florida Key Deer and other covered species, which may affect ROGO allocations under this article.
 - b. In the Big Pine Key/No Name Key sub-area the annual maximum number of residential permit allocations that may be awarded in Tier I shall be no more than one (1) every 2 years. Until the ITP, HCP, Biological Opinion, and LCP are amended, a property owner attempting to develop his property may be granted an allocation through the ROGO process that may be used once that property owner obtains all required permits and authorizations required under the Endangered Species Act and other applicable federal and state laws. The allocation will remain valid so long as the applicant diligently and in good faith continues to work with USFWS to conclude the coordination and pick up a building permit.
- (5) *Limit on number of allocation awards in Tier I.*
- a. Big Pine Key/No Name Key subarea: The maximum ROGO allocations in Tier I shall be no more than one (1) every two (2) years.
 - b. Upper Keys subarea: The annual maximum ROGO allocations in Tier I shall be no more than three (3).
 - c. Lower Keys subarea: The annual maximum ROGO allocations in Tier I shall be no more than three (3).
- (b) **Reservation of affordable housing allocations.** Notwithstanding the provisions of Section 138-26 for awarding of affordable housing allocations or affordable workforce ~~initiative~~ (~~workforce~~-housing early evacuation unit) building permit allocations, the BOCC may reserve by resolution some or all of the available affordable housing allocations or available affordable workforce initiative housing early evacuation unit building permit allocations for award to certain sponsoring agencies or specific housing programs consistent with all other requirements of this chapter. Building permits for these reserved allocations shall be picked up within six months of the effective reservation date, unless otherwise authorized by the BOCC in its resolution such as establishing the income categories for allocations granted. The BOCC may, at its discretion, place conditions on any reservation as it deems appropriate. These reservations may be authorized by the BOCC for:
- (1) The county housing authority, nonprofit community development organizations, pursuant to Section 139-1(e), and other public entities established to provide affordable housing by entering into a memorandum of understanding with one or more of these agencies;

- (2) Specific affordable or employee housing projects participating in a federal/state housing financial assistance or tax credit program or receiving some form of direct financial assistance from the county upon written request from the project sponsor and approved by resolution of the BOCC;
- (3) Specific affordable or employee housing projects sponsored by nongovernmental not-for-profit organizations above upon written request from the project sponsor and approved by resolution of the BOCC;
- (4) Specific affordable or employee housing programs sponsored by the county pursuant to procedures and guidelines as may be established from time to time by the BOCC;
- (5) Specific affordable or employee housing projects by any entity, organization, or person, contingent upon transfer of ownership of the underlying land for the affordable housing project to the county, a not-for-profit community development organization, or any other entity approved by the BOCC, upon written request from the project sponsor and approved by resolution of the BOCC; or
- (6) Rental employee housing projects situated on the same parcel of land as the nonresidential workplace for the tenants of these projects, upon written request from the property owner and approved by resolution of the BOCC; or-
- (7) Affordable Workforce initiative housing early evacuation projects, pursuant to Policy 101.3.12 and Section 138-24(e), that require occupants to evacuate in Phase 1 of the 48-hr evacuation ~~of a pending major hurricane as required in Comprehensive Plan Policy 101.2.4~~, are restricted to rental occupancy, and for those who derive at least 70% of their income as members of the workforce in Monroe County and who meet the affordable housing income categories of the Monroe County Land Development Code.

(c) Affordable housing allocation awards and eligibility.

- (1) The definition of affordable housing shall be as specified in Sections 101-1 and 139-1.
- (2) Any portion of the affordable housing allocation not used for affordable housing at the end of a ROGO year shall be made available for affordable housing for the next ROGO year.
- (3) No affordable housing allocation shall be awarded to applicants located within a Tier I designated area, within a V-zone on the county's flood insurance rating map, or within a Tier III-A (special protection area) designated area.
Notwithstanding the foregoing, and notwithstanding Section 138-24(a)(5), affordable housing ROGO allocations may be awarded to Tier I or Tier III-A properties which meet all of the following criteria:
 - a. The property contains an existing market rate dwelling unit that meets the criteria in LDC Section 138-22(a) and is determined to be exempt from ROGO;
 - b. The proposed replacement affordable dwelling unit meets current Florida Building Code and is not a mobile home;
 - c. The proposed replacement dwelling unit shall be deed restricted for a period of at least 99 years as affordable housing pursuant to the standards of the Land Development Code;
 - d. The proposed site plan for the replacement affordable dwelling unit does not propose any additional clearing of habitat; and
 - e. The structure is not proposed to be within a V-zone on the county's flood insurance rating map.
- (4) Only affordable housing allocations for Big Pine Key may be used on Big Pine Key. No affordable housing allocation may be used on No Name Key.

(d) **Dwelling unit allocation required.** The county shall issue no building permit for a dwelling unit unless such dwelling unit:

- (1) Has a dwelling unit allocation award; or
- (2) Is exempted from the dwelling unit allocation system pursuant to this chapter or is deemed vested pursuant to Section 138-22.

(e) **Affordable Workforce Housing Early Evacuation Initiative allocation awards, eligibility and requirements.**

(1) Pursuant to Policies 101.3.2, 101.3.3 and 101.3.12, Monroe County establishes a new allocation category to award 300 affordable workforce housing early evacuation unit building permit allocations pursuant to the Workforce-Affordable Housing Initiative (Workforce Initiative). The Workforce-Affordable Housing Initiative will require dwelling units constructed and/ or deed restricted with affordable workforce housing early evacuation unit building permit allocations to evacuate occupants in Phase 1 of the 48-hr evacuation of a pending major hurricane.

(2) Dwelling units developed and/or deed restricted utilizing the affordable workforce housing initiative early evacuation unit building permit allocations are subject to the following:

a. Requests for affordable workforce housing early evacuation unit allocations ~~shall be available only for a 1 for 1 exchange for affordable allocations/exemptions and~~ require a reservation via BOCC resolution. The BOCC may, at its discretion, place conditions on any reservation as it deems appropriate, such as establishing the income categories for allocations granted. ~~The BOCC may, at its discretion, exchange existing reserved affordable allocations for allocations under the Workforce Initiative to private development and nonprofit sector partners willing to meet the requirements of the workforce housing early evacuation unit allocations. Further, the BOCC may, at its discretion, approve the exchange of existing deed restricted affordable housing units (lawful affordable exemptions) at existing multifamily residential developments for allocations under the Workforce Initiative to private development and nonprofit sector partners willing to meet the requirements of the workforce housing early evacuation unit allocations.~~

~~1. The affordable allocations returned to the County in exchange for workforce housing early evacuation unit allocations shall be banked and used for future administrative relief, beneficial use determinations and to resolve inverse condemnation cases and Bert J. Harris, Jr. Private Property Rights Protection Act cases.~~

~~2. To maintain consistency with Rule 28-20.140(2)(b), F.A.C., the affordable allocations returned to the County shall be maintained as affordable allocations and shall also be returned to the original affordable housing income category (very low/low/median income vs. moderate income pool).~~

~~3. The workforce housing early evacuation unit allocations must be utilized based on the original approved affordable housing income category or a lesser income category.~~

~~4. Administrative relief means actions taken by the County granting the owner of real property relief from the continued application of the Rate of Growth Ordinance (ROGO) restrictions provided they meet the criteria established in the Comprehensive Plan and Land Development Code.~~

~~5. Beneficial use means the use of property that allows an owner to derive a benefit or profit in the exercise of a basic property right. For the purpose of this policy, beneficial use shall mean the minimum use of the property necessary to avoid the finding of a regulatory taking under current land use case law.~~

~~b. The construction of dwelling units, the redevelopment or the deed restriction of existing dwelling units utilizing workforce housing early evacuation unit allocations shall require approval of a resolution approving a contract between the BOCC and the applicant to officially exchange the allocations and confirm compliance with the requirements Workforce Initiative.~~

eb. All affordable workforce housing early evacuation units require a deed-restriction ensuring:

1. Before any building permit may be issued for any structure, portion or phase of a project subject to the Workforce Initiative, a restrictive covenant shall be approved by the Planning Director and County Attorney and recorded in the Office of the Clerk of the County to ensure compliance with the provision of this section running in favor of the County and enforceable by the County and, if applicable, a participating municipality. The following requirements shall apply to these restrictive covenants:
 - i. The covenants for any workforce housing early evacuation units shall be effective for 99 years.
 - ii. The covenants shall not commence running until a certificate of occupancy has been issued by the Building Official for the dwelling unit or dwelling units to which the covenant or covenants apply.
 - iii. For existing dwelling units that are deed-restricted as workforce housing early evacuation units, the covenants shall commence running upon recordation in the Official Records of Monroe County.
2. The covenants shall require that the affordable workforce housing early evacuation units to be restricted to rental occupancy for those who derive at least 70% of their income as members of the workforce in Monroe County and who meet the affordable housing income categories of the Monroe County Land Development Code. The occupants are required to annually verify their employment and income eligibility.
3. The covenants shall require occupants to evacuate in Phase 1 of the 48-hr evacuation of a pending major hurricane. Persons living in the workforce housing early evacuation units who may be exempted from evacuation requirements are limited to law enforcement, correctional and fire personnel, health care personnel, and public employees with emergency management responsibilities. If there is an occupant that indicates their employment is considered a 'first-responder position' and not included in the list of exemptions above, then the Planning Director shall determine, in writing, whether the person may be exempted because of a requirement to remain during an emergency. Any person claiming exemption under this provision shall submit of an affidavit of qualification and faithfully certify their status with the onsite property management.
4. The covenants shall require rental agreements which contain a separate disclosure requiring rental occupants to acknowledge the existing restrictive covenant on the unit requiring evacuation in Phase 1 of the 48-hr evacuation and that failure to

adhere to the Phase 1 evacuation requirement could result in severe penalties, including eviction, to the occupant.

5. The covenants shall require onsite property managers and a separate employment disclosure requiring the maintenance of training in evacuation procedures and an acknowledgement that failure to adhere to the Phase 1 evacuation requirement could result in severe penalties, including termination.

~~dc.~~ dc. Affordable Workforce housing early evacuation units shall be restricted to rental occupancy for those who derive at least 70% of their income as members of the workforce in Monroe County and who meet the affordable housing income categories of the Monroe County Land Development Code. Workforce means individuals or families who are gainfully employed supplying goods and/or services to Monroe County residents or visitors.

~~ed.~~ ed. Affordable Workforce housing early evacuation units shall require onsite property management with property managers trained in evacuation procedures and required to manage the evacuation of tenants in Phase I of an evacuation. During traditional working hours, the property manager must be at an office within the workforce housing early evacuation unit development subject property. Outside the traditional working hours, the property manager must be available at all times to respond to evacuation orders.

~~fe.~~ fe. The property management entity for the affordable workforce housing early evacuation units shall be required to annually verify the employment and income eligibility of tenants; report the total units on the site, the occupancy rates of units, and tenant compliance with the requirement to evacuate the units in Phase I of an evacuation, including the number of occupants that are exempt from the evacuation requirements. The property management entity must submit a report to the Planning and Environmental Resources Department by May 1 of each year. Further, each lease and this annual report shall be kept by the property manager and be available for inspection by the County during traditional working hours.

~~gf.~~ gf. Affordable Workforce housing early evacuation units shall be located within an area designated as Tier III.

~~hg.~~ hg. Affordable Workforce housing early evacuation units shall not be located in the V-Zone or within a Coastal Barrier Resource System (CBRS).

~~ih.~~ ih. Affordable Workforce housing early evacuation units shall be located on a property which has all infrastructure available (potable water, adequate wastewater treatment and disposal wastewater meeting adopted LOS, paved roads, etc.).

~~ji.~~ ji. All affordable workforce housing early evacuation units must demonstrate compliance with all applicable federal standards for accessibility for persons with disabilities (ADA Compliance).

~~kj.~~ kj. To the greatest extent practicable, a development utilizing affordable workforce housing early evacuation unit allocations shall incorporate sustainable and resilient design principles into the overall site design ~~and be accessible to employment centers in Key West, Stock Island and Marathon.~~

~~k.~~ k. To the greatest extent practicable, a development utilizing affordable workforce housing early evacuation unit building permit allocations shall be located in close proximity to employment centers in Key West, Stock Island and Marathon.

(l) For developments owned or operated by a government agency or public housing authority, property management is not required to be located onsite as indicated in this subsection and Comprehensive Plan Policy 101.3.12, but must be available at all times to respond to evacuation orders.