

# **Land Development Code Amendment to Remove References to Notice To Proceed (NTP) Documents**

**Community Meeting: February 19, 2026**  
**Land Development Code Text Amendment**  
File 2025-103

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

\*\*\*\*\*

### Sec. 118-10. Environmental Design for Specific Habitat Types.

- (c) **Beach berm complex or disturbed with beach berm.** All structures developed, used or occupied on land classified as a beach berm complex or as disturbed with beach berm shall be designed, located and constructed such that:
- (1) All structures are elevated on pilings or other supports.
  - (2) No beach berm material is excavated or removed and no fill is deposited on a beach berm except as needed for shoreline stabilization or beach renourishment projects with a valid public purpose that furthers the goals of the Monroe County Comprehensive Plan, as determined by the Planning Director. If applicable, all such projects shall require approval by the Florida Department of Environmental Protection and the U.S. Army Corps of Engineers prior to the issuance of a county building permit ~~commencement of development or construction and/or prior to the issuance of a County 'Notice to Proceed.'~~
  - (3) The clearing of beach berm vegetation is limited to the minimum clearing required to allow development of a permitted use. Beach berm areas disturbed during construction shall be immediately restored to stable condition pursuant to a restoration plan approved by the County Biologist. Restoration techniques shall be designed to achieve the maximum stability possible. Native plants shall be used exclusively in re-vegetation.
  - (4) A construction impact zone is provided and construction barriers are required at the outer edge of the construction impact zone and shall be visible and of durable material such as wood, rope or wire cable. No fencing or other material that can entrap wildlife may be used as a construction barrier on a beach berm. No vehicular or pedestrian traffic shall be permitted outside of the construction barriers for the duration of the construction period. Barriers shall remain in place and maintained in a functional condition until final inspection for a certificate of occupancy has been approved.
- (e) **Mangroves, wetlands, and submerged lands.** All structures developed, used or occupied on land classified as mangroves, wetlands or submerged lands (all types and all levels of quality) shall be designed, located and constructed such that:
- (4) *Placement of fill.* No fill shall be permitted in any mangroves, wetlands, or submerged lands except:
    - a. As specifically allowed by this Section or by Section 118-12(k) (Bulkheads, Seawalls, Riprap) and 118-12(l) (Boat Ramps);
    - b. To fill a manmade, excavated water body such as a canal, boat ramp, boat slip, boat basin or swimming pool if the County Biologist determines that such filling will not have a significant adverse impact on marine or wetland communities provided regulatory approval by the Florida Department of Environmental Protection and the U.S. Army Corps of Engineers is received prior to the issuance

of a county building permit commencement of development or construction and/or prior to issuance of a County 'Notice to Proceed';

- c. As needed for shoreline stabilization or beach renourishment projects with a valid public purpose that furthers the goals of the Monroe County Comprehensive Plan, as determined by the County Biologist;
  - d. For bridges extending over wetlands that are required to provide automobile or pedestrian access to lawfully established dwelling units located on upland areas within the same property for which there is no alternate means of access. Such bridges shall be elevated on pilings so that the natural movement of water, including volume, rate and direction of flow shall not be disrupted or altered; or
  - e. As approved for Disturbed Salt Marsh and Buttonwood Association Wetlands with appropriate mitigation as defined by the wetland regulations of subsection (e)(6) of this Section.
- (5) *After-the-fact exclusion.* No after-the-fact permits shall be issued that violate the County dredge and filling regulations. All fill shall be removed and all damages mitigated.
- (6) *Development in disturbed wetlands.* Lands classified as disturbed with salt marsh and buttonwood association may be filled for development in accordance with the following criteria:
- a. Disturbed wetlands proposed for filling will be evaluated by a County Biologist using the Keys Wetlands Evaluation Procedure (KEYWEP) and assigned a KEYWEP score. The County Biologist may conduct a current KEYWEP analysis to confirm or update a parcel's KEYWEP scores.
    1. Wetland quality categories based on KEYWEP scoring:
      - i. High functional capacity wetlands: those wetlands that score higher than 5.5, regardless of previous disturbance. Development is prohibited under any circumstances.
      - ii. Moderate functional capacity wetlands: those wetlands that score 5.5 or less, but greater than or equal to 4.6. These wetlands are suitable for development with appropriate mitigation.
      - iii. Low functional capacity wetlands: those wetlands that score less than 4.6 or are assigned a green-flag designation as suitable for development. These wetlands are suitable for development with appropriate mitigation.
    2. Wetlands determined by KEYWEP to have a high functional capacity (those wetlands that score above 5.5 or those wetlands that are assigned a red flag) are not suitable for filling. The open space ratio for such wetlands will be 1.0 (100%).
    3. Wetlands determined by KEYWEP to have moderate or low functional capacity (those wetlands that score 5.5 or less or are assigned a green flag) are suitable for filling with appropriate mitigation, as determined by the Florida Department of Environmental Protection (DEP) and the U.S. Army Corps of Engineers (ACOE). All such projects shall require documentation that all aspects of DEP and ACOE mitigation have been satisfied prior to the issuance of a county building permit

~~commencement of construction and/or prior to the issuance of a County  
'Notice to Proceed.'~~

- b. Placement of fill within disturbed wetlands is subject to the environmental design clustering criteria (see Section 118-7(f)). Less sensitive habitats on the subject parcel must be developed before disturbed wetlands are filled.
- c. Any portion of a wetland filled under these provisions shall be considered disturbed habitat with a required open space ratio of 0.20. In the event that state and/or federal permits restrict fill to the development area only, this provision will not apply.
- d. Any development within a wetland so filled shall conform to the setbacks established by the DEP and the ACOE permits, and to the minimum yards required by Chapter 131 of this LDC.

\*\*\*\*\*

**Sec. 118-12. Shoreline Setback.**

(k) **Bulkheads, seawalls, and riprap.** Bulkheads, seawalls or riprap shall be permitted, provided that:

- (1) Bulkheads, seawalls and/or riprap may be allowed without a principal use where it is demonstrated that their purpose is necessary for erosion control. Any attachments to seawalls or bulkheads, such as davits, cleats, and platforms, or any other elements that constitute docking facilities shall not be allowed except as accessory to a principal use. Seawalls without a principal use may have a cap of no more than two feet in width.
- (2) Existing grade landward of the bulkhead shall be at least six inches lower than the top of the bulkhead.
- (3) Vertical type seawalls or bulkheads shall be permitted only to stabilize severely eroding shorelines and only on manmade canals, channels, or basins. Such seawalls or bulkheads shall be permitted only if native vegetation and/or riprap and filter cloth is not a feasible means to control erosion. No new seawalls, bulkheads, or other hardened vertical structures shall be permitted on open water.
- (4) Lawfully existing, deteriorated seawalls and bulkheads may be repaired and/or replaced and are exempt from the nonsubstantial improvements limitations except on known or potential sea turtle nesting beaches. Repairs and/or replacements must maintain the existing footprint to the maximum extent practicable.
- (5) Whenever feasible, riprap, bulkheads, retaining walls and seawalls should be placed landward of any existing mangroves or wetland vegetation. Native upland, wetland, and aquatic biotic communities shall be preserved to the maximum extent possible.
- (6) Wherever feasible, riprap shall be placed at the toe of solid seawalls to dissipate wave energy and provide substrate for marine organisms.
- (7) No seawalls, bulkheads, riprap or other shoreline hardening structures shall be permitted on or waterward of any portion of any beach berm complex that is known to be or is potential nesting area for marine turtles as determined by the County Biologist, the state, and/or other appropriate agencies. Within known or potential nesting areas, the County Biologist may, in cooperation with the Florida Department of Environmental Protection, determine that specific segments of shorelines have been previously lawfully altered to such a degree that suitable nesting habitat for marine turtles is no longer present. In such cases, the County Biologist in cooperation with the Florida Department of Environmental Protection may recommend reasonable measures to restore the nesting habitat. If such measures are not feasible, the setback requirements of this subsection do not apply. Restoration of suitable nesting habitat shall be required for unlawfully altered beaches.

- (8) Beach renourishment projects on open water may be approved only upon a determination by the County Biologist that the project has a valid public purpose that furthers the goals of the Monroe County Comprehensive Plan.
- (9) All such projects shall require state and/or federal permits prior to the [issuance of a county building permit](#) ~~commencement of development or construction and prior to the issuance of a county 'Notice to Proceed.'~~
- (l) **Boat ramps.** Boat ramps shall be permitted provided that:
  - (1) All boat ramps shall be located and designed so as not to create a setback nonconformity for existing structures from the new MHW line created by the boat ramp.
  - (2) All boat ramps shall be confined to shorelines of manmade canals, channels, and basins with little or no native vegetation.
  - (3) The width of boat ramps, including side slopes, shall be limited to 15 feet, except that ramps serving commercial uses, public uses, or more than three dwelling units may be 35 feet in width.
  - (4) All above-water ramp, side slope or wall structures shall be located landward of the original MHW line. This area shall be subtracted from the total area allowed for structures in the shoreline setback in Section 118-12(c).
  - (5) A maximum of two accessory docks, abutting either or both sides of the ramp, are allowed provided setback requirements are met. These docks may extend beyond MHW, but shall comply with all requirements of this Section and Section 118-10(d).
  - (6) Construction of a boat ramp shall not involve any filling of surface waters except for the minimum amount needed for the actual boat ramp surface, side slopes, walls or pilings for accessory docks. Walls may not exceed two feet in width.
  - (7) Dredging shall be limited to the minimum amount necessary to construct the boat ramp and may not exceed 100 cubic yards of total excavation above and below MHW. No dredging of submerged grass beds or hardbottom communities shall be allowed.
  - (8) All such projects shall require approval by the Florida Department of Environmental Protection and the U.S. Army Corps of Engineers prior to [the issuance of a county building permit](#) ~~commencement of construction and/or issuance of a County 'Notice to Proceed.'~~
- (m) **Docking facilities.** Docking facilities shall be permitted, provided that:
  - (1) *Permit.* All required permits from the Florida Department of Environmental Protection and Army Corps of Engineers shall be obtained prior to [the issuance of a county building permit](#) ~~commencement of construction and/or issuance of a County permit or 'Notice to Proceed.'~~
  - (6) *Required conditions.* Any docking facility shall meet the following conditions:
    - a. All pilings associated with the construction of any dock shall be non-CCA-leaching (recycled plastic, concrete) or be wrapped with impermeable plastic or PVC sleeves. Impermeable plastic or PVC sleeves shall have a minimum of 30 millimeter thickness and shall extend from at least 6 inches below the level of the substrate to at least 2 feet above the mean high water line.
    - b. Docking facilities that do not terminate over seagrass beds or hardbottom communities must have at least four feet (4ft) of water depth at MLW at the terminal end of the docking facility, and continuous access to open water. A benthic survey shall be submitted to document the presence or absence of seagrass beds and/or hardbottom communities;
    - c. A docking facility that extends across a full ten percent of the width of any body of water may terminate in water less than four feet (4ft) at MLW if this water depth occurs

within five horizontal feet of the terminal end of the docking facility such that the centerline of an average vessel will rest in water of adequate depth, and continuous access to open water is available;

- d. Docking facilities may be developed on the shoreline of lots in a subdivision that was approved before September 15, 1986, if the docking facility is located in a channel or canal that was dredged before September 15, 1986, and if there is a MLW depth of at least four feet (4ft) at the terminal end of the docking facility. Such docks shall not exceed ten percent of the width of the channel or canal; and
- e. Docking facilities that terminate over seagrass beds or hardbottom communities may only be permitted when the water depth at the terminal platform is at least four feet (4ft) above the top of all seagrasses, corals, macro algae, sponges, or other sessile organisms at MLW and continuous access to open water of navigable depth is available. The height of pier type docks over benthic biological resources shall be a minimum of 5 feet above mean high water (MHW) as measured from the top surface of the decking, and the total size of the platform shall be limited to 160 square feet. The configuration of the platform shall be a maximum of 8 feet by 20 feet. A minimum of 5 feet by 20 feet shall conform to the 5-foot height requirement; a 3 feet by 20 feet section may be placed 3 feet above MHW to facilitate boat access. A benthic survey shall be submitted to document the presence or absence of seagrass beds and/or hardbottom communities. A bathymetric survey shall be submitted to document the water depth at the terminal end of the pier and/or platform and to ensure that continuous access to open water of navigable depth is available. All such projects shall require approval by the Florida Department of Environmental Protection and the U.S. Army Corps of Engineers prior to ~~the issuance of a County Notice to Proceed.~~ the issuance of a county building permit commencement of construction or

- (n) **Water access structures.** The following specific types of structures, or portions thereof, extending over mangroves, wetlands, or submerged lands, shall be permitted only on shorelines of water bodies other than manmade canals, channels, and basins. All required permits from the Florida Department of Environmental Protection and the Army Corps of Engineers shall be obtained prior to ~~the issuance of a County Notice to Proceed.~~ the issuance of a county building permit commencement of construction or

\*\*\*\*\*

### Sec. 122-3. - Definitions.

---

~~Notice to proceed means a written authorization by the Planning and Environmental Resources Department and/or Building Department to the permittee authorizing permitted development to begin.~~

\*\*\*\*\*

**Sec. 122-12.** Inclusion of United State Federal Emergency Management Agency and United States Fish and Wildlife Service (FWS) required permit referral process (PRP) in final permit determinations for development.

(d) Administration of development approval in species focus areas.

(2) FWS technical assistance permit requirements. For parcels or lots shown within the SFAMs in which an application for a permit for development has been made including 1) expanding the footprint of a structure; and/or 2) expanding clearing in habitat (including

native vegetation removal); and/or 3) placement of fencing into Key deer habitat, if the SFAM indicates the parcel or lot contains suitable habitat for any of the following species: Key Largo cotton mouse, Key Largo wood rat, Key tree-cactus, Lower Keys marsh rabbit, Eastern indigo snake, Key deer, Schaus swallowtail butterfly, silver rice rat, and/or Stock Island tree snail, and the parcel or lot is listed on the RE list, the planning director or his/her designee shall use the SAGs to determine whether a floodplain development permit application requires:

a. Incorporation of FWS SAG requirements as conditions into the Monroe County permit and the county may issue the permit, pursuant to all applicable codes; or

b. If, according to the SAGs, the proposed development needs technical assistance by the service, the county shall ~~issue the permit in accordance with Chapter 2012-205, Laws of Florida, indicating a notice to proceed must be obtained prior to any construction, removal of vegetation, or commencement of development,~~ the county shall notify the applicant that the following conditions apply:-with a condition that:

1. The applicant shall seek and obtain technical assistance from the service; and
2. The applicant shall obtain, prior to the issuance of a county building permit ~~the issuance of the notice to proceed~~, all applicable state or federal permits or approvals pursuant to Section 122-11(h); and
3. In accordance with the Florida Building Code and Monroe County Section 6-103(b), the permit shall expire after 180 days; and
4. If the permit expires, the applicant shall be required to reapply for the permit.

c. For a floodplain development permit application that requires the services' technical assistance, Monroe County shall provide the application to the service weekly. Based on the services technical assistance, the applicant shall submit the FWS written requirements to the county. If the applicant agrees to the FWS requirements, in writing, Monroe County may then ~~issue a notice to proceed that~~ includes the technical assistance requirements provided by the federal agency to avoid possible impacts on federally listed (threatened or endangered) species, as conditions in the Monroe County permit.

d. For a development permit application that requires mitigation and/or compensation for adverse effects to native habitat, monetary compensation generated will be applied to restoration and/or purchase of native habitat.

e. The county shall maintain an applicant acceptance form, of the service requirements, in the permit file.

~~f. For purposes of this section the notice to proceed shall be written authorization from the Monroe County Growth Management Division to the permittee that the permitted development activities may begin.~~

f. If the parcel is within an area previously covered by a habitat conservation plan, and where that habitat conservation plan has expired at the time of development permit application, the county shall apply the permit referral process in this section, unless mitigation was completed for the associated impacts.

g. If the property owner does not agree to the FWS technical assistance requirements to be included in the development permit as conditions, the county shall not issue ~~the notice to proceed and~~ shall ~~rescind the previously issued~~ the development permit.

h. For properties located in Key Largo wood rat, Key Largo cotton mouse, silver rice rat and Lower Keys marsh rabbit habitat, property owners shall agree to execute and record a covenant restriction in favor of Monroe County which prohibits free ranging cats. This requirement alleviates direct and cumulative loss of species habitat which will not negatively impact the total number of new residential permits that may be issued under species assessment guides (SAGs).

(3) Provision for flood hazard reduction and avoiding impacts on federally listed (threatened or endangered) species enforcement. All proposed development shall meet the conditions established on the floodplain development permit ~~and/or notice to proceed~~, which includes FWS technical assistance requirements included as conditions on the Monroe County development permits, to avoid possible impacts on federally-listed species (threatened or endangered). Violation of this section, including any development constructed not in accordance with the FWS requirements, included as conditions on the Monroe County development permit, derived through use of the SAGs or through technical assistance by FWS, are hereby deemed to be violations of the County Code and may be enforced utilizing the administrative enforcement procedures set forth in Chapter 8, Monroe County Code of Ordinances. Further, Section 118-11 shall be utilized to require environmental restoration standards.

(4) Permit issuance for annual allocation awards from the Rate of Growth Ordinance (ROGO), Non-Residential Rate of Growth Ordinance (NROGO) allocations. Permit applications processed through the permit referral process that result in a "may affect determination" for the proposed development through the application of the species assessment guides which require the permittee to coordinate with FWS shall have a total of 360 days from the date of a county issued written notice to conclude the required coordination with FWS and pick up the building permit, ~~and receive a notice to proceed~~ from Monroe County. This timeframe may be extended by the planning director if the applicant can affirmatively demonstrate that he or she has timely and actively sought coordination.