



**MEMORANDUM**  
**MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT**  
*We strive to be caring, professional and fair*

**To:** Monroe County Planning Commission

**From:** Cheryl Cioffari, AICP, Acting Senior Director of Planning & Environmental Resources /  
Comprehensive Planning Manager

**Date:** June 14, 2019

**Subject:** An ordinance by Monroe County Board of County Commissioners (BOCC) extending a temporary moratorium deferring the approval of new private applications or received applications that are not yet approved, proposing to utilize Monroe County Code Section 139-2 (Affordable Housing Incentive Program) or Section 138-22(b) (Transfer of ROGO exemptions off site) to transfer market rate units to another location, except as permitted through Resolution 203-2018 adopted on July 18, 2018 (File 2018-082).

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**Meeting: June 26, 2019**

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## **I. REQUEST**

The Monroe County Planning & Environmental Resources is proposing a 365-day extension to an approved interim development ordinance (IDO), Ordinance 011-2017, which imposed a temporary moratorium deferring the approval of new private applications or received applications that are not yet approved, proposing to utilize Monroe County Code Section 139-2 (Affordable Housing Incentive Program) or Section 138-22(b) (Transfer of ROGO exemptions off site) to transfer market rate units to another location except as permitted through Resolution 203-2018 adopted on July 18, 2018 (File 2018-082).

On July 19, 2017, the BOCC adopted interim development Ordinance 011-2017. On July 18, 2018 the BOCC reduced the scope of interim development Ordinance 011-2017 through Resolution 203-2018. On August 18, 2018, the BOCC adopted interim development Ordinance 020-2018 extending the moratorium for an additional 365 days. Staff is seeking an extension to the IDO.

## **II. BACKGROUND INFORMATION**

On July 22, 2016, the Affordable Housing Advisory Committee adopted Resolution 01-2016 providing 33 recommendations to the Board of County Commissioners on the issues included in their charge.

On August 17, 2016, staff presented the Affordable Housing Advisory Committee's adopted

Resolution 01-2016 (33 recommendations) to the BOCC and the BOCC approved contracts for studies to support and inclusionary housing requirement to cover transient and commercial development as well as requested staff to schedule a special meeting to discuss the remaining recommendations.

At a special meeting on December 6, 2016, the BOCC reviewed and discussed the 33 recommendations provided by the Affordable Housing Advisory Committee and directed staff to research certain items, implement certain items and process amendments to the land development code.

At a special meeting on December 6, 2016, the BOCC specifically directed staff to amend Monroe County Code Section 139-2 (affordable housing incentive program), as recommended by the Affordable Housing Advisory Committee, to limit the transfer of ROGO exemptions from mobile homes to only tier III designated platted lots within the Improved Subdivision (IS) land use district and within the same ROGO planning subarea for the development of single family detached dwelling units.

On April 13, 2016, at a special public meeting, the BOCC adopted the Land Development Code to be consistent with the Monroe County Year 2030 Comprehensive Plan. On July 26, 2016, DEO published Final Order DEO-16-130 in the Florida Administrative Register approve the Monroe County Land Development Code (Ordinance 006-2016). On August 10, 2016, the Petitioners filed a Petition with DEO challenging the DEO Final Order. On November 22, 2016, the BOCC adopted an ordinance amending Section 130-165 to resolve the Petition challenging the DEO issued Final Order, satisfying a stipulated settlement agreement and allowing the Monroe County Land Development Code to become effective. The County's updated land developed code became effective on February 3, 2017.

The Monroe County Board of County Commissioners, at a regular meeting on February 15, 2017 in Key West, Florida, directed staff to impose a temporary moratorium upon certain development applications proposing to utilize Monroe County Code Section 139-2 (affordable housing incentive program) to transfer ROGO exemptions from mobile homes to another location.

The Monroe County Board of County Commissioners adopted Resolution 088-2017, at a regular meeting on March 15, 2017 in Key Largo, Florida, directing staff to process an ordinance to impose a temporary moratorium deferring the approval of new private applications or received applications that are not yet approved, proposing to utilize Monroe County Code Section 139-2 (Affordable Housing Incentive Program) or Section 138-22(b) (Transfer of ROGO exemptions off site) to transfer market rate units to another location.

On July 19, 2017, the BOCC adopted interim development Ordinance 011-2017, to defer the approval of new private applications or received applications that have not been fully approved utilizing Monroe County Code Section 139-2 (affordable housing incentive program) to transfer ROGO exemptions from mobile homes to another location, or Section 138-22(b) to transfer off-site market rate units to another location, commencing March 15, 2017, until the Land Development Code is amended to limit the transfer of ROGO exemptions from mobile homes to only Tier III designated platted lots within the Improved Subdivision (IS) land use district or the Urban Residential Mobile-Home (URM) land use district and within the same ROGO planning subarea for the development of single family detached dwelling units and the receiver property shall not be a

working waterfront; as recommended of the Affordable Housing Advisory Committee and the BOCC; providing for expiration within 365 days of the effective date of the interim development ordinance or when the land development code amendments become effective, whichever comes first. Ordinance 011-2017 is due to expire on October 27, 2018. Staff is continuing to work on the necessary text amendments.

On September 10, 2017, Hurricane Irma made landfall in the Florida Keys. Significant damage occurred to the housing stock, particularly in areas with lower cost housing options for members of the local workforce. Due to the need to rebuild a substantial number of homes throughout the County, and the objective to maintain affordability while rebuilding a resilient housing stock, both private and public agencies and property owners are engaged in redevelopment activities that may require or benefit from the transfer of market rate ROGO exemptions. Potential motivation to transfer market rate ROGO exemptions includes, but is not limited to: vulnerability of sender sites to future storm damage; overcrowding of dwelling units on pre-storm housing sites; availability of funding for specific project types and locations; opportunities to replace market rate housing with deed restricted affordable housing to maintain workforce housing stock; and the potential to leverage market rate ROGO transfers in order to fund efforts to reconstruct affordable units.

Additionally, on April 19, 2018 at the regularly scheduled Board of County Commissioners meeting, the BOCC gave direction to staff to process proposed text amendments to the Comprehensive Plan and Land Development Code to incentivize the development of affordable housing by allowing the issuance of affordable housing ROGO allocations to Tier I, Tier II, Tier III and Tier III-A designated parcels in order to replace market rate dwelling units with a deed-restricted affordable housing dwelling units.

Since the adoption of Ordinance 011-2017, there have been instances in which an applicant seeks to transfer an existing market-rate unit to an off-site location and redevelop the property with a deed-restricted affordable dwelling unit. However, the interim development Ordinance 011-2017 prohibits the ability to transfer the market-rate unit at this time, and therefore does not allow the owner to realize the full potential of the incentives the BOCC wishes to offer for redevelopment of homes with deed restricted affordable units.

On July 18, 2018 at a regularly scheduled meeting in Marathon, the Monroe County BOCC adopted a resolution that reduced the scope of interim development ordinance (IDO) 011-2017 to allow for the transfer of market-rate units utilizing Monroe County Code Section 139-2 (Affordable Housing Incentive Program) or Section 138-22(b) (Transfer of ROGO exemptions off site) in certain limited situations.

The proposed amendment to Ordinance 011-2017 would maintain the moratorium except, as approved through Resolution 203-2018, to allow the transfer of market rate ROGO exemptions pursuant to Section 139-2 (Affordable Housing Incentive Program) and/or Section 138-22(b) (Transfer of ROGO Exemptions Off-Site) only to receiver properties that meet all of the following criteria:

1. receiver site is designated as Tier III; and
2. receiver site is a legally platted lot; and
3. receiver site is within the Improved Subdivision (IS) Land Use District or the Urban Residential Mobile Home (URM) Land Use District; and
4. receiver site is located within the same ROGO planning subarea as the sender site; and

5. receiver site property is not a working waterfront.

Staff is continuing to work on BOCC directed amendments related to limiting the transfer of ROGO exemptions from mobile homes to only Tier III designated platted lots within the Improved Subdivision (IS) land use district or the Urban Residential Mobile-Home (URM) land use district and within the same ROGO planning subarea for the development of single family detached dwelling units where the receiver site is not be a working waterfront; as recommended of the Affordable Housing Advisory Committee and the BOCC.

### **Community Meeting and Public Participation**

In accordance with LDC Section 102-159(b)(3), a Community Meeting was held on May 21, 2019 in Marathon to provide for public input. There was no public in attendance.

### **Development Review Committee and Public Input**

The Development Review Committee considered the proposed amendment at a regular meeting on May 28, 2019 and received public input.

### **Previous BOCC Action**

At a regular meeting on July 19, 2017, in Marathon, the BOCC adopted interim development Ordinance 011-2017 implementing the moratorium described above.

On July 18, 2018 the BOCC reduced the scope of interim development Ordinance 011-2017 through Resolution 203-2018

On August 18, 2018, the BOCC adopted interim development Ordinance 020-2018, extending the moratorium described above.

Interim Development Ordinance 020-2018 is due to expire on October 27, 2019, if the relevant Comprehensive Plan and Land Development Code amendments are not adopted and effective before that date.

## **III. STAFF RECOMMENDATION**

Staff recommends approval of the extension to the IDO.

The IDO provides a period of time between the current adopted comprehensive plan and land development code and the adoption of any new amendment(s) [new definitions and/or other code requirements] to ensure that the amendments are fully evaluated to ensure public health, safety, and welfare of the citizens of unincorporated Monroe County, including the provision of public participation in the planning process.

## **IV. EXHIBITS**

1. Ordinance 011-2017
2. Resolution 203-2018
3. Ordinance 020-2018
4. Draft Ordinance