



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
Lori Lehr, CFM, Floodplain Program
Karl Bursa, AICP, CFM, Senior Administrator, Floodplain Program

Date: December 20, 2021

Subject: AN ORDINANCE BY MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADOPTING AMENDMENTS TO MONROE COUNTY LAND DEVELOPMENT CODE AMENDING SECTION 101-1 DEFINITIONS; TO UPDATE FLOODPLAIN MANAGEMENT DEFINITIONS; TO REPEAL AND REENACT CHAPTER 122 FLOODPLAIN MANAGEMENT; TO ADOPT AN UPDATED CHAPTER 122 FLOODPLAIN MANAGEMENT TO BE CONSISTENT WITH THE FLORIDA DIVISION OF EMERGENCY MANAGEMENT, BUREAU OF MITIGATION, STATE FLOODPLAIN MANAGEMENT OFFICE'S MODEL FLOODPLAIN MANAGEMENT ORDINANCE WHICH IS WRITTEN TO EXPLICITLY RELY ON AND BE COORDINATED WITH THE FLOOD PROVISIONS IN THE FLORIDA BUILDING CODE, MEETING THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP) REQUIREMENTS AND APPROVED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY IN 2013; INCLUDING DESIGNATING A FLOODPLAIN ADMINISTRATOR, ADOPTING PROCEDURES AND CRITERIA FOR DEVELOPMENT IN FLOOD HAZARD AREAS, AND FOR OTHER PURPOSES; PROVIDING FOR SEVERABILITY; PROVIDING FOR APPLICABILITY; 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.

Meeting: February 22, 2022

I. REQUEST

The Monroe County Planning & Environmental Resources Department is proposing amendments to repeal and reenact Chapter 122, Floodplain Management, to be consistent with the Florida Division of Emergency Management's State Model Ordinance which is written to explicitly rely on the flood

1 provisions in the *Florida Building Code*, continue to fulfill the requirements of the National Flood
2 Insurance Program, and maintain good standing in the program, and continue to meet the Community
3 Rating System (CRS) requirements and maintain our CRS score.

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5 In summary, the amendment includes the following:

- 6 • Updates to the floodplain management definitions in Section 101-1.
- 7 • Establishes the purpose, scope and intent of Chapter 122 Floodplain Management.
- 8 • Specifies that Chapter 122 is to be administered and enforced in conjunction with the *Florida*
9 *Building Code*. The flood load and flood resistant construction requirements of the *Florida*
10 *Building Code* shall apply to all buildings and structures that are wholly within or partially within
11 any flood hazard area.
- 12 • Establishes that Chapter 122 applies to all flood hazard areas within the unincorporated areas of
13 Monroe County.
- 14 • Retains the reference and use of the Flood Insurance Study for Monroe County dated February
15 18, 2005, and the accompanying Flood Insurance Rate Maps (FIRMs).
- 16 • Retains the provisions for the Permit Referral Process, Species focus area maps, Species
17 assessment guides and the administration of development review within species focus areas.
- 18 • Provides updated floodplain management definitions for Chapter 122.
- 19 • Designates the Building Official as the Floodplain Administrator and provides for the duties and
20 authority of the Floodplain Administrator, including rendering interpretations of Chapter 122,
21 reviewing permit applications and plans, issuing floodplain development orders or permits,
22 providing substantial improvement/substantial damage determinations, etc.
- 23 • Provides for the permanent retention of floodplain management records.
- 24 • Provides permit application requirements and standards, including for buildings, structures and
25 facilities exempt from the *Florida Building Code*.
- 26 • Outlines the buildings, structures and facilities that are exempt from the *Florida Building Code*:
 - 27 ○ Railroads and ancillary facilities associated with the railroad.
 - 28 ○ Nonresidential farm buildings on farms, as provided in section 604.50, F.S.
 - 29 ○ Temporary buildings or sheds used exclusively for construction purposes.
 - 30 ○ Mobile or modular structures used as temporary offices.
 - 31 ○ Those structures or facilities of electric utilities, as defined in section 366.02, F.S., which are
32 directly involved in the generation, transmission, or distribution of electricity.
 - 33 ○ Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of
34 Florida. As used in this paragraph, the term “chickee” means an open-sided wooden hut that has
35 a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate
36 any electrical, plumbing, or other non-wood features.
 - 37 ○ Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled
38 on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of
39 granite, marble, or reinforced concrete.
 - 40 ○ Temporary housing provided by the Department of Corrections to any prisoner in the state
41 correctional system.
 - 42 ○ Structures identified in section 553.73(10)(k), F.S., are not exempt from the Florida Building
43 Code, if such structures are located in flood hazard areas established on Flood Insurance Rate
44 Maps.
- 45 • Requires a Nonconversion Agreement form agreeing to not convert or modify in any manner that
46 is inconsistent with the terms of the building permit and Chapter 122, enclosures below elevated
47 buildings, certain crawl/underfloor spaces, detached accessory structures, and garages.
- 48 • Provides the standards for site plans and construction documents.

- 1 • Provides inspection standards to determine and/or confirm compliance with the requirements of
- 2 Chapter 122 and the conditions of issued floodplain development orders or permits.
- 3 • Retains the required inspections of enclosed areas below elevated residential structures.
- 4 • Retains the Floodplain Certificate of Compliance Program.
- 5 • Updates provisions within the Variance procedures and provides for new variances for at-grade
- 6 wet floodproofed accessory structures in A/AE Zones that are larger than 600 sq. ft. but not larger
- 7 than 1,000 sq. ft. in size.
- 8 • Updates provisions within the Appeal procedures.
- 9 • Establishes that any development that is not within the scope of the *Florida Building Code* but
- 10 that is regulated by Chapter 122 which is performed without an issued County permit, that is
- 11 non-compliant or in conflict with an issued permit, or that does not strictly and fully comply with
- 12 Chapter 122, constitutes a violation.
- 13 • Provides flood resistant development standards for buildings and structures, including the design
- 14 and construction of buildings, structures and facilities exempt from the *Florida Building Code*.
- 15 ○ Includes standards for: enclosed areas (enclosures) below elevated buildings, minimum
- 16 foundation requirements for buildings and structures within the scope of the *Florida*
- 17 *Building Code*, at-grade residential detached accessory structures and nonresidential
- 18 detached accessory structures.
- 19 • Provides minimum subdivision and plat requirements.
- 20 • Provides minimum requirements for site improvements and utilities, and limitations on the
- 21 placement of fill.
- 22 • Provides standards for manufactured homes, including foundations, anchoring and retaining the
- 23 elevation requirements.
- 24 • Provides standards for recreational vehicles.
- 25 • Provides standards for tanks, slabs, decks, nonstructural fill, etc.

27 **II. BACKGROUND INFORMATION**

28
 29 The National Flood Insurance Program (NFIP) is a federally-subsidized flood damage insurance
 30 program administered by the Federal Emergency Management Agency (FEMA). Residents and business
 31 owners are eligible to purchase NFIP flood insurance policies in communities that agree to regulate
 32 development in special flood hazard areas. These special flood hazard areas are delineated by FEMA on
 33 Flood Insurance Rate Maps.

34
 35 The NFIP makes federally-backed flood insurance available in those states and communities that agree
 36 to adopt and enforce floodplain management ordinances to reduce future flood damage. These
 37 regulations must meet or exceed the minimum administrative and technical requirements in the NFIP
 38 regulations (44 CFR Part 59 and Part 60). FEMA administers the NFIP and provides technical assistance
 39 and training on NFIP requirements and mitigation measures. FEMA also has extensive publications on
 40 the NFIP, including detailed guidance on mitigation measures that can minimize or eliminate future
 41 flood damages.

42
 43 Floodplain management is a community-based effort to prevent or reduce the risk of flooding, resulting
 44 in a more resilient community. Per FEMA, meeting NFIP requirements is the most cost-effective way to
 45 reduce the flood risk to new buildings and infrastructure. FEMA provides tools and resources to help
 46 navigate NFIP requirements and implement higher standards of floodplain management.

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

7
8 The NFIP requirements include, but are not limited to:

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

16
17 FIRMs inform communities about the local flood risk and set minimum floodplain standards for
18 communities to build with safety and resiliency in mind. FIRMs also currently determine the cost of
19 flood insurance and the mandatory purchase requirement. As risks change, insurance premiums also
20 change to reflect those risks, but property owners may be able to reduce premiums if they build their
21 home or business to be safer, higher, and stronger.

22
23 As a note, FEMA is updating the NFIP's risk rating methodology through the implementation of a new pricing
24 methodology called Risk Rating 2.0. FEMA's new methodology for determining NFIP policy premiums
25 incorporates variables to reflect a property's individual flood risk, including the frequency and types of flooding,
26 such as storm surge, coastal erosion, and heavy rainfall — and the distance to a water source along with property
27 characteristics, such as elevation and the cost to rebuild. Communities will continue to earn NFIP rate discounts
28 of 5% - 45% based on the Community Rating System classification, including Monroe County (35% discount);
29 however, since Risk Rating 2.0 does not use flood zones to determine flood risk, the discount will be uniformly
30 applied to all policies throughout the participating community, regardless of whether the structure is inside or
31 outside of the Special Flood Hazard Area.

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34
35 The Florida Division of Emergency Management (DEM) serves as the State Coordinating Agency of the
36 NFIP to work with Florida's municipalities and counties to administer their local flood damage reduction
37 regulations. The State Floodplain Management Program works to promote and ensure sound land use
38 development in floodplain areas in order to promote the health and safety of the public, minimize loss
39 of life and property, and reduce economic losses caused by flood damages.

40
41 The State Floodplain Management Office is a unit in the Florida DEM, Bureau of Mitigation. Floodplain
42 Management Specialists work with Florida's communities to help them successfully manage
43 development in flood zones. The State Floodplain Management Office provides/offers technical
44 assistance to improve administration of local floodplain management ordinances and the flood
45 provisions of the *Florida Building Code* and to monitor community performance to ensure compliance
46 with the NFIP development regulations in Special Flood Hazard Areas.

47
48 The State Floodplain Management Office also coordinates and collaborates on the following activities:

- 1 • Map Modernization and FEMA Risk MAP priorities
- 2 • Integration of flood-resistant standards into the Florida Building Code
- 3 • Coordination with Federal flood mitigation grant programs
- 4 • Integration of floodplain management concepts and tasks into multi-jurisdictional local
- 5 mitigation strategies developed by counties and municipalities
- 6 • Participation in maintaining the State Enhanced Hazard Mitigation Plan and planning process
- 7 • Consultation with State agencies on state-owned facilities in special flood hazard areas
- 8 • Training of local floodplain managers and building officials, in partnership with the Florida
- 9 Floodplain Managers Association (FFMA)
- 10 • Coordination with the Florida Dam Safety Program
- 11 • Partnerships with federal, state and local organizations pertinent to floodplain management

12
13
14 In 2012, State Floodplain Management Office developed a **Model Floodplain Management Ordinance**
15 for communities, written explicitly to rely on the flood provisions in the *Florida Building Code*. FEMA
16 approved the **Model Floodplain Management Ordinance** in 2013.

17
18 Since the 2010 edition, the flood provisions of the *Florida Building Code (FBC)* meet or exceed the
19 minimum NFIP requirements for buildings and structures. Nearly all Florida communities administer
20 local floodplain management ordinances that are written to rely on the *FBC* to meet the NFIP
21 requirements.

22
23 Over the past 10 years, DEM has worked with nearly all of Florida’s 468 NFIP communities to transition
24 to the **Model Floodplain Management Ordinance**, providing assistance, to tailor the model as
25 appropriate for each community. At this time, 10 communities, including Monroe County, are still
26 preparing the required amendments to their existing regulations.

27
28 Amendments to the County’s Floodplain Management Ordinance (Ch. 122 of the Land Development
29 Code) are necessary to be consistent with FEMA provisions, incorporate DEM’s **Model Floodplain**
30 **Management Ordinance** and to continue to fulfill the NFIP requirements. Additionally, the update will
31 allow the County to continue to meet and improve the requirements and activities of the Community
32 Rating System.

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35
36 The Community Rating System (CRS) is a voluntary incentive program that recognizes and encourages
37 communities to establish sound programs that recognize and encourage floodplain management
38 activities that *exceed* the minimum NFIP requirements. By conducting mitigation and outreach activities
39 that increase safety and resilience, including CRS credits for regulating to higher standards, communities
40 can earn credits and discounts (up to 45 percent within the Special Flood Hazard Area) on flood insurance
41 premiums for property owners.

42
43 In CRS communities, flood insurance premium rates are discounted to reflect the reduced flood risk
44 resulting from the community’s efforts that address the three goals of the program:

- 45 1. Reduce and avoid flood damage to insurable property
- 46 2. Strengthen and support the insurance aspects of the National Flood Insurance Program
- 47 3. Foster comprehensive floodplain management

1
 2 A community accrues points to improve its CRS Class rating and receive increasingly higher discounts.
 3
 4 The CRS uses a Class rating system that is similar to fire insurance rating to determine flood insurance
 5 premium reductions for residents. CRS Classes are rated from 9 to 1. Today, most communities enter
 6 the program at a CRS Class 9 or Class 8 rating, which entitles residents in Special Flood Hazard Areas
 7 (SFHAs) to a 5% discount on their flood insurance premiums for a Class 9 or a 10% discount for Class
 8 8. As a community engages in additional mitigation activities, its residents become eligible for increased
 9 NFIP policy premium discounts. Each CRS Class improvement produces a 5% greater discount on flood
 10 insurance premiums for properties in the SFHA. CRS Class changes occur on April 1 and October 1 of
 11 each year.

12
 13 Monroe County has achieved a Class 3 rating in the CRS that provides a 35% discount on flood insurance
 14 premium and in April 2022, will increase annual savings to flood insurance for 14,400 policyholders in
 15 unincorporated Monroe County to \$7.5 million dollars annually. This is an annual average savings per
 16 policyholder of \$522. Cumulatively to date, Monroe County has saved policyholders over \$24 million.
 17

Year	CRS Class/%Discount	Avg Savings NFIP Policy	Total Savings Annual	Cumulative Savings
10/1/2017	Class 6/20%	\$233	\$3,629,670	\$3,629,670
10/1/2018	Class 5/25%	\$350	\$5,135,345	\$8,765,015
10/1/2019	Class 5/25%	\$350	\$5,135,345	\$13,900,360
10/1/2020	Class 5/25%	\$350	\$5,135,245	\$19,035,605
10/1/2021	Class 5/25%	\$373*	\$5,393,148	\$24,428,753
10/2/2021-3/31/2022 (6 months)	Class 5/25%	\$373	\$2,696,574	\$27,125,327
GRAND TOTAL				
PROJECTED ANNUAL SAVINGS				
4/1/2022-3/31/2023	CRS Class 3/35%	\$522	\$7,542,268	\$34,667,595

*Increase due to increase cost of NFIP Policies.

18
 19
 20 Class 5 or better communities go through the full verification process every 3 years, and Monroe
 21 County's next verification is anticipated in 2023. For CRS purposes, FEMA and the FEMA CRS
 22 contractor (ISO/Verisk) rely on DEM to advise whether local regulations are compliant. It is critical for
 23 DEM to deem the County's Floodplain Management Ordinance compliant in the future.
 24

25
 26
 27 **FEMA Flood Maps**

28
 29 On December 27, 2019, FEMA issued Preliminary Flood Insurance Rate Maps (FIRMs) and a Flood
 30 Insurance Study (FIS) report for Monroe County, FL. The preliminary FIRMs were released after a
 31 multi-year study of Monroe County's coastal flood risks. The current County FIRMs are based on 30-
 32 plus-year-old studies.

33
 34 The Preliminary FIRMs can be viewed here: <https://www.monroecounty-fl.gov/1151/New-Preliminary-Coastal-Flood-Maps>.
 35
 36

1 Coastal Flood Maps, otherwise known as Flood Insurance Rate Maps (FIRMs) are used to determine the
2 minimum elevation needed for construction to reduce the chances of flooding, as well as construction
3 methods required in certain zones.
4

5 The County hired a consultant, Woods Hole Group, to analyze how flood risks are changing in
6 Unincorporated Monroe County based on the FEMA provided studies using updated information and
7 the best available science and technology.
8

9 During the week of January 27, 2020, FEMA held Community meetings throughout the Florida Keys,
10 offering the public an opportunity to view and comment in person on the proposed preliminary FIRMs.
11 Following this, Monroe County, through its consultant, examined the maps and the accompanying Flood
12 Insurance Studies.
13

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

- 17 1) Storm Climatology and Selection for Florida Keys,
 - 18 2) Statistical Analysis of Storm Sets, Low-Frequency Water Levels and Waves,
 - 19 3) Wave Model Validation,
 - 20 4) Hydrodynamic/Wave Model Mesh Resolution,
 - 21 5) Hydrodynamic/Wave Model Parameterization of Reefs, and
 - 22 6) Number and Location of Coastal Transects.
- 23

24 These areas of concern were identified because of (a) the use of a non-standard approach, (b)
25 inconsistencies in methodology with other FEMA Coastal Risk Map studies, (c) discrepancies between
26 the study's documentation and the analyses, or (d) errors made in the analysis.
27

28 Information on the consultant's review can accessed here: [https://www.monroecounty-fl.gov/1151/New-](https://www.monroecounty-fl.gov/1151/New-Preliminary-Coastal-Flood-Maps)
29 [Preliminary-Coastal-Flood-Maps](https://www.monroecounty-fl.gov/1151/New-Preliminary-Coastal-Flood-Maps).
30

31 FEMA issued the required notices in the Federal Register and local newspapers for the FIRMs and a
32 Flood Insurance Study (FIS) report for Monroe County, FL. The 90-day appeal period for Monroe
33 County commenced on March 19, 2021 and ended on June 17, 2021.
34

35 Monroe County submitted its appeal of the preliminary FEMA Flood Insurance Rate Maps and Flood
36 Insurance Study on June 11, 2021. The appeal is ongoing.
37

38 Once FEMA reviews and processes all appeals, the agency will issue a Letter of Final Determination
39 (LFD) and publish the final FIRMS. The County anticipates the appeal process may take until December
40 2022 to complete and, if necessary, the Scientific Resolution Panel may process may take until 2024 to
41 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)

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.**

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.**

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.

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 other necessary amendments to ensure a compliant floodplain management ordinance (i.e. update the date reference within the Code).

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

- 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 the flood provisions in the *Florida Building Code* and to eliminate obsolete or unnecessary regulations.
 - Amendments does not include any updated FIRM maps. Maintains the 2005 FIRMs.
 - Amendments to Land Development Code Chapter 122 are critical for DEM to deem the County’s Floodplain Management Ordinance compliant with NFIP requirements and for the County’s next CRS verification.
- Update Code of Ordinances Chapter 6 to be consistent with the *Florida Building Code* and adopt amendments for local higher floodplain standards, including:

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

On September 10, 2017, Hurricane Irma made landfall near Cudjoe Key as a Category 4 Hurricane with maximum sustained winds of 130 mph and flooding occurred in various neighborhoods. Hurricane Irma caused significant damage throughout the Florida Keys, particularly to structures built prior to the upgraded Florida Building Code adopted after Hurricane Andrew, to non-elevated structures and to mobile homes.

To provide additional protection to residents that reside in mobile homes in flood hazard areas, reduce the repeated impacts by flooding, and enhance public health, safety and welfare, the County already adopted an amendment to eliminate the ability for a mobile home to be placed at an elevation below base flood elevation.

Further, the County has embarked on proactively assisting property owners with voluntary elevations through FEMA funded grant programs. Property owners may self-fund improvements to their homes to elevate above base flood levels and there may be additional funding opportunities with the County participating in several grant programs to provide for the mitigation of flood risks, such as:

- FEMA Hazard Mitigation Grant Program (HMGP) for mitigation measures
- Flood Mitigation Assistance (FMA) Grant Program to reduce or eliminate the long-term risk of flood damage

- Rebuild Florida Program to demo, repair, reconstruct and elevate primary homes

When participating in some of these grant programs for elevation projects, the Florida Division of Emergency Management (DEM) is encouraging at least three feet above Base Flood Elevation (a 3-foot freeboard for residential buildings and structures). The grant scope of work reviews and the County's ongoing efforts to utilize these grant programs, including the additional elevation, further facilitates reducing the risk of future damage, hardship, loss, or flood damage within the community.

The subject of this staff report is the proposed amendment to update LDC Chapter 122 Floodplain Management to be consistent with the Florida Division of Emergency Management, Bureau of Mitigation, State Floodplain Management Office's model floodplain management ordinance.

Community Meeting and Public Participation

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

- Question regarding substantial improvements and the scenario/types of improvements that required elevation to the new design flood.
- Concerns regarding requiring 3ft of freeboard and this requiring a substantial number of properties to be reviewed for substantial improvement/substantial damage concerns.
- Question of how the 35% insurance discount, derived from CRS participation, is applied.
- Question regarding the establishment of buoyancy calculation requirements for swimming pools.
- Question regarding the 299ft enclosure limit.

A supplemental Community Meeting was held on **January 20, 2022**, at 3:00pm, to provide for public input. There were six (6) attendees and five (5) County staff members. In general, the comments provided for the proposed amendment, are summarized below:

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

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Development Review Committee and Public Input

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

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5 **Planning Commission and Public Input**

6 The Planning Commission considered the proposed amendment at a regular meeting
7 on _____, provided for public input and recommended _____.

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9
10 **Previous County Action**

11 Ordinance 002-1973, platting regulations which included minimum floor elevations for structures, adopted in
12 1973. *Based on this ordinance, FEMA considers June 15, 1973, the effective date of the initial floodplain*
13 *management regulations of Monroe County.*

14
15 Ordinance 002-1974, amending Ordinance 02-1973, adopted June 18, 1974.

16
17 Ordinance 003-1975, adopting floodplain management provisions, adopted March 25, 1975.

18
19 Ordinance 008-1977, amending Ordinance 03-1975, adopted March 22, 1977.

20
21 Ordinance 012-1979, requiring that in all cases where deed restrictions of record authorize the first floor of
22 buildings to be at a height which is lower than the building height required by the flood ordinance; the first floor
23 elevation required by the flood ordinance shall become the maximum elevation permissible for the first floor of
24 all structures in said residential subdivisions, adopted May 22, 1979.

25
26 Ordinance 030-1983, creating Flood Hazard District Development provisions for development within areas of
27 special flood hazards, within Chapter 6, Buildings and Construction, of the Monroe County Code of Ordinances,
28 adopted November 23, 1983.

29
30 Ordinance 005-1984, amending Ordinance 030-1983, adopted January 1, 1984.

31
32 Ordinance 033-1986 – adopting the 1986 Comprehensive and Land Development Regulations, including Division
33 6, Floodplain Management Standards, containing requirements for floor elevation and floodproofing certification,
34 21-day establishment of floor elevation and floodproofing certification, the flood insurance study of December 1,
35 1983 and the flood maps, standards for issuing permits and a 299sf enclosure limit, adopted October 3, 1986.

36
37 Ordinance 014-1988, amending the floodplain management provisions, adopted February 16, 1988.

38
39 Ordinance 015-1989, amending the floodplain management provisions and adopting the special flood hazard areas
40 identified by the flood insurance study of December 1, 1983 *or* the most current [flood] maps approved by FEMA
41 maps, adopted June 6, 1989.

42
43 Ordinance 015-1990, amending the floodplain management provisions, including manufactured homes to be
44 placed on 36 inch piers, and the special flood hazard areas identified by the flood insurance study of October 17,
45 1989 *or* the most current [flood] maps approved by FEMA maps, adopted April 18, 1990.

46
47 Ordinance 002-1994, amending the floodplain management provisions, adopted January 18, 1994.

48
49 Ordinance 039-2000, amending the floodplain management provisions, adopted July 26, 2000.

1 Resolution 080-2002, committing to implementation of the Inspection Procedure (FEMA developed Pilot
2 inspection procedure) for the remediation of non-compliant buildings and preparation of a remedial plan, adopted
3 February 13, 2002.
4

5 Resolution 115-2002, approving the County developed Flood Insurance and Inspection and Compliance
6 Implementation Plan, including the downstairs enclosure compliance program, and transmittal to FEMA, adopted
7 March 20, 2002.
8

9 Resolution 187-2002, approving a revised Flood Insurance and Inspection and Compliance Implementation Plan,
10 addressing structures more than 4-years old, and transmittal to FEMA, adopted April 17, 2002.
11

12 Resolution 397-2002, adopting a plan and procedures for authorizing a time extension for eligible non-compliant
13 structures used for affordable housing, adopted September 18, 2002.
14

15 Resolution 152-2003, approving a revised implementation plan for the Flood Insurance and Inspection and
16 Compliance Program (Remedial Plan), adopted April 16, 2003.
17

18 Ordinance 037-2003, reorganizing and amending the floodplain management provisions to address the Monroe
19 County Flood Insurance and Inspection and Compliance Program approved by FEMA, adopted October 15, 2003.
20

21 Ordinance 005-2004, amending the electrical and mechanical equipment standards for issuance of building
22 permits in areas of special flood hazards, adopted February 18, 2004.
23

24 Ordinance 025-2004 amending the enclosed area standards for issuance of building permits in areas of special
25 flood hazards, adopted August 18, 2004.
26

27 Ordinance 001-2009, reorganizing and re-codifying the County Code, consisting of Chapters 1 through 146
28 (removing reference to Code Section 9.5), adopted January 28, 2009.
29

30 Resolution 440-2011, approving a 2011 implementation plan for the Flood Insurance and Inspection and
31 Compliance Program (Remedial Plan), maintaining regulations adopted pursuant to Resolution 152-2003 and
32 direction to create the certificate of compliance program, adopted on December 14, 2011.
33

34 Ordinance 010-2012, amending the floodplain management provisions and creating Section 112-7 the Floodplain
35 Certificate of Compliance Program, including the requirement for non-conversion agreements, adopted May 16,
36 2012.
37

38 Ordinance 015-2012, amending the floodplain management provisions, including specific reference to the areas
39 of special flood hazard identified by the FEMA February 18, 2005 [flood] maps, and creating Section 122-8 the
40 Permit Referral Process (PRP), as a result of the 2011 Settlement Agreement for a 1990 lawsuit against FEMA
41 claiming lack of consultation with USFWS pursuant to the Endangered Species Act, adopted June 20, 2012.
42

43 Ordinance 043-2013, amending the floodplain management provisions Section 122-2(b)3, the basis for
44 establishing special flood hazard maps, species assessment guides (SAGS) for the Permit Referral Process (PRP)
45 determinations, providing a new date for the revised Species Assessment Guides, adopted October 16, 2013.
46

47 Resolution 193-2014, approving a 2014 implementation plan for the Flood Insurance and Inspection and
48 Compliance Program (Remedial Plan), maintaining the inspection on transfer, 299SF enclosure maximum,
49 certificate of compliance program; existing Ch. 122 regulations (to be compliant with federal regulations) and the
50 inadvertent observation of illegal structures below BFE; and documenting the Pilot Inspection Procedure
51 concluded July 1, 2013, adopted August 20, 2014.
52

- 1 Resolution 223-2015, adopting FEMA Technical Bulletin 0 – User’s Guide, dated March 2009, adopted
2 September 16, 2015.
3
- 4 Resolution 224-2015, adopting FEMA Technical Bulletin 1 – Openings in Foundation Walls and Walls of
5 Enclosures, dated August 2008, adopted September 16, 2015.
6
- 7 Resolution 225-2015, adopting FEMA Technical Bulletin 2 – Flood Damage-Resistant Materials Requirements,
8 dated August 2008, adopted September 16, 2015.
9
- 10 Resolution 226-2015, adopting FEMA Technical Bulletin 3 – Nonresidential Floodproofing Requirements and
11 Certification, dated April 1993, adopted September 16, 2015.
12
- 13 Resolution 227-2015, adopting FEMA Technical Bulletin 4 – Elevator Installation, dated November 2010,
14 adopted September 16, 2015.
15
- 16 Resolution 228-2015, adopting FEMA Technical Bulletin 5 – Free-of-Obstruction Requirements, dated August
17 2008, adopted September 16, 2015.
18
- 19 Resolution 229-2015, adopting FEMA Technical Bulletin 6 – Below-Grade Parking Requirements, dated April
20 1993, adopted September 16, 2015.
21
- 22 Resolution 230-2015, adopting FEMA Technical Bulletin 7 – Wet Floodproofing Requirements, dated December
23 1993, adopted September 16, 2015.
24
- 25 Resolution 231-2015, adopting FEMA Technical Bulletin 8 – Corrosion Protection for Metal Connectors in
26 Coastal Areas, dated August 1996, adopted September 16, 2015.
27
- 28 Resolution 232-2015, adopting FEMA Technical Bulletin 9 – Design and Construction Guidance for Breakaway
29 Walls, dated August 2008, adopted September 16, 2015.
30
- 31 Resolution 233-2015, adopting FEMA Technical Bulletin 10 – Ensuring that Structures Built on Fill in or near
32 Special Flood Hazard Areas are Reasonably Safe from Flooding, dated May 2001, adopted September 16, 2015.
33
- 34 Resolution 234-2015, adopting FEMA Technical Bulletin 11 – Crawlspace Construction, dated November 2001,
35 adopted September 16, 2015.
36
- 37 Resolution 240-2015, adopting FEMA Technical Bulletin 467-1 – Elevation Certificate, dated May 2004, adopted
38 September 16, 2015.
39
- 40 Resolution 241-2015, adopting Florida Division of Emergency Management Technical Topic – Guidance for
41 Pools and Outdoor Kitchens/Bars in Flood Hazard Areas, dated November 2010, adopted September 16, 2015.
42
- 43 Resolution 242-2015, adopting the Monroe County Elevation Certificate Review Process, dated October 1, 2015,
44 adopted September 16, 2015.
45
- 46 Resolution 243-2015, adopting the Monroe County Floodproofing Nonresidential Structures Permitting and
47 Inspection Requirements, dated October 1, 2015, adopted September 16, 2015.
48
- 49 Resolution 244-2015, adopting the Monroe County Pool and Cistern and Accessory Equipment Location in
50 Special Flood Hazard Areas Policy, dated October 1, 2015, adopted September 16, 2015.
51

- 1 Resolution 245-2015, adopting the Monroe County Substantial Improvement or Substantial Damage (50% Rule)
- 2 Application and Affidavit Policy, dated October 1, 2015, adopted September 16, 2015.
- 3
- 4 Resolution 246-2015, adopting the Monroe County V-Zone Certification and Calculations Documentation Policy,
- 5 dated October 1, 2015, adopted September 16, 2015.
- 6
- 7 Ordinance 006-2016, adopting the updated Land Development Code, implementing the 2030 Comprehensive
- 8 Plan, maintaining Chapter 122, the floodplain management provisions and amending the floodplain variances
- 9 procedure to be conducted by the Division of Administrative Hearings (DOAH), adopted April 13, 2016.
- 10
- 11 Ordinance 024-2017, amending the standards for issuance of building permits in areas of special flood hazards,
- 12 adopted November 14, 2017.
- 13
- 14 Resolution 254-2019, adopting FEMA Technical Bulletin 0 – User’s Guide, dated July 2019, adopted September
- 15 18, 2019.
- 16
- 17 Resolution 255-2019, adopting FEMA Technical Bulletin 4 – Elevator Installation, dated June 2019, adopted
- 18 September 18, 2019.
- 19
- 20 Resolution 256-2019, adopting FEMA Technical Bulletin 8 – Corrosion Protection for Metal Connectors in
- 21 Coastal Areas, dated June 2019, adopted September 18, 2019.
- 22
- 23 Ordinance 021-2020, amending Section 122-4(b)(4) to eliminate the ability for a manufactured/mobile home to
- 24 be placed at an elevation below base flood elevation, adopted on July 15, 2020.
- 25
- 26 Resolution 440-2021, adopting FEMA Technical Bulletin 9 “Design and Construction Guidance for Breakaway
- 27 Walls Below Elevated Coastal Buildings” dated September 2021, adopted on November 17, 2021.
- 28
- 29

30 **III. PROPOSED COMPREHENSIVE PLAN AMENDMENTS**

31
32 Proposed Amendments are shown with deletions ~~stricken through~~ and additions are underlined.

33
34 **Sec. 101-1. - Definitions.**

35
36 The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed

37 to them in this section, except where the context clearly indicates a different meaning:

38 * * * * *

39
40 ~~Area of special flood hazard area means the land subject to a one percent or greater chance of~~

41 ~~flooding in any given year.~~

42 * * * * *

43
44 ~~Breakaway walls means walls of any construction intended to collapse under stress without~~

45 ~~jeopardizing the structural support of the structure so that the impact on the structure by abnormally high~~

46 ~~tides or wind-driven water is minimized.~~

47 * * * * *

48
49 ~~Elevated building means a building that has its lowest floor raised above the ground level by~~

50 ~~foundation walls, shear walls, posts, piers, pilings, or columns.~~

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~~Highest adjacent grade means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.~~

* * * * *

~~Lowest floor means the lowest enclosed area (including basement) of a structure. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered the building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of chapter 122.~~

* * * * *

Market value means the price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy, sell, or otherwise transfer, and both having reasonable knowledge of relevant facts. As used in this code, the term “market value” refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value may be established by a qualified certified independent appraiser, Actual Cash Value (replacement cost depreciated for age and quality of construction), or tax assessment value adjusted by 20 percent (20%) to approximate market value. A uniform appraisal report prepared by a qualified certified independent appraiser submitted by the applicant may be used if the Floodplain Administrator considers such appraisal consistent with local construction costs. A structure or building originally manufactured or built as a vehicle, shall exclusively be appraised by utilizing the Kelley Blue Book or a NADA appraisal. Documentation of alleged local construction costs submitted by a property owner to the Floodplain Administrator must be submitted in the form of a sworn or attested affidavit that shall be based upon the personal knowledge of the certifying affiant and must be notarized. Where an appraisal is not accepted because it appears to be inconsistent with local construction costs, the applicant may request review by an independent third-party appraiser duly authorized by the county. The cost of such independent review shall be borne by the applicant. The reviewing appraiser shall determine if the appraisal value reasonably reflects an appropriate market value of the structure. The reviewing appraiser's determination must be in writing and shall be sworn or attested to by the affiant and expressly provide that it is based on the certifying affiant’s personal knowledge and must be notarized. Professionals preparing appraisals, or appraisal reviews, shall be required to possess certifications as state certified residential appraisers for appraising one to four family residential properties and state certified general appraisers for all other properties including commercial and multi-residential. Neither an appraisal making an extraordinary assumption that a building or structure was in good condition as of a date prior to a flood event nor a retrospective appraisal (an appraisal done retrospectively based on a date prior to the flood event) shall be eligible for consideration or relief. A building or structure that was never lawfully permitted in the first place shall not be eligible for issuance of a permit or development approval.

* * * * *

National Geodetic Vertical Datum of 1929 (NGVD 29) is a vertical control, as corrected in 1929, used as a reference for establishing varying elevations ~~within the floodplain.~~

* * * * *

North American Vertical Datum of 1988 (NAVD 88) is the vertical control datum established in 1991 used as a reference for establishing varying elevations.

* * * * *

1 Special flood hazard area means the land subject to a one percent or greater chance of flooding in
2 any given year.

3 * * * * *

4 *Substantial improvement* means any repair, reconstruction or improvement of a structure, the cost
5 of which equals or exceeds 50 percent of the pre-destruction market value of the structure, ~~as determined~~
6 ~~by the office of the tax assessor of the county~~, either before the improvement or repair is started, or if
7 the structure has been damaged and is being restored, before the damage occurred. For the purposes of
8 this definition, substantial improvement is considered to occur when the first alteration of any wall,
9 ceiling, floor or other structural part of the building commences, whether or not that alteration affects
10 the external dimension of the structure. The term does not, however, include either:

- 11 (1) Any project for improvement of a structure to comply with existing state or local health, sanitary
12 or safety code specifications which are necessary solely to ensure safe living conditions; or
- 13 (2) Any alteration of a structure listed on the National Register of Historic Places, the state inventory
14 of historic places, or any inventory of local historic places.

15
16 ~~*Substantial improvement, cumulative*, means that improvement which is not substantial by itself but,~~
17 ~~when added to all prior non-substantial improvements to the original structure, would cause all the~~
18 ~~improvements to be substantial if permitted at one time. All applications deemed substantial or non-~~
19 ~~substantial must be approved by the FEMA Coordinator, the Assistant County Administrator, or the~~
20 ~~Building Official.~~

21 * * * * *

22
23 *Watercourse* means a channel, canal or streambed, either natural or manmade, which is involved in
24 the accommodation of water ~~floodwaters~~.

25 * * * * *

28 **Chapter 122 FLOODPLAIN MANAGEMENT**

30 ARTICLE I. – IN GENERAL

32 Sec. 122-1. – General.

33 (a) Title. These regulations shall be known as the *Floodplain Management Ordinance of Monroe*
34 County, hereinafter referred to as “this chapter.”

35 (b) Scope. The provisions of this chapter shall apply to all development that is wholly within or partially
36 within any flood hazard area, including but not limited to the subdivision of land; filling, grading, and
37 other site improvements and utility installations; construction, alteration, remodeling, enlargement,
38 improvement, replacement, repair, relocation or demolition of buildings, structures, and facilities that are
39 exempt from the *Florida Building Code*; placement, installation, or replacement of manufactured homes
40 and manufactured buildings; installation or replacement of tanks; placement of recreational vehicles;
41 installation of swimming pools; and any other development.

42 (c) Purpose and Intent. The purpose of this chapter shall be interpreted cumulatively with its intent,
43 and shall be taken into account, granted substantial weight, and guide all interpretations and
44 constructions of this chapter. Monroe County is subject to flooding resulting in danger to life, loss
45 of property, health and safety hazards, disruption of commerce and governmental services,
46 extraordinary public expenditures for flood protection and relief, and the impairment of its tax base
47 as an effect of flooding and flood events, all of which adversely affect the public health, safety, and
48 general welfare. The purpose of this chapter’s adoption is to ensure the continued availability of

1 federal flood insurance, to comply with federally and state-imposed regulatory requirements, and to
2 protect the public health, safety, and general welfare, by minimizing flood-related losses in Monroe
3 County. All interpretations of this chapter shall in all proceedings and cases further, rather than
4 impair, limit, restrict, or obstruct, the purposes of this chapter. It is the intent of the Board of County
5 Commissioners that the provisions of this chapter be strictly adhered to and enforced in order to
6 maintain the County's eligibility for and benefits of the National Flood Insurance Program. The
7 purposes of this chapter and the flood load and flood resistant construction requirements of the
8 Florida Building Code and the floodplain management requirements within Monroe County Code
9 of Ordinances, Chapter 6 Buildings and Construction, are to establish minimum requirements to
10 safeguard the public health, safety, and general welfare and to minimize public and private losses
11 due to flooding through regulation of development in flood hazard areas to:

- 12 (1) Minimize unnecessary disruption of commerce, access and public service during times of
13 flooding;
- 14 (2) Require the use of appropriate construction practices in order to prevent or minimize future flood
15 damage;
- 16 (3) Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of
17 equipment or materials, and other development which may increase flood damage or erosion
18 potential;
- 19 (4) Manage the alteration of flood hazard areas and shorelines to minimize the impact of
20 development on the natural and beneficial functions of the floodplain;
- 21 (5) Minimize damage to public and private facilities and utilities;
- 22 (6) Help maintain a stable tax base by providing for the sound use and development of flood hazard
23 areas;
- 24 (7) Minimize the need for future expenditure of public funds for flood control projects and response
25 to and recovery from flood events;
- 26 (8) Ensure potential home buyers are notified that property is in a flood hazard area; and
- 27 (9) Meet the requirements of the National Flood Insurance Program for community participation as
28 set forth in Title 44 Code of Federal Regulations, Section 59.22.

29 **(d) Construction and Interpretation.** In the interpretation and application of this chapter, all provisions
30 herein shall be considered as minimum requirements and shall not be deemed to forfeit, waive,
31 eliminate, limit, condition, qualify, or repeal any other powers granted to the county pursuant to
32 Florida law. This chapter, being necessary for the health, safety, and welfare of the residents of and
33 visitors to the county, shall be liberally construed to effect the intent and purposes hereof, and
34 interpretation and construction of this chapter shall be deferred in favor of Monroe County, and
35 such construction and interpretation shall be entitled to great weight in adversarial administrative
36 proceedings, at trial, and on appeal.

37 **(e) Administrative Deference.** The Board of County Commissioners legislatively finds that the
38 construction of this chapter by a county department or office charged with its administration,
39 interpretation, or enforcement shall be legally entitled to deference and great weight in adversarial
40 administrative proceedings, at trial, and on appeal, and that such administrative interpretations
41 should not be modified or overturned by an administrative hearing officer or court of competent
42 jurisdiction unless clearly erroneous. If such administrative staff interpretation is within the range
43 of possible and reasonable interpretations, it is not clearly erroneous and should be affirmed.

44 **(f) Coordination with the Florida Building Code.** This chapter is intended to be administered and
45 enforced in conjunction with the Florida Building Code. The flood load and flood resistant
46 construction requirements of the Florida Building Code shall apply to all buildings and structures
47 that are wholly within or partially within any flood hazard area. Where cited in this chapter, ASCE
48 24 refers to the edition of the standard that is referenced by the Florida Building Code. To the extent

1 of any conflict between this chapter and the *Florida Building Code*, the more restrictive is deemed
2 to be controlling.

3 **(g) Provisions to be Cumulative to Other County Ordinances and Regulations.** This chapter
4 supersedes any ordinance or regulation in effect for management of development in flood hazard
5 areas, but otherwise is intended to be administered and enforced in conjunction with and cumulative
6 to any other county ordinances including but not limited to land development regulations, zoning
7 ordinances, stormwater management regulations, or the *Florida Building Code*. This chapter does
8 not revise or repeal any other existing county ordinance or regulation in any way.

9 **(h) Internal Conflicts.** Where there is a conflict between a general provision or requirement and a
10 specific provision or requirement in this chapter, the specific shall be applicable. To the extent of
11 any conflict between one provision or requirement and another provision or requirement of this
12 chapter, the more restrictive is deemed to be controlling. Where more restrictive general provision
13 or requirement conflicts with a less restrictive specific provision or requirement, the more restrictive
14 general requirement shall prevail.

15 **(i) Effect of State and Federal Laws.** If a state or federal law, whether existing at the time of this
16 chapter's effective date or enacted after its effective date, which is applicable to and limits, prohibits,
17 restricts, conditions, or qualifies the meaning, effectiveness, or operation any provision or
18 requirement herein, such provision or requirement of this chapter shall be interpreted, administered,
19 and enforced to the maximum extent permitted by law.

20 **(j) Injunctive Relief.** The County Attorney is authorized to seek affirmative or negative injunctive relief
21 authorizing or commanding compliance with this chapter through, including but not limited to,
22 cessation of a use, or removal of a building or structure or a part or portion thereof, by motion for
23 emergency, preliminary, or permanent injunction, including by ex parte motion, or other forms of
24 equitable relief, from a court of competent jurisdiction, upon presentation of prima facie evidence
25 of a violation of this chapter to such court.

26 **(k) No Waiver or Estoppel.** It being that Monroe County possesses discretion to enforce this chapter,
27 the county's delay or failure to enforce any provision contained in this chapter, however long
28 continued, shall not be deemed a waiver or estoppel of the right for the County to enforce this
29 chapter at any time thereafter.

30 **(l) Severability.** If any provision of this chapter, or any portion thereof, is held to be invalid or
31 unenforceable by any administrative hearing officer or court of competent jurisdiction, the invalidity
32 or unenforceability of such provision, or any portion thereof, shall neither limit nor impair the
33 operation, enforceability, or validity of any remaining portion(s) thereof, or of any other provision
34 of this chapter. All remaining portion(s) thereof and all other provisions of this chapter shall continue
35 unimpaired in full force and effect.

36 **(m) Warning.** The degree of flood protection, activities, or work required by this chapter and the *Florida*
37 *Building Code*, as amended by Monroe County, is considered the minimum necessary and reasonable
38 to accomplish the intent and purposes herein and is based upon scientific and engineering considerations.
39 Larger floods can and will occur. Flood heights and flood-related impacts may be increased, intensified,
40 or exacerbated by man-made or natural causes. This chapter does not expressly provide or imply that
41 land outside of mapped special flood hazard areas, or that structures or uses authorized and permitted
42 within such flood hazard areas, will be free from flooding or flood damage. The flood hazard areas and
43 base flood elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps
44 and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by
45 the Federal Emergency Management Agency, requiring Monroe County to revise this chapter and
46 regulations to remain eligible for participation in the National Flood Insurance Program and its
47 benefits. No guarantee of a vested right to a structure or use, existing use, or future use is implied or
48 expressed by any part of or compliance with this chapter.

1 (n) No Liability. This chapter shall not create liability on the part of the Board of County Commissioners
2 of Monroe County or any officer or employee thereof for any flood damage allegedly arising out of,
3 related to, or in connection with this chapter or any administrative decision lawfully made thereunder.
4 This chapter shall not be deemed to have waived, for the county, or for its officers or employees, any
5 sovereign governmental, or any other similar defense, immunity, exemption, or protection against
6 any suit, cause of action, demand, or liability.
7

8 **Sec. 122-2 – Applicability.**

9 (a) Applicability this chapter. Where there is a conflict between a general requirement and a specific
10 requirement, the specific requirement shall be applicable.

11 (b) Areas to which this chapter applies. This chapter shall apply to all flood hazard areas within the
12 unincorporated areas of Monroe County, as established in section 122-2(c) of this chapter.

13 (c) Basis for establishing flood hazard areas, Species Focus Area Maps (SFAMs) with Focus Area
14 Buffers and Federally Protected Species Area Real Estate (RE) List; and Species Assessment
15 Guides (SAGs).

16 (1) The Flood Insurance Study for Monroe County dated February 18, 2005, and the accompanying
17 Flood Insurance Rate Maps (FIRM), are adopted by reference as a part of this chapter, shall be
18 kept on file, available to the public, in the offices of the county Building Department and shall
19 serve as the minimum basis for establishing flood hazard areas. Amendments and revisions by
20 Letters of Map Change (LOMC) issued by FEMA shall be retained by the County and utilized
21 for implementing this chapter. Studies and maps that establish flood hazard areas shall be kept
22 on file at the offices of the county Building Department.

23 (2) For implementation of the Permit Referral Process (PRP) in Section 122-12 of this chapter, the
24 following are adopted by reference as a part of this chapter:

25 a. Species focus area maps (SFAMs) with Species focus area buffers and species real estate
26 (RE) list. FEMA and the U.S. Fish and Wildlife Service (FWS) have provided the species
27 focus area maps (SFAMs) mailed to Monroe County and dated April 30, 2011, and a listing
28 of real estate numbers of parcels (RE list) emailed to Monroe County and dated November
29 18, 2011, that are within the SFAMs and that have been identified by FWS. The SFAMs and
30 the RE list that are within the SFAMs identified by the FWS in accordance with the biological
31 opinion, dated April 30, 2010, as amended December 14, 2010, are hereby declared to be a
32 part of this chapter. The SFAMs and RE list are on file at the Monroe County Clerk's office
33 and the Monroe County Growth Management Division Office.

34 b. Species assessment guides (SAGs). FEMA and FWS provided the May 20, 2012, species
35 assessment guides (SAGs) to Monroe County and Monroe County adopted these SAGs on
36 September 13, 2012. FEMA and the FWS provided revisions of the SAGs to Monroe County
37 on July 29, 2013. Permits submitted after February 17, 2014, the date of this ordinance shall
38 be reviewed utilizing the July 29, 2013, FEMA/FWS SAGs. These SAGs are declared to be
39 a part of this chapter. The SAGs are on file at the Monroe County Clerk's office and the
40 Monroe County Growth Management Division Office.

41 (d) Submission of additional data to establish flood hazard areas. To establish flood hazard areas
42 and base flood elevations, pursuant to section 122-13 of this chapter the Floodplain Administrator
43 may require submission of additional data. Where field surveyed topography prepared by a Florida
44 licensed professional surveyor or digital topography accepted by the Floodplain Administrator
45 indicates that ground elevations:

46 (1) Are below the closest applicable base flood elevation, even in areas not delineated as a special
47 flood hazard area on a FIRM, the area shall be considered as flood hazard area and subject to the
48 requirements of this chapter and, as applicable, the requirements of the *Florida Building Code*.

1 (2) Are above the closest applicable base flood elevation, the area shall be regulated as special flood
2 hazard area unless the applicant obtains a Letter of Map Change that removes the area from the
3 special flood hazard area.

4 **(e) Abrogation and greater restrictions.** This chapter supersedes any ordinance in effect for
5 management of development in flood hazard areas. However, it is not intended to repeal or abrogate
6 any existing ordinances including but not limited to land development regulations, zoning
7 ordinances, stormwater management regulations, or the *Florida Building Code*. In the event of a
8 conflict between this chapter and any other ordinance, the more restrictive shall govern. This chapter
9 shall not impair any deed restriction, covenant or easement, but any land that is subject to such
10 interests shall also be governed by this chapter.

11
12 **Sec. 122-3. – Definitions.**

13 The following words, phrases and terms shall, for the exclusive purposes of this chapter only, have the
14 specific definitions and meanings shown in this section. Where such words, phrases and terms are not
15 defined in this chapter and are defined in the *Florida Building Code*, such words, phrases and terms shall
16 have the meanings ascribed to them in the *Florida Building Code*. Where such words, phrases and terms
17 are not defined in this chapter or the *Florida Building Code*, the County shall utilize the adopted
18 definitions within Chapter 101 of the *Monroe County Land Development Code*. If the definitions of
19 such words, phrases and terms are not within the *Land Development Code*, the words, phrases and terms
20 shall have ordinarily accepted meanings as its context and the context of its provision and its provision’s
21 structural placement imply.

22
23 *Accessory structure* means a structure that is located on the same parcel or on a contiguous parcel
24 that is under the same ownership as the principal structure and the use of which is subordinate to and
25 incidental to the use of the principal structure. Accessory structures should constitute a minimal
26 initial investment, shall be limited to use for parking and storage and may not be used for human
27 habitation, and must be designed to have minimal flood damage potential. Examples of accessory
28 structures are two- car detached garages (or smaller), carports, storage sheds, and pole barns (does
29 not include gazebos, pavilions, picnic shelter, or a carport that is open on all sides).

30
31 *Adjacent to contiguous native habitat* means an area of native habitat sharing a boundary at one or
32 more points of intersection with other native habitat. For purposes of this land development code, an
33 intervening road, right-of-way or easement shall not destroy the adjacency of the habitat. However,
34 U.S. 1, canals and open water shall constitute a break in adjacency.

35
36 *ASCE 24* means a standard titled *Flood Resistant Design and Construction* that is referenced by the
37 *Florida Building Code*. ASCE 24 is developed and published by the American Society of Civil
38 Engineers, Reston, VA.

39
40 *Base flood* means a flood having a 1-percent chance of being equaled or exceeded in any given year.
41 The base flood is commonly referred to as the "100-year flood" or the "1-percent-annual chance
42 flood."

43
44 *Base flood elevation (BFE)* means the elevation of the base flood, including wave height, relative to
45 the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other
46 datum specified on the Flood Insurance Rate Map (FIRM).

47
48 *Basement* means the portion of a building having its floor subgrade (below ground level) on all sides.

1
2 Coastal A Zone means the area within a special flood hazard area, landward of a V zone or landward
3 of an open coast without mapped coastal high hazard areas. In a coastal A zone, the principal source
4 of flooding must be astronomical tides, storm surges, seiches or tsunamis, not riverine flooding.
5 During the base flood conditions, the potential for breaking wave height shall be greater than or equal
6 to 1 ½ feet (457 mm). The inland limit of the coastal A zone is (a) the Limit of Moderate Wave
7 Action if delineated on a FIRM, or (b) designated by the authority having jurisdiction.

8
9 Coastal high hazard area means a special flood hazard area extending from offshore to the inland
10 limit of a primary frontal dune along an open coast and any other area subject to high velocity wave
11 action from storms or seismic sources. Coastal high hazard areas are also referred to as “high hazard
12 areas subject to high velocity wave action” or “V Zones” and are designated on Flood Insurance Rate
13 Maps (FIRM) as Zone V1-V30, VE, or V.

14
15 Design flood means the flood associated with the greater of the following two areas:

- 16 (1) Area with a floodplain subject to a 1-percent or greater chance of flooding in any year; or
- 17 (2) Area designated as a flood hazard area on the community’s flood hazard map, or otherwise
18 legally designated.

19
20 Design flood elevation means the elevation of the “design flood,” including wave height, relative to
21 the datum specified on the community’s legally designated flood hazard map. In areas designated as
22 Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the
23 building’s perimeter plus the depth number (in feet) specified on the flood hazard map. In areas
24 designated as Zone AO where the depth number is not specified on the map, the depth number shall
25 be taken as being equal to 2 feet.

26
27 Development means any man-made change to improved or unimproved real estate, including but not
28 limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage
29 of equipment or materials, mining, dredging, filling, grading, paving, excavations, drilling operations
30 or any other land disturbing activities.

31
32 Floodproofing Certificate means the FEMA Floodproofing Certificate for Non-Residential
33 Structures form issued by FEMA for the collection of design information and elevations for specific
34 buildings in flood hazard areas. The FEMA Floodproofing Certificate is revised and reissued
35 periodically. Applicants and permittees shall use the edition current as of the date of submission.

36
37 Elevation Certificate means the FEMA Elevation Certificate form issued by FEMA for the collection
38 of information and elevations for specific buildings in flood hazard areas. The FEMA Elevation
39 Certificate is revised and reissued periodically. Applicants and permittees shall use the edition
40 current as of the date of submission.

41
42 Elevated building means a nonbasement building that has its lowest elevated floor raised above
43 ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

44
45 Enclosed area or enclosure means the portion of an elevated building below the lowest elevated floor
46 that is fully shut in by rigid walls and used solely for limited storage, parking or building access.
47 Enclosures shall not be constructed, modified, equipped, or used for habitation or other purposes.
48

1 Existing building and existing structure means any buildings and structures for which the “start of
2 construction” commenced before June 15, 1973.

3
4 Existing manufactured home park or subdivision means a manufactured home park or subdivision
5 for which the construction of facilities for servicing the lots on which the manufactured homes are
6 to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and
7 either final site grading or the pouring of concrete pads) is completed before June 15, 1973.

8
9 Federal Emergency Management Agency (FEMA) means the federal agency that, in addition to
10 carrying out other functions, administers the National Flood Insurance Program.

11
12 Flood or flooding means a general and temporary condition of partial or complete inundation of
13 normally dry land from:

- 14 (1) The overflow of inland or tidal waters.
15 (2) The unusual and rapid accumulation or runoff of surface waters from any source.

16
17 Flood damage-resistant materials means any construction material capable of withstanding direct
18 and prolonged contact with floodwaters without sustaining any damage that requires more than
19 cosmetic repair.

20
21 Flood hazard area means the greater of the following two areas:

- 22 (1) The area within a floodplain subject to a 1-percent or greater chance of flooding in any year.
23 (2) The area designated as a flood hazard area on the community’s flood hazard map, or
24 otherwise legally designated.

25
26 Flood Insurance Rate Map (FIRM) means the official map of the community on which the Federal
27 Emergency Management Agency has delineated both special flood hazard areas and the risk
28 premium zones applicable to the community.

29
30 Flood Insurance Study (FIS) means the official report provided by the Federal Emergency
31 Management Agency that contains the Flood Insurance Rate Map, the Flood Boundary and
32 Floodway Map (if applicable), the water surface elevations of the base flood, and supporting
33 technical data.

34
35 Floodplain Administrator means the office or position designated and charged with the
36 administration and enforcement of this chapter. The term “Floodplain Administrator” shall be
37 synonymous with the term the “Floodplain Manager.”

38
39 Floodplain development order or permit or approval means an official document or certificate issued
40 by the community, or other evidence of approval or concurrence, which authorizes performance of
41 specific development activities that are located in flood hazard areas and that are determined to be
42 compliant with this chapter.

43
44 Florida Building Code (FBC) means the family of codes adopted by the Florida Building
45 Commission, including the: Florida Building Code, Building; Florida Building Code, Residential;
46 Florida Building Code, Existing Building; Florida Building Code, Mechanical; Florida Building
47 Code, Plumbing; Florida Building Code, Fuel Gas.

1 Functionally dependent use means a use which cannot perform its intended purpose unless it is
2 located or carried out in close proximity to water, including only docking facilities, port facilities
3 that are necessary for the loading and unloading of cargo or passengers, and ship building and ship
4 repair facilities; the term does not include long-term storage or related manufacturing facilities.
5

6 Highest adjacent grade means the highest natural elevation of the ground surface prior to
7 construction next to the proposed walls or foundation of a structure.
8

9 Historic structure means any structure that is determined eligible for the exception to the flood
10 hazard area requirements of the *Florida Building Code, Existing Building*, Chapter 12 Historic
11 Buildings. For the purposes of this exception, a historic building is:

- 12 (1) Listed or preliminarily determined to be eligible for listing in the National Register of Historic
13 Places; or
- 14 (2) A contributing resource within a National Register of Historic Places listed district; or
- 15 (3) Designated as historic property under an official municipal, county, special district or state
16 designation, law, ordinance or resolution either individually or as a contributing property in
17 a district, provided the local program making the designation is approved by the Department
18 of the Interior; or
- 19 (4) Determined eligible by the Florida State Historic Preservation Officer for listing in the
20 National Register of Historic Places, either individually or as a contributing property in a
21 district.

22
23 Illegal structure or use means a structure or use that is not a legal structure or legal use as defined in
24 this chapter.
25

26 Legal structure means a structure that was permitted under the floodplain regulations in effect at the
27 time construction commenced on the structure in its current configuration and received a permit or
28 final inspection or certificate of occupancy for the structure in its current configuration.
29

30 Legal use means a use that was permitted by the floodplain regulations at the time the use commenced
31 on the property.
32

33 Limit of Moderate Wave Action means a line shown on FIRMs to indicate the inland limit of the 1
34 ½-foot (457 mm) breaking wave height during the base flood.
35

36 Limited storage means storage that is incidental and accessory to the principal structure. For example,
37 if the principal structure is a residence, storage should be limited to items such as lawn and garden
38 equipment, tires, and other low damage items that will not suffer flood damage or can be
39 conveniently moved to the elevated part of the building. Flood insurance coverage for enclosures
40 and contents below the base flood elevation is very limited.
41

42 Letter of Map Change (LOMC) means an official determination issued by FEMA that amends or
43 revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change
44 include:

- 45 (1) Letter of Map Amendment (LOMA) means an amendment based on technical data showing
46 that a property was incorrectly included in a designated special flood hazard area. A LOMA
47 amends the current effective Flood Insurance Rate Map and establishes that a specific
48 property, portion of a property, or structure is not located in a special flood hazard area.

1 (2) Letter of Map Revision (LOMR) means a revision based on technical data that may show
2 changes to flood zones, flood elevations, special flood hazard area boundaries and floodway
3 delineations, and other planimetric features.

4 (3) Letter of Map Revision Based on Fill (LOMR-F) means a determination that a structure or
5 parcel of land has been elevated by fill above the base flood elevation and is, therefore, no
6 longer located within the special flood hazard area. In order to qualify for this determination,
7 the fill must have been permitted and placed in accordance with the community's floodplain
8 management regulations.

9 (4) Conditional Letter of Map Revision (CLOMR) means a formal review and comment as to
10 whether a proposed flood protection project or other project complies with the minimum
11 NFIP requirements for such projects with respect to delineation of special flood hazard areas.
12 A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study;
13 upon submission and approval of certified as-built documentation, a Letter of Map Revision
14 may be issued by FEMA to revise the effective FIRM.

15
16 Light-duty truck, defined in 40 C.F.R. 86.082-2, means any motor vehicle rated at 8,500 pounds
17 Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less
18 and which has a basic vehicle frontal area of 45 square feet or less, which is:

- 19 (1) Designed primarily for purposes of transportation of property or is a derivation of such a
20 vehicle, or
21 (2) Designed primarily for transportation of persons and has a capacity of more than 12 persons;
22 or
23 (3) Available with special features enabling off-street or off-highway operation and use.

24
25 Lowest floor means the lowest floor of the lowest enclosed area of a building or structure, including
26 basement, but excluding any unfinished or flood-resistant enclosure, other than a basement, usable
27 solely for vehicle parking, building access or limited storage provided that such enclosure is not built
28 so as to render the structure in violation of the non-elevation requirements of the Florida Building
29 Code or ASCE 24.

30
31 Mangrove stand means an assemblage of mangrove trees which are mostly low trees noted for a
32 copious development of interlacing adventitious roots above the ground and which contains one or
33 more of the following species: Black mangrove, red mangrove, white mangrove, and buttonwood.

34
35 Manufactured home means a structure, transportable in one or more sections, which is eight (8) feet
36 or more in width and greater than four hundred (400) square feet, and which is built on a permanent,
37 integral chassis and is designed for use with or without a permanent foundation when attached to the
38 required utilities. The term "manufactured home" does not include a "recreational vehicle" or "park
39 trailer."

40
41 Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into
42 two or more manufactured home lots for rent or sale.

43
44 Market value means the price at which a property will change hands or be transferred between a
45 willing buyer and a willing seller, neither party being under compulsion to buy, sell or transfer and
46 both having reasonable knowledge of relevant facts, which shall include imputing constructive
47 knowledge of controlling local, state, and federal laws and regulations. As used in this chapter, the
48 term "market value" refers to the market value of buildings and structures, excluding the land and

1 other improvements on the parcel. Market value may be established by a qualified certified
2 independent appraiser, Actual Cash Value (in-kind replacement cost depreciated for age, wear and
3 tear, neglect, and quality of construction), established by a qualified certified independent appraiser
4 or tax assessment value adjusted by 20 percent (20%) to approximate market value. A uniform
5 appraisal report prepared by a qualified certified independent appraiser submitted by the applicant
6 may be used if the Floodplain Administrator considers such appraisal consistent with local
7 construction costs. A structure or building originally manufactured or built as a vehicle, shall
8 exclusively be appraised by utilizing the Kelley Blue Book or a NADA appraisal. Documentation of
9 alleged local construction costs submitted by a property owner to the Floodplain Administrator must
10 be submitted in the form of a sworn or attested affidavit that shall be based upon the personal
11 knowledge of the certifying affiant and must be notarized. Where an appraisal is not accepted because
12 it appears to be inconsistent with local construction costs, the applicant may request review by a
13 qualified certified independent third-party appraiser duly authorized by the county. The cost of such
14 independent review shall be borne by the applicant. The reviewing appraiser shall determine if the
15 appraisal value reasonably reflects an appropriate market value of the structure. The reviewing
16 appraiser's determination must be in a written document, shall be sworn or attested to by the
17 certifying affiant and expressly provide that it is based on the certifying affiant's personal knowledge,
18 and must be notarized. Professionals preparing appraisals or appraisal reviews shall be required to
19 possess certifications as state certified residential appraisers for appraising one to four family
20 residential properties and state certified general appraisers for all other properties including
21 commercial and multi-residential. Neither an appraisal making an extraordinary assumption that a
22 building or structure was in good condition as of a date prior to a flood event nor a retrospective
23 appraisal (an appraisal done retrospectively based on a date prior to the flood event) shall be eligible
24 for consideration or relief. A building or structure that was never lawfully permitted in the first place
25 shall not be eligible for issuance of a permit or development approval.

26
27 *New construction* means, for the purposes of administration of this chapter and the flood resistant
28 construction requirements of the *Florida Building Code*, structures for which the "start of
29 construction" commenced on or after June 15, 1973, and includes any subsequent improvements to
30 such structures.

31
32 *Nonconversion Agreement* means a form provided by the Floodplain Administrator to be signed by
33 the owner and recorded on the property deed in Official Records of the Monroe County Clerk of
34 Court, for the owner to agree not to convert or modify in any manner that is inconsistent with the
35 terms of the building permit and these regulations, enclosures below elevated buildings, certain
36 crawl/underfloor spaces, detached accessory structures, and garages.

37
38 *Nonconforming structure* means a structure or a portion of a structure below the base flood elevation
39 that is lawfully existing or permitted and is not fully conforming with the terms of this chapter.

40
41 *Notice to proceed* means a written authorization by the Planning and Environmental Resources
42 Department and/or Building Department to the permittee authorizing permitted development to
43 begin.

44
45 *Park trailer* means a transportable unit which has a body width not exceeding fourteen (14) feet and
46 which is built on a single chassis and is designed to provide seasonal or temporary living quarters
47 when connected to utilities necessary for operation of installed fixtures and appliances.

1 Recreational vehicle means a vehicle, including a park trailer, which is:

- 2 (1) Built on a single chassis;
- 3 (2) Four hundred (400) square feet or less when measured at the largest horizontal projection;
- 4 (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- 5 (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for
6 recreational, camping, travel, or seasonal use.

7
8 Sand dunes mean naturally occurring accumulations of sand in ridges or mounds landward of the
9 beach.

10
11 Special flood hazard area means an area in the floodplain subject to a 1 percent or greater chance of
12 flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30,
13 AE, A99, AH, V1-V30, VE or V.

14
15 Start of construction means the date of issuance of permits for new construction and substantial
16 improvements, provided the actual start of construction, repair, reconstruction, rehabilitation,
17 addition, placement, or other improvement is within 180 days of the date of the issuance. The actual
18 start of construction means either the first placement of permanent construction of a building
19 (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of
20 piles, or the construction of columns. Permanent construction does not include land preparation (such
21 as clearing, grading, or filling), the installation of streets or walkways, excavation for a basement,
22 footings, piers, or foundations, the erection of temporary forms or the installation of accessory
23 buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings.
24 For a substantial improvement, the actual “start of construction” means the first alteration of any
25 wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the
26 external dimensions of the building.

27
28 Substantial damage means damage of any origin sustained by a building or structure whereby the
29 cost of restoring the building or structure to its before damaged (“pre-damage”) condition would
30 equal or exceed 50 percent of the market value of the building or structure before the damage
31 occurred. Structures that are determined to be substantially damaged are automatically considered to
32 be substantial improvements, regardless of the actual repair work performed. If the cost necessary to
33 fully repair the structure to its before damage (“pre-damage”) condition is equal to or greater than 50
34 percent of the structure's market value before damages (“pre-damage” market value), then the
35 structure must be elevated (or flood proofed if it is non-residential) to or above the required elevation
36 and meet all other applicable requirements of the Florida Building Code and this chapter. Items that
37 may be excluded from the cost to repair are listed in the substantial improvement/substantial damage
38 worksheet/checklist developed by the County Floodplain Administrator (which shall be kept on file
39 and available to the public in the offices of the County Building Department) and, include but are
40 not limited to, costs to prepare plans and specifications, survey costs, and permit and inspection fees.
41 Items that may also be excluded include costs to lawfully temporarily stabilize a building so that it’s
42 safe to enter to evaluate and identify required repairs and lawful improvements to items outside the
43 building, such as the driveway, septic systems, wells, fencing, landscaping and detached accessory
44 structures.

45
46 Substantial improvement means any repair, reconstruction, rehabilitation, alteration, addition, or
47 other improvement of a building or structure, including any improvement and any repair of damage
48 sustained from any origin, the cost of which equals or exceeds 50 percent of the market value of the

1 building or structure before the improvement or repair is started. If the building or structure has
2 incurred "substantial damage," any repairs are considered a substantial improvement regardless of
3 the actual repair work performed. The term does not, however, include either:

- 4 (1) Any project for lawful improvement of a building required to correct existing health, sanitary,
5 or safety code violations identified by the Building Official and that are the minimum
6 necessary to assure safe living conditions.
- 7 (2) Lawful minimum necessary repairs required to remedy health, safety, and sanitary code
8 deficiencies provided the Building Official, Fire Marshal, or Health Officer were prior to
9 such repairs' occurrence expressly informed of the existence and the extent of the code
10 deficiencies, the deficiencies were in existence prior to the occurrence of damage or prior to
11 the start of an improvement, and the deficiencies are not triggered solely by the proposed
12 improvements or repairs.
- 13 (3) Any alteration of a historic structure provided that the alteration will not preclude the
14 structure's continued designation as a historic structure.

15
16 Variance means a grant of relief from the requirements of this chapter, or the flood resistant
17 construction requirements of the Florida Building Code, which permits construction in a manner that
18 would not otherwise be permitted by this chapter or the Florida Building Code.

19
20 V-Zone and Coastal A Zone Construction Certification Form means the Monroe County V-Zone and
21 Coastal A Zone Construction Certification Form for New Construction & Substantially
22 Improved/Damaged Structures. Design calculations signed and sealed by the design professional
23 must be submitted with the Form, and include at a minimum, if applicable:

- 24 (1) Calculated velocity
- 25 (2) Hydrostatic load – buoyancy effects, lateral loads from standing water, slowly moving water,
26 and nonbreaking waves
- 27 (3) Breaking wave load
- 28 (4) Hydrodynamic load – from rapidly moving water, including breaking waves
- 29 (5) Debris impact load – from waterborne objects
- 30 (6) Estimation of scour
- 31 (7) Breakaway wall design and calculations
- 32 (8) Free of obstruction design for ground slabs
- 33 (9) Free of obstruction design for accessory structures and pools.

34
35 **Sec. 122-4 – 122-9. – Reserved.**

36
37 **ARTICLE II. –ADMINISTRATION**

38
39 **Sec. 122-10. – Duties and Powers of the Floodplain Administrator.**

- 40 (a) **Floodplain Administrator; designation.** The Building Official is designated as the Floodplain
41 Administrator. The Floodplain Administrator may delegate performance of certain of his or her
42 duties to other employees.
- 43 (b) **General authority.** The Floodplain Administrator is authorized and directed to administer and
44 enforce the provisions of this chapter. The Floodplain Administrator shall have the authority to
45 render interpretations of this chapter consistent with the intent and purpose of this chapter and may
46 approve and establish policies and procedures in order to clarify the application of its provisions.
47 The Floodplain Administrator is authorized to approve tools, tables, and software developed to
48 render substantial damage or substantial improvement calculations, which are provided to the County

1 by federal agencies including but not limited to FEMA and NOAA; such approvals shall be construed
2 as legislatively authorized and executive in nature. The Floodplain Administrator shall be guided by
3 the current editions of FEMA’s technical bulletins and other guidance publications, interpretative
4 letters, and policy statements issued by FEMA that are adopted by resolution by the Board of County
5 Commissioners. Such interpretations, policies, resolutions, and procedures shall not have the effect
6 of waiving requirements specifically provided in this chapter or the *Florida Building Code* without
7 the granting of a variance pursuant to section 122-17 of this chapter.

8 **(c) Applications and permits.** The Floodplain Administrator, in consultation with the Building Official
9 and in coordination with other pertinent offices of Monroe County, shall:

- 10 (1) Review applications and plans to determine whether proposed new development will be located
11 in flood hazard areas;
- 12 (2) Review applications for modification of any existing development in flood hazard areas for
13 compliance with the requirements of this chapter;
- 14 (3) Interpret flood hazard area boundaries where such interpretation is necessary to determine the
15 exact location of boundaries; a person contesting the determination shall have the opportunity to
16 appeal that interpretation;
- 17 (4) Provide available flood elevation and flood hazard information;
- 18 (5) Determine whether additional flood hazard data shall be obtained from other sources or shall be
19 developed by an applicant;
- 20 (6) Review applications to determine whether proposed development will be reasonably safe from
21 flooding;
- 22 (7) Issue floodplain development orders or permits for development other than buildings and
23 structures that are subject to the *Florida Building Code*, including buildings, structures and
24 facilities exempt from the *Florida Building Code*, when compliance with this chapter is
25 demonstrated, or disapprove the same in the event of noncompliance; and
- 26 (8) Coordinate with and provide comments to the Building Official to assure that applications, plan
27 reviews, and inspections for buildings and structures in flood hazard areas comply with the
28 applicable provisions of this chapter.

29 **(d) Substantial improvement and substantial damage determinations.** For applications for building
30 permits to improve buildings and structures, including alterations, movement, enlargement,
31 replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial
32 improvements, repairs of substantial damage, and any other improvement of or work on such
33 buildings and structures, the Floodplain Administrator, in coordination with the Building Official,
34 shall:

- 35 (1) Develop a substantial improvement/substantial damage worksheet/checklist, consistent with
36 guidance published by FEMA, to communicate to property owners, residents, contractors and
37 design professionals, that includes, but is not limited to, affidavit requirements, acceptable
38 documentation of costs, identification of costs that may be excluded from the cost of proposed
39 improvements and repairs, and conditions relevant to exclusion of costs in accordance with the
40 definition of “substantial damage” and “substantial improvement.”
- 41 (2) Estimate the market value, or require the applicant to obtain an appraisal of the market value
42 prepared by a qualified certified independent appraiser, of the building or structure before the
43 start of construction of the proposed work; in the case of repair, the market value of the building
44 or structure shall be the market value before the damage occurred and before any repairs are
45 made;
- 46 (3) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-
47 damaged condition, or the combined costs of improvements and repairs, if applicable, to the
48 market value of the building or structure;

- 1 (4) Determine and document whether the proposed work constitutes a substantial improvement or
2 the repair of substantial damage; and
3 (5) Notify the applicant if it is determined that the work constitutes a substantial improvement or the
4 repair of substantial damage and that compliance with the flood resistant construction
5 requirements of the *Florida Building Code* and this chapter is required.

6 **(e) Modifications of the strict application of the requirements of the *Florida Building Code*.** The
7 Floodplain Administrator shall review requests submitted to the Building Official that seek approval
8 to modify the strict application of the flood load and flood resistant construction requirements of the
9 *Florida Building Code* to determine whether such requests require the granting of a variance pursuant
10 to section 122-17 of this chapter.

11 **(f) Notices and orders.** The Floodplain Administrator shall coordinate with appropriate local agencies
12 for the issuance of all necessary notices or orders to ensure compliance with this chapter.

13 **(g) Inspections.** The Floodplain Administrator shall make the required inspections as specified in section
14 122-14 of this chapter for development that is not subject to the *Florida Building Code*, including
15 buildings, structures and facilities exempt from the *Florida Building Code*. The Floodplain
16 Administrator shall inspect flood hazard areas to determine if development is undertaken without
17 issuance of a floodplain development permit.

18 **(h) Other duties of the Floodplain Administrator.** The Floodplain Administrator shall have other
19 duties, including but not limited to:

- 20 (1) Establish, in coordination with and with the approval of the Building Official, procedures for
21 administering and documenting determinations of substantial improvement and substantial
22 damage made pursuant to section 122-10(d) of this chapter;
23 (2) Require applicants who submit hydrologic and hydraulic engineering analyses to support permit
24 applications to submit to FEMA the data and information necessary to maintain the Flood
25 Insurance Rate Maps if the analyses propose to change base flood elevations, or flood hazard
26 area boundaries; such submissions shall be made within six (6) months of the Floodplain
27 Administrator's notice to the applicant to submit to FEMA the data and information necessary to
28 maintain the Flood Insurance Rate Maps.
29 (3) Review required design certifications and documentation of elevations (FEMA Elevation
30 Certificates) specified by this chapter and the *Florida Building Code* to determine that such
31 certifications and documentations are complete;
32 (4) Notify the Federal Emergency Management Agency when the corporate boundaries of Monroe
33 County are modified; and
34 (5) Advise applicants for new buildings and structures, including substantial improvements, that are
35 located in any unit of the Coastal Barrier Resources System established by the Coastal Barrier
36 Resources Act (Pub. L. 97-348) and the Coastal Barrier Improvement Act of 1990 (Pub. L. 101-
37 591), that federal flood insurance is not available on such construction; areas subject to this
38 limitation are identified on Flood Insurance Rate Maps as "Coastal Barrier Resource System
39 Areas" and "Otherwise Protected Areas."

40 **(i) Floodplain management records.** Regardless of any limitation on the period required for retention
41 of public records, the Floodplain Administrator shall maintain and permanently keep and make
42 available for public inspection all records that are necessary for the administration of this chapter
43 and the flood resistant construction requirements of the *Florida Building Code*, including, but not
44 limited to, Flood Insurance Rate Maps; Letters of Map Change; records of issuance of permits and
45 denial of permits; determinations of whether proposed work constitutes a substantial improvement
46 or the repair of substantial damage; required design certifications and documentation of elevations
47 (FEMA Elevation Certificates) specified by the *Florida Building Code* and this chapter;
48 documentation related to appeals and variances, including justification for issuance or denial; and

1 records of enforcement actions taken pursuant to this chapter and the flood resistant construction
2 requirements of the *Florida Building Code*.

3
4 **Sec. 122-11. – Permits.**

5 **(a) Permits required.** Any owner or owner’s authorized agent (hereinafter “applicant”) who intends to
6 undertake any development activity within the scope of this chapter, including buildings, structures
7 and facilities exempt from the *Florida Building Code*, which is wholly within or partially within any
8 flood hazard area shall first make application to the Floodplain Administrator, and the Building
9 Official if applicable, and shall obtain all the required floodplain development orders or permits. No
10 such order or permit shall be issued until compliance with the requirements of this chapter and all other
11 applicable codes and regulations has been satisfied.

12 **(b) Floodplain development orders or permits.** Floodplain development orders or permits shall be issued
13 pursuant to this chapter for any development activities not subject to the requirements of the *Florida*
14 *Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*.
15 Depending on the nature and extent of proposed development that includes a building or structure, the
16 Floodplain Administrator may determine that a floodplain development order is required in addition to a
17 building permit.

18 **(c) Buildings, structures and facilities exempt from the *Florida Building Code*.** Pursuant to the
19 requirements of federal regulations for participation in the National Flood Insurance Program (44
20 C.F.R. Sections 59 and 60), floodplain development orders or permits shall be required for the
21 following buildings, structures and facilities that are exempt from the *Florida Building Code* and any
22 further exemptions provided by law, which are subject to the requirements of this chapter:

- 23 (1) Railroads and ancillary facilities associated with the railroad.
- 24 (2) Nonresidential farm buildings on farms, as provided in section 604.50, F.S.
- 25 (3) Temporary buildings or sheds used exclusively for construction purposes.
- 26 (4) Mobile or modular structures used as temporary offices.
- 27 (5) Those structures or facilities of electric utilities, as defined in section 366.02, F.S., which are
28 directly involved in the generation, transmission, or distribution of electricity.
- 29 (6) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of
30 Florida. As used in this paragraph, the term “chickee” means an open-sided wooden hut that has
31 a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate
32 any electrical, plumbing, or other non-wood features.
- 33 (7) Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled
34 on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of
35 granite, marble, or reinforced concrete.
- 36 (8) Temporary housing provided by the Department of Corrections to any prisoner in the state
37 correctional system.
- 38 (9) Structures identified in section 553.73(10)(k), F.S., are not exempt from the *Florida Building*
39 *Code*, if such structures are located in flood hazard areas established on Flood Insurance Rate
40 Maps.

41 **(d) Application for a floodplain development order or permit.** To obtain a floodplain development
42 order or permit the applicant shall first file an application in writing on a form approved by the
43 Building Official and furnished by the Building Department. The information provided by the
44 applicant shall accurately, at a minimum:

- 45 (1) Identify and describe the scope of work and development to be covered by the order or permit.
- 46 (2) Describe the land on which the proposed development is to be conducted by complete legal
47 description, street address or similar description that will readily identify and definitively locate
48 the site.

- 1 (3) Indicate the use and occupancy for which the proposed development is intended.
- 2 (4) Be accompanied by a site plan or construction documents as specified in section 122-13 of this
- 3 chapter.
- 4 (5) State the valuation of the proposed work.
- 5 (6) Be signed by the applicant or by the applicant's authorized agent.
- 6 (7) Give such other data and information as required by the Floodplain Administrator.
- 7 (8) For projects proposing to enclose areas under elevated buildings, include signed Nonconversion
- 8 Agreement; the agreement shall be recorded on the property deed prior to issuance of the
- 9 Certificate of Occupancy

10 **(e) Validity of floodplain development order or permit.** The issuance of a floodplain development
11 order or permit pursuant to this chapter shall not be construed to be a permit for, or approval of, any
12 violation of this chapter, the *Florida Building Code*, or any other ordinance, resolution or regulation
13 of Monroe County. The issuance of permits based on submitted applications, construction
14 documents, and information shall not prevent the Floodplain Administrator from requiring the
15 correction of errors and omissions, or in the case of incomplete documents or information, from
16 requiring the supplementation of such prior submitted documents or information with additional
17 documentation or information.

18 **(f) Expiration.** A floodplain development order or permit shall automatically become invalid by
19 operation of law unless the work authorized by such permit is commenced within 180 days after its
20 issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work
21 authorized by such permit commences. Extensions for periods of not more than 180 days each shall
22 be requested in writing by the applicant and justifiable good cause shall be demonstrated. “Good
23 cause” means a “legally sufficient reason.”

24 **(g) Suspension or revocation.** The Floodplain Administrator is authorized to suspend or revoke a
25 floodplain development order or permit if the order or permit was issued in error, if the order or
26 permit was issued on the basis of incorrect, inaccurate or incomplete information, if the county
27 Building Department determines that the application for such order or permit contained false or
28 misleading information or omitted information material and relevant to the county’s decision to issue
29 said order or permit, if the application for such order or permit failed to comply with a provision or
30 requirement of this chapter, or if the order or permit was issued in violation of this chapter or any
31 other ordinance, resolution, regulation or requirement of Monroe County.

32 **(h) Other permits required.** Floodplain development permits and building permits shall include a
33 condition that all other applicable state or federal approvals and permits must be obtained before
34 commencement of the county-permitted development, including but not limited to the following:

- 35 (1) The South Florida Water Management District; pursuant to Section 373.036, F.S.
- 36 (2) Florida Department of Health for onsite sewage treatment and disposal systems; pursuant to
- 37 Section 381.0065, F.S. and Chapter 64E-6, F.A.C.
- 38 (3) Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit;
- 39 pursuant to Section 161.055, F.S.
- 40 (4) Florida Department of Environmental Protection for activities that affect wetlands and alter
- 41 surface water flows, in conjunction with the U.S. Army Corps of Engineers; pursuant to Section
- 42 404 of the Clean Water Act.
- 43 (5) Federal permits and approvals.

44 **(i) Other documentation required.** A Nonconversion Agreement signed by the applicant, and plans or
45 drawings specified by the Floodplain Administrator, shall be recorded on the property deed prior to
46 issuance of Certificates of Occupancy or Certificates of Compliance for the following:

- 47 (1) Enclosed areas below new and substantially improved elevated buildings.
- 48 (2) Enclosed areas below lateral additions.

- 1 (3) Enclosed areas below nonconforming buildings that are brought into compliance.
2 (4) Garages and detached accessory structures that are approved in accordance with the non-
3 elevation requirements of Section 122-25(d) and (e).
4

5 **Sec. 122-12. - Inclusion of United State Federal Emergency Management Agency and United States**
6 **Fish and Wildlife Service (FWS) required Permit Referral Process (PRP) in final permit**
7 **determinations for development.**
8

9 **(a) Purpose and intent.** It is the purpose of this section 122-12 to implement regulations that will assure,
10 consistent with the 10th Amendment to the U.S. Constitution, state and county regulations, proper
11 record retention, coordination, and notification of FEMA and FWS regarding permit applications
12 filed with or issued by Monroe County, inclusive of FEMA/FWS requirements agreed to by the
13 applicant.

14 **(b) Lands to which this section apply.** See section 122-2(c)(2).

15 **(c) Rules for interpreting SFAMs.** The boundaries of the flood hazard areas shown on the FWS SFAMs
16 may be determined by scaling distances. Required interpretations of those maps for precise locations
17 of such boundaries shall be made by the county planning director or his/her designee, in consultation
18 with the building official.

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

20 (1) SFAM review required. For parcels or lots shown within the SFAMs in which an application for
21 development permit has been made, if the SFAM indicates the parcel or lot contains only
22 unsuitable habitat for any of the following species: Key Largo Cotton Mouse, Key Largo
23 woodrat, Key tree-cactus, Lower Keys marsh rabbit, Eastern indigo snake, Key deer, Schaus
24 swallowtail butterfly, silver rice rate, and Stock Island tree snail, and the parcel or lot is not listed
25 on the RE list, the planning director or his/her designee shall provide for a notation in the
26 development application permit files that indicates:

- 27 a. The name of the official that reviewed the development application for FWS
28 requirements;
29 b. The date of the review; and
30 c. The date of the SFAM and RE list used to conduct the review.

31 Once the review has established that a parcel or lot contains unsuitable habitat, action may be
32 taken on the permit application for development by Monroe County staff.

33 (2) FWS technical assistance permit requirements. For parcels or lots shown within the SFAMs in
34 which an application for a permit for development has been made including 1) expanding the
35 footprint of a structure; and/or 2) expanding clearing in habitat (including native vegetation
36 removal); and/or 3) placement of fencing into Key deer habitat, if the SFAM indicates the parcel
37 or lot contains suitable habitat for any of the following species: Key Largo Cotton Mouse, Key
38 Largo wood rat, Key tree-cactus, Lower Keys marsh rabbit, Eastern indigo snake, Key deer,
39 Schaus swallowtail butterfly, silver rice rat, and/or Stock Island tree snail, and the parcel or lot
40 is listed on the RE list, the planning director or his/her designee shall use the SAGs to determine
41 whether a floodplain development permit application requires:

- 42 a. Incorporation of FWS SAG requirements as conditions into the Monroe County permit and
43 the county may issue the permit, pursuant to all applicable codes; or
44 b. If, according to the SAGs, the proposed development needs technical assistance by the
45 service, the county shall issue the permit in accordance with Chapter 2012-205, Laws of
46 Florida, indicating a notice to proceed must be obtained prior to any construction, removal of
47 vegetation, or commencement of development, with a condition that:
48 1. The applicant seek and obtain technical assistance from the service; and

- 1 2. The applicant obtain, prior to the issuance of the notice to proceed, all applicable state or
- 2 federal permits or approvals pursuant to section 122-11(h); and
- 3 3. In accordance with the Florida Building Code and Monroe County section 6-103(b), the
- 4 permit shall expire after 180 days; and
- 5 4. If the permit expires, the applicant shall be required to reapply for the permit.
- 6 c. For a floodplain development permit application that requires the services' technical
- 7 assistance, Monroe County shall provide the application to the service weekly. Based on the
- 8 services technical assistance, the applicant shall submit the FWS written requirements to the
- 9 county. If the applicant agrees to the FWS requirements, in writing, Monroe County may then
- 10 issue a notice to proceed that includes the technical assistance requirements, provided by the
- 11 federal agency to avoid possible impacts on federally listed (threatened or endangered)
- 12 species, as conditions in the Monroe County permit.
- 13 d. For a development permit application that requires mitigation and/or compensation for
- 14 adverse effects to native habitat, monetary compensation generated will be applied to
- 15 restoration and/or purchase of native habitat.
- 16 e. The county shall maintain an applicant acceptance form, of the service requirements, in the
- 17 permit file.
- 18 f. For purposes of this section the notice to proceed shall be written authorization from the
- 19 Monroe County Growth Management Division to the permittee that the permitted
- 20 development activities may begin.
- 21 g. If the parcel is within an area previously covered by a habitat conservation plan, and where
- 22 that habitat conservation plan has expired at the time of development permit application, the
- 23 county shall apply the permit referral process in this section, unless mitigation was completed
- 24 for the associated impacts.
- 25 h. If the property owner does not agree to the FWS technical assistance requirements to be
- 26 included in the development permit as conditions, the county shall not issue the notice to
- 27 proceed and shall rescind the previously issued development permit.
- 28 i. For properties located in Key Largo wood rat, Key Largo cotton mouse, silver rice rat and
- 29 Lower Keys marsh rabbit habitat, property owners shall agree to execute and record a
- 30 covenant restriction in favor of Monroe County which prohibits free ranging cats. This
- 31 requirement alleviates direct and cumulative loss of species habitat which will not negatively
- 32 impact the total number of new residential permits that may be issued under Species
- 33 Assessment Guides (SAGs).
- 34 (3) Provision for flood hazard reduction and avoiding impacts on federally listed (threatened or
- 35 endangered) species enforcement. All proposed development shall meet the conditions
- 36 established on the floodplain development permit and/or notice to proceed, which includes FWS
- 37 technical assistance requirements included as conditions on the Monroe County development
- 38 permits, to avoid possible impacts on federally-listed species (threatened or endangered).
- 39 Violation of this section, including any development constructed not in accordance with the FWS
- 40 requirements, included as conditions on the Monroe County development permit, derived
- 41 through use of the SAGs or through technical assistance by FWS, are hereby deemed to be
- 42 violations of the County Code and may be enforced utilizing the administrative enforcement
- 43 procedures set forth in chapter 8, Monroe County Code of Ordinances. Further, section 118-11
- 44 shall be utilized to require environmental restoration standards.
- 45 (4) Permit issuance for previously tolled Rate of Growth Ordinance (ROGO) allocations, Non-
- 46 Residential Rate of Growth Ordinance (NROGO) allocations or building permits/floodplain
- 47 development permits. Building permits and allocations have been tolled under authority of
- 48 Monroe County Resolutions 420-2005, 166-2006, 185-2007 and 219-2008 and 282-2011 as a

1 result of the injunction prohibiting FEMA from issuing flood insurance policies under the
2 National Flood Insurance Program which was imposed in the case of Florida Key Deer et. al., v.
3 Fugate et. al., 90-10037-CIV-Moore.

4 a. In order for those persons whose allocations or whose building permits were tolled to be
5 eligible for federal flood insurance and meet their obligations under the Federal Endangered
6 Species Act, the following is required:

- 7 1. Owners with allocations who do not need coordination with FWS after they are processed
8 through the permit referral process:
 - 9 i. Have 180 days from the date of a county issued written notice to pick up their
10 building permits;
 - 11 ii. Have 300 days from the date of a county issued written notice, if there is a need to
12 redesign an onsite wastewater treatment system, to receive a permit from the
13 department of health (DOH) and pick up their building permits.
- 14 2. Owners with building permits who do not need coordination with FWS after they are
15 processed through the permit referral process:
 - 16 i. Have 180 days from the date of a county issued written notice, to recommence
17 development and receive a passed inspection; or
 - 18 ii. Have 300 days from the date of a county issued written notice, if there is a need to
19 redesign an onsite wastewater treatment system to receive a permit from the DOH,
20 recommence development and receive a passed inspection.

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

30 (6) Properties for which a permit has been issued and for which development has not commenced
31 will be required to be processed through the permit referral process. Permit reviews that result in
32 a "may affect determination" for the proposed development through the application of the species
33 assessment guides which require the permittee to coordinate with FWS shall have a total of 360
34 days from the date of a county issued written notice to conclude the required coordination with
35 FWS, commence development and receive a passed inspection from Monroe County. This
36 timeframe may be extended by the planning director if the applicant can affirmatively
37 demonstrate that he has timely and actively sought coordination.

38
39 **Sec. 122-13. – Site plans and construction documents.**

40 **(a) Information for development in flood hazard areas.** The site plan or construction documents for
41 any development subject to the requirements of this chapter shall be drawn to scale and shall
42 accurately include, as applicable to the proposed development:

- 43 (1) Identification and delineation of all flood hazard areas, flood zone(s), base flood elevation(s),
44 and ground elevations necessary for the County's review of the proposed development.
- 45 (2) Where base flood elevations are not included on the FIRM or in the Flood Insurance Study, they
46 shall be established in accordance with section 122-13(b) of this chapter.
- 47 (3) Where the parcel on which the proposed development will take place will have more than 50 lots
48 or is larger than 5 acres and the base flood elevations are not included on the FIRM or in the

1 Flood Insurance Study, such elevations shall be established in accordance with section 122-
2 13(b)(1) of this chapter.

- 3 (4) Location of the proposed activity and proposed structures, and locations of existing buildings and
4 structures; locations of new buildings which shall be located landward of the reach of mean high
5 tide.
- 6 (5) Location, and delineation and description of the extent, amount, and proposed final grades of any
7 filling, grading, or excavation.
- 8 (6) Where the placement of fill is proposed, description of the amount, type, and source of fill
9 material; compaction specifications; a description of the intended purpose of the fill areas; and
10 competent substantial evidence that the proposed fill areas are the minimum necessary to achieve
11 the intended purpose.
- 12 (7) Delineation and description of the extent of any proposed alteration of sand dunes, dune ridges,
13 or mangrove stands, provided such alteration is approved by the Florida Department of
14 Environmental Protection.

15 The Floodplain Administrator is authorized to waive the submission of site plans, construction
16 documents, and other data that are required by this chapter but that are not required to be prepared
17 by a registered and/or licensed design professional if it is found that the nature of the proposed
18 development is such that the review of such submissions is not necessary to render a determination
19 of compliance with this chapter.

20 **(b) Information in flood hazard areas without base flood elevations (approximate Zone A).** Where
21 flood hazard areas are delineated on the FIRM and base flood elevation data have not been provided,
22 the Floodplain Administrator shall:

- 23 (1) Require the applicant to include accurate base flood elevation data prepared in accordance with
24 currently accepted engineering practices.
- 25 (2) Where the base flood elevation data are to be used to support a Letter of Map Change from
26 FEMA, advise the applicant that the analyses shall be prepared by a Florida licensed engineer in
27 a format required by FEMA, and that it shall be the responsibility of the applicant to satisfy the
28 submittal requirements and pay the processing fees.

29 **(c) Additional analyses and certifications.** For activities that propose to alter sand dunes, dune ridges,
30 or mangrove stands in coastal high hazard areas (Zone V) and Coastal A Zone, an engineering
31 analysis signed and sealed by a qualified Florida licensed engineer that demonstrates that the
32 proposed alteration will not increase the potential for flood damage shall be submitted with the site
33 plan and construction documents.

34 **(d) Submission of additional data.** When additional hydrologic, hydraulic or other engineering data,
35 studies, and additional analyses are submitted to support an application, the applicant has the right
36 to seek a Letter of Map Change from FEMA to change the base flood elevations or change boundaries
37 of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The
38 analyses shall be prepared by a qualified Florida licensed engineer in a format required by FEMA.
39 Submittal requirements and processing fees shall be the responsibility of the applicant.

40 **Sec. 122-14. – Inspections.**

41 **(a) Inspections required.** Development for which a floodplain development order or permit is required
42 shall be subject to county inspection.

43 **(b) Development other than buildings and structures.** The Floodplain Administrator shall inspect all
44 development to determine or confirm compliance with the requirements of this chapter and the
45 conditions of issued floodplain development orders or permits.

46 **(c) Buildings, structures and facilities exempt from the Florida Building Code.** The Floodplain
47 Administrator shall inspect buildings, structures and facilities exempt from the Florida Building
48 Code.

1 Code to determine or confirm compliance with the requirements of this chapter and the conditions
2 of issued floodplain development orders or permits.

3 **(d) Buildings, structures and facilities exempt from the Florida Building Code, lowest floor**
4 **inspection.** Upon placement of the lowest floor, including basement, and prior to further vertical
5 construction, the owner of a building, structure or facility exempt from the Florida Building Code,
6 or the owner's authorized agent, shall submit to the Floodplain Administrator:

- 7 (1) If a design flood elevation was used to determine the required elevation of the lowest floor, the
8 FEMA Elevation Certificate prepared and sealed by a Florida licensed professional surveyor; or
9 (2) If the elevation used to determine the required elevation of the lowest floor was determined in
10 accordance with section 122-13(b) of this chapter, the accurate documentation of height of the
11 lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.

12 **(e) Buildings, structures and facilities exempt from the Florida Building Code, final inspection.** As
13 part of the final inspection, the owner or the owner's authorized agent shall submit to the Floodplain
14 Administrator a final FEMA Elevation Certificate of the lowest floor or final documentation of the
15 height of the lowest floor above the highest adjacent grade; such certifications and documentations
16 shall be prepared as specified in section 122-14(d) of this chapter.

17 **(f) Manufactured homes.** The Floodplain Administrator shall inspect manufactured homes that are
18 installed or replaced in flood hazard areas to determine or confirm compliance with the requirements
19 of this chapter and the conditions of the issued permit. Upon placement of a manufactured home,
20 certification of the elevation of the lowest floor shall be submitted to the Floodplain Administrator.

21
22 **Sec. 122-15. – Required Inspections of Enclosed Areas Below Elevated Residential Structures.**

23 **(a) Applicability.** Prior to the transfer of ownership of any property occupied by an elevated residential
24 structure with a below base flood enclosed area for which construction of the enclosed commenced
25 on or after June 15, 1973, a county approved inspection of the below base flood enclosure shall be
26 conducted. No earlier than 180 days prior to the transfer of the property, the seller or the prospective
27 purchaser, with the seller's permission, shall have the required inspection conducted. The intent of
28 this inspection, which is strictly limited to inspection of below base flood enclosures, is to identify
29 for county records and purchasers any nonconformities or illegal structures or uses.

30 **(b) Inspections.** Upon inspection request, the inspection required under this section shall be conducted
31 by an inspector from the Building Department. Fees for inspections conducted by the Building
32 Department shall be in accordance with the schedule established by resolution of the BOCC for
33 inspections conducted under the county's flood insurance inspection and compliance program.

34 **(c) Inspection procedures and forms.** All inspections required under this section shall be conducted in
35 accordance with procedures and recorded on county forms approved by the Floodplain
36 Administrator.

37 **(d) Inspection submittal requirements.** The original inspection report, signed by the county inspector,
38 shall be maintained by the Building Department and a copy shall be submitted to the seller, who has
39 contacted the County, as provided above, and the purchaser, provided that the purchaser has
40 contacted the County as provided above no later than ten days prior to the closing date for transfer
41 of the subject property.

42 **(e) Failure to comply with inspection submittal requirements.** Should the inspection required by this
43 section not be completed, the seller and purchaser, if known, will be notified that the structure is in
44 violation of this section. The purchaser and his or her successors and assigns may enforce the terms
45 of this section in law or at equity. The purchaser may seek injunctive relief against the seller in a
46 court of competent jurisdiction to prevent a violation of or otherwise in connection with a violation
47 of this section. Attorney's fees and costs incurred in an action to enforce these regulations may be
48 awarded to a substantially prevailing party at the discretion of the court. A purchaser may seek and

1 the court may award treble damages as an aggrieved party. The sole intent of this inspection is to
2 provide information for recording and monitoring improvements to below base flood enclosures
3 subject to the county's floodplain regulations and in accordance with Monroe County Board of
4 County Commission Resolution 440-2011, which does not require that the property be brought into
5 compliance prior to or subsequent to transfer. The purpose of this inspection is not to identify other
6 types of unpermitted improvements that are unrelated to the floodplain regulations in this chapter.

7 (f) Nothing in this section shall prohibit the county from prosecuting illegal, unpermitted improvements
8 under the Pilot Inspection Program (under previous 44 CFR 59.30, repealed on July 5, 2018; FEMA
9 terminated this program on June 28, 2013).

10 (g) If the results of the inspection identify illegal unpermitted improvements, the requirements of the
11 Florida Building Code applicable to enclosed areas below elevated buildings shall apply when a
12 building permit is sought by an applicant.

13 **Sec. 122-16. – Floodplain Certificate of Compliance Program.**

14 **(a) Generally.** Any property owner is eligible to obtain a certificate of compliance if they have obtained
15 an inspection of an enclosure below base flood elevation by one of the following:

16 (1) FEMA Insurance Inspection Program; or

17 (2) Inspection at time of sale; or

18 (3) Voluntary inspection.

19 The below base flood enclosure must have been found in compliance with the Monroe County
20 floodplain regulations by Monroe County staff. Prior to obtaining the certificate, the owner must
21 record a nonconversion agreement in the Monroe County official land records on a form to be
22 provided by the county and approved by the Floodplain Administrator. Properties that have
23 received their inspections prior to implementation of the certificate of compliance program may
24 receive a certificate of compliance; however, a re-inspection (with no fee) shall be necessary to
25 ensure compliance has been maintained and the owner must also record the nonconversion
26 agreement, which must be recorded in the Official Records of Monroe County.

27 **(b) Outreach.** Every two (2) years, the county will mail written notices to property owners, of which the
28 county is aware own a building or structure with below base flood elevation living areas as follows:

29 (1) The county will obtain data from the Monroe County Property Appraiser Office which will
30 identify all single-family residences which contain enclosures that are identified as living area
31 on the ground floor. Once this data is captured, county technical staff will deduct all the parcels
32 that have already received inspections through the FEMA Insurance Inspection Pilot Program,
33 transfer of ownership program, or through the previously applicable inspection on building
34 permit program, and been made compliant.

35 (2) The remaining property owners will be notified by regular mail that in order to receive a
36 certificate of compliance, a county inspection is required of any below base flood elevation
37 structures, to verify compliance with the Monroe County floodplain regulations. Owners will
38 also be notified that noncompliant structures may be subject to code compliance proceedings.

39 (3) If owners seek and obtain a certificate of compliance inspection, and the below base flood
40 enclosures are determined by the county to be compliant, the owners will receive a certificate of
41 compliance as outlined in this section. This is a proactive opportunity for property owners to
42 receive evidence that they have a compliant structure which should, long term, create a positive
43 real property market condition. If an owner has a noncompliant structure, he or she will be
44 notified of all the required corrective actions necessary for the enclosure to become compliant
45 and that county permits or approvals are required to authorize lawful construction and/or
46 development.

- 1 (c) **Inspections.** Inspections may be requested for a certificate of compliance according to this section
2 or Section 122-15 for Required Inspections of Residential Structures prior to transfer of ownership.
- 3 (d) **Compliant structures.** The county will provide a certificate of compliance to property owners with
4 compliant below base flood enclosures after such property owners sign and record a nonconversion
5 agreement (with a corresponding drawing or site plan demonstrating the permitted improvements
6 allowed below base flood elevation attached to the agreement) in the Official Records of Monroe
7 County. The nonconversion agreement shall be recorded in the Monroe in the Official Records of
8 Monroe County so that future purchasers of properties understand what has been approved by the
9 county for areas below base flood elevation. Property owners shall pay applicable recording fees.
- 10 (e) **Noncompliant structures.** The County Building Official shall refer any noncompliant structures to
11 the Code Compliance Department for enforcement through appropriate processes. Once compliance
12 is achieved, if the below base flood enclosure has not been completely removed, a Nonconversion
13 Agreement executed by the owner shall be recorded in the Official Records of Monroe County.
- 14 (f) **New construction.** Owners of New construction that contains any type of below base flood enclosure,
15 will be required to record a Nonconversion Agreement in the Official Records of Monroe County
16 indicating the square footage permitted to be constructed below base flood elevations, with an
17 accurate corresponding drawing or site plan showing/demonstrating the permitted improvements
18 permitted, prior to receiving a certificate of occupancy.

19
20 **Sec. 122-17. - Variances.**

21 (a) **Authority.** The Division of Administrative Hearings (DOAH) shall hear and decide on requests for
22 variances from the application of the allegedly strict letter of this chapter. Pursuant to Section
23 553.73(5), F.S., the DOAH shall hear and decide on requests for variances from the application of
24 the allegedly strict letter of the flood resistant construction requirements of the *Florida Building*
25 *Code*. DOAH shall also hear and decide on requests for variances for at-grade wet floodproofed
26 accessory structures in A/AE Zones that are larger than 600 sq. ft. but not larger than 1,000 sq. ft. in
27 size.

28 **(b) Variance procedures.**

- 29 (1) **An application for a variance from the provisions of this chapter for development in an area of**
30 **special flood hazard shall be filed with the Building Department at the time of application for a**
31 **building permit or floodplain development permit/order which seeks approval of development**
32 **that is not authorized under the allegedly strict letter of this chapter or flood-resistant construction**
33 **requirements of the *Florida Building Code*.**
- 34 (2) **Within ten (10) days of receipt of a complete and properly and timely filed application for a**
35 **variance from the allegedly strict letter of this chapter or of the flood-resistant construction**
36 **requirements of the *Florida Building Code*, the Floodplain Administrator and the Building**
37 **Official shall review the application, and submit a Report and Recommendation to the DOAH.**
38 **The variance applicant may file a written objection to the Report and Recommendation within**
39 **30 calendar days of the date of filing of the Report and Recommendation.**
- 40 (3) **The DOAH shall review the application and the Reports and Recommendations of the Floodplain**
41 **Administrator and the Building Official and may consider granting the application for variance**
42 **in accordance with this section.**
- 43 (4) **In resolving a variance application under this section, county Building, Planning and**
44 **Environmental Resources, and Code Compliance department administrative staff interpretations**
45 **of the Monroe County Codes, of the *Florida Building Code*, and of applicable federal laws, rules,**
46 **and regulations, are legally entitled to deference and great weight, and such administrative**
47 **interpretations should not be modified or overturned unless clearly erroneous. If such**
48 **administrative staff interpretation is within the range of possible and reasonable interpretations,**

1 it is not clearly erroneous and should be affirmed.

2 **(c) Limitations on authority to grant variances.**

- 3 (1) The DOAH shall base its decisions on variances on technical justifications submitted by
4 applicants, the considerations for issuance in section 122-17(e) of this chapter, the conditions of
5 issuance set forth in section 122-17(g) of this chapter, and the Reports and Recommendations of
6 the Floodplain Administrator and the Building Official. Variances for accessory structures in
7 A/AE Zones shall be subject to the conditions in section 112-17(f).
8 (2) When the DOAH considers the propriety of granting a variance, the following factors shall not
9 be considered material or relevant to the hearing officer's decision:
10 a. The physical disabilities or handicaps and health of the applicant or members of his family;
11 b. The domestic difficulties of the applicant or members of his or her family;
12 c. The financial difficulty of the applicant in complying with the floodplain management
13 provisions of this chapter or the *Florida Building Code*;
14 d. The elevation of surrounding structures or buildings;
15 e. The alleged difficulty of marketing, advertising, or selling the property, building, or structure;
16 f. Any alleged difficulty related to a codified law, rule, regulation, or matter of record, which the
17 applicant or members of his or her family, which he, she, or they were on actual or constructive
18 notice of prior to acquiring the property, and could therefore have been avoided, or which may
19 be characterized as a self-created hardship; or
20 g. Non-unique or non-peculiar characteristics of the applicant's property, building, or structure.
21 (3) The DOAH has the right to attach such conditions as it deems necessary to further the purposes,
22 intent, goals, and objectives of this chapter.

23 **(d) Functionally dependent uses.** A variance is authorized to be issued for the construction or
24 substantial improvement necessary for the conduct of a functionally dependent use, as defined in this
25 chapter, provided the variance is the minimum necessary considering the flood hazard and all due
26 consideration has been given to use of methods and materials that minimize flood damage during
27 occurrence of the base flood.

28 **(e) Considerations for issuance of variances.** In reviewing requests for variances, the DOAH shall
29 consider all technical evaluations, all relevant factors, all other applicable provisions of the *Florida*
30 *Building Code*, this chapter, and the following:

- 31 (1) The danger that materials and/or debris may be swept onto other lands resulting in additional or
32 further injury, harm or damage;
33 (2) The danger to life and/or property due to flooding or erosion damage;
34 (3) The susceptibility of the proposed development, including foreseeable contents thereof, to flood
35 injuries, harm, or damage and their effects on current and future owners or occupants;
36 (4) The importance of the services provided by the proposed development to the community;
37 (5) The availability of alternate locations for the proposed development that are either not subject to
38 flooding or erosion damage, for the proposed use, and the availability of alternate locations for
39 the proposed development which are subject to lower risk of flooding or erosion;
40 (6) The compatibility of the proposed development with existing and anticipated development,
41 public services, and infrastructure;
42 (7) The relationship of the proposed development to the comprehensive plan and floodplain
43 management program for the area;
44 (8) The safety of access to the property in times of flooding for ordinary and emergency and first-
45 responder vehicles;
46 (9) The expected heights, velocity, duration, rate of rise and debris and sediment transport of the
47 floodwaters and the effects of wave action, if applicable, expected at the site;
48 (10) The costs of providing governmental services during and after flood conditions, including but

1 limited to, debris removal and maintenance and repair of public utilities and facilities such as
2 (including but limited to) sewer, gas, electrical and water systems, streets and bridges;

3 (11) Whether granting the variance will result in increased public expenses, create a threat to public
4 health and safety, create a public nuisance, or cause fraud or victimization of the public; and

5 (12) Whether granting the variance will grant the applicant a special privilege denied to another
6 property owner.

7 **(f) Conditions for issuance of a variance for accessory structures in A/AE Zones.** Variances shall be
8 issued only upon:

9 (1) Submission by the applicant, providing a legally sufficient description of the exceptional hardship
10 that the applicant would incur if a variance were not granted;

11 (2) Determination by the DOAH that the structure meets the definition of accessory structure, for
12 floodplain management purposes, and is used only for parking or storage and:

13 a. The request is for the construction or substantial improvement of an at-grade wet
14 floodproofed accessory structures that is larger than 600 sq. ft. but not larger than 1,000 sq.
15 ft. in size.

16 b. Represents minimal investment and has low damage potential.

17 c. Are one story and have flood openings in accordance with Section R322.2 of the Florida
18 Building Code, Residential.

19 d. Are anchored to resist flotation, collapse or lateral movement resulting from flood loads.

20 e. Have flood damage-resistant materials used below the base flood elevation plus one (1)
21 foot.

22 f. Have mechanical, plumbing and electrical systems, including plumbing fixtures, elevated
23 to or above the base flood elevation plus one (1) foot.

24 **(g) Conditions for issuance of other variances.** Variances shall be issued only upon:

25 (1) Submission by the applicant, of a showing of legally sufficient good cause that the unique
26 characteristics of the size, configuration, or topography of the site limit compliance with any
27 provision of this chapter or the required elevation standards;

28 (2) Determination by the DOAH that:

29 a. Failure to grant the requested variance would result in exceptional non-self-imposed
30 hardship due to the physical characteristics of the land that render the lot undevelopable;
31 increased costs to satisfy the requirements or inconvenience do not constitute hardship;

32 b. The granting of a variance will not result in increased flood heights, additional threats to
33 public safety, extraordinary public expense, nor create nuisances, cause fraud on or
34 victimization of the public or conflict with existing local laws and ordinances;

35 c. The variance is the minimum necessary, considering the flood hazard, to afford relief;

36 d. The granting of the requested variance will not result in worsening the expected heights,
37 velocity, duration, rate of rise, and debris and sediment transport of the floodwaters and the
38 effects of wave action, if applicable, expected at the site;

39 e. The granting of the requested variance will not result in increased risk of dangers
40 enumerated under Section 122-17(e)(1)-(3);

41 f. The granting of the requested variance will not result in increased risk of injuries, harm, or
42 damage enumerated under Section 122-17(e)(8)-(11);

43 g. The granting of the requested variance will not result in increased public expenses, create
44 a threat to public health and safety, create a public nuisance, or cause fraud or victimization
45 of the public;

46 h. The granting of the requested variance will not adversely affect the public service,
47 infrastructure, and public policy considerations enumerated under Section 122-17(e)(6).

48 (3) Receipt of a sworn or attested and notarized statement by the applicant that the variance, if

1 granted, shall be recorded in the Office of the Monroe County Clerk of the Court in such a manner
2 that it appears in the chain of title of the affected parcel of land; and

- 3 (4) If the request is for a variance to allow construction of the lowest floor of a new building, or
4 substantial improvement of a building, below the required elevation, a copy in the record of a
5 written notice from the Floodplain Administrator to the applicant for the variance, specifying the
6 difference between the base flood elevation and the proposed elevation of the lowest floor, stating
7 that the cost of federal flood insurance will be commensurate with the increased risk resulting
8 from the reduced floor elevation (up to amounts as high as \$25 for \$100 of insurance coverage),
9 and stating that construction below the base flood elevation increases risks to life and property.

- 10 (g) **Appeal.** An appeal of a variance determination may be submitted pursuant to Section 122-19. The
11 failure to timely and properly file an appeal under this section shall constitute an irrevocable
12 jurisdictional waiver of any rights to seek such a variance, for failure to exhaust available
13 administrative remedies.

14
15 **Sec. 122-19. – Appeals.**

- 16 (a) **Authority.** The Division of Administrative Hearings (DOAH) shall have the authority to hear and
17 decide appeals from final administrative actions regarding the floodplain management provisions of
18 this Land Development Code and the *Florida Building Code*. The BOCC retains the authority to, in
19 its exclusive discretion, appoint a hearing officer who does not work for DOAH.

- 20 (b) **Standard of Review.** An appeal under this section shall be considered an appeal to an administrative
21 tribunal and shall not be a hearing de novo but shall be limited to appellate review of the record
22 created before the Building Official in his or her capacity as the Monroe County Floodplain
23 Administrator and as more fully set forth at subsection (e)(2) of this section. The appellant shall be
24 required to demonstrate that the Building Official’s final administrative decision is clearly erroneous,
25 based upon clearly convincing record evidence. In resolving an appeal under this section, Monroe
26 County Building, Planning and Environmental Resources, and Code Compliance Department staff
27 interpretations of the Monroe County Comprehensive Plan, Monroe County ordinances, resolutions,
28 and of the Monroe County Code(s), are legally entitled to deference, and shall not be overturned as
29 long as said interpretation or application is in the range of permissible interpretations or applications.

- 30 (c) **Initiation.** A notice of appeal (appeal) may be initiated by a real property owner who has received a
31 final, written administrative decision from the Monroe County Building Official in his or her capacity
32 as the Monroe County Floodplain Administrator regarding the floodplain management provisions of
33 this Land Development Code, or by a non-governmental natural or legal person who as a result of a
34 final administrative decision of the Monroe County Building Official in his or her capacity as the
35 Monroe County Floodplain Administrator regarding the floodplain management provisions of this
36 Land Development Code has suffered or will resultantly suffer a special injury differing in kind from
37 that suffered by the community at large. For justiciability or standing purposes, the only interests
38 covered by special injuries under this section are interests expressly protected by the Monroe County
39 Comprehensive Plan or health and safety interests. It shall be legally insufficient for justiciability or
40 standing purposes for an appellant to allege a special injury that is only different in degree from the
41 community at large and that is not different in kind from the community at large. Further, for
42 justiciability or standing purposes, an alleged special injury must exceed in degree the general
43 interest in a community good. For example, take the following two non-exhaustive scenarios: A
44 party’s claim that a decision regarding the floodplain management provisions of this Code adversely
45 affects his, her, or its interest in preserving property value(s) shall not be justiciable, and a party’s
46 claim that a decision regarding the floodplain management provisions of this Code adversely affects
47 his, her, or its interest in environmental or natural resource protection shall not be justiciable.

1 (d) Procedures. A notice of appeal in the form prescribed and approved by the Building Official and
2 Floodplain Administrator must be filed with both the County Administrator and with the Building
3 Department within 30 calendar days of the final administrative action. Failure to file such appeal
4 with both the County Administrator and the Building Department within 30 calendar days of the
5 final administrative action shall constitute a waiver of any rights under this section to appeal final
6 administrative actions regarding the floodplain management provisions of this Land Development
7 Code. Such waiver shall also constitute a waiver of any rights to appeal a separate but related decision
8 of the Building Official or Planning Director on the basis of the Building Official’s separate but
9 related final administrative decision that was never properly and timely appealed under this section.

10 (1) The notice of appeal must be notarized and must include the names and addresses of the
11 appellant(s), development permit applicant(s) forming a party to the appeal, the number
12 associated with each development permit forming a subject of the appeal, and the names of all
13 owners of real property located adjacent or contiguous to the parcel of real property to which the
14 appealed final administrative decision principally relates.

15 (2) Upon receipt of a notice of appeal, the County shall deem it complete, and properly and timely
16 filed, or shall deem it improperly or untimely filed, or incomplete. The County shall within 15
17 working days notify an Appellant if its notice of appeal is untimely or improperly filed or is
18 incomplete. No further action shall be taken on the notice of appeal application unless the
19 deficiencies are remedied. An untimely, improperly filed, or incomplete notice of appeal shall
20 not constitute a valid, legally effective, or legally cognizable notice of appeal under this section,
21 and in no event shall the 30-day jurisdictional period to file a notice of appeal under this section
22 be tolled during any period in which a notice of appeal has been deemed improperly filed or
23 incomplete. Any days following the issuance of the final administrative decision and the filing
24 of a notice of appeal that the County later notifies the applicant is incomplete or improperly filed,
25 shall be subtracted from the 30-day period by which an appellant must file a complete notice of
26 appeal. For example, take the following non-exhaustive scenario: The final administrative
27 decision is issued on Wednesday, January 1st, 2020, the appellant files an incomplete notice of
28 appeal on Wednesday, January 22nd, 2020, and the County notifies the appellant that the notice
29 of appeal is incomplete on Monday, January 27th, 2020. Between January 1st and January 22nd,
30 the appellant has consumed 21 of its 30 calendar days to file a timely and complete notice of
31 appeal; the days required by the County to notify the appellant of the notice of appeal’s
32 incompleteness shall not be counted against the 30-day period by which the appellant must
33 properly file a complete notice of appeal. As of January 27th (the date of the County’s notification
34 to the appellant that the notice of appeal is incomplete) the appellant shall have nine days
35 remaining (until February 5th, 2020) to properly file a complete notice of appeal. If the appellant
36 does not properly file a complete notice of appeal by February 5th, it would constitute a waiver
37 of any rights to appeal under this section.

38 (3) If the County determines the notice of appeal is complete, and properly and timely filed, it shall
39 notify the appellant(s), and, at the appellant’s expense, notify the development permit
40 applicant(s) and the owners of real property located adjacent and contiguous to the parcel of real
41 property to which the challenged administrative decision principally relates. Once the County
42 determines that a notice of appeal has been properly and timely filed, and is complete, the County
43 shall refer the appeal to DOAH with a request that an administrative law judge (“hearing officer”)
44 be assigned to conduct an appeal hearing. The request shall be accompanied by a copy of the
45 petition and a copy of the notice of County action. The notice of appeal will be forwarded to the
46 BOCC.

47 (e) Effect of filing an appeal.

1 (1) Stay. The filing of a notice of appeal shall stay all permit activity and any proceedings in
2 furtherance of the administrative decision appealed unless the Building Official certifies in
3 writing to the assigned hearing officer, with a copy to the appellant(s) and development
4 applicant(s) forming a party to the appeal, that a stay poses an imminent peril to life, safety,
5 health or property, in which case the appeal shall not stay further permit activity or proceedings
6 in furtherance of the administrative decision appealed. The hearing officer shall review such
7 certification and grant or deny a stay of permit activity and proceedings in furtherance of the
8 administrative decision appealed.

9 (2) The Record. The appellant's, and the appellant-as-applicant's, record shall close upon the date
10 of the final administrative decision from the Building Official in his or her capacity as the Monroe
11 County Floodplain Administrator. The County shall have 70 calendar days from the date the
12 appellant's notice of appeal is deemed properly and timely filed, completed, and complete, in
13 which to serve all parties and file with DOAH all staff reports and materials the final
14 administrative decision relies upon.

15 (f) Briefs. Briefs shall be typed or printed pursuant to the same rules for appellate briefs set forth in the
16 Florida Rules of Appellate Procedure. The Appellant(s) Initial Brief shall be served upon the attorney
17 of record for Monroe County and filed with DOAH within 30 calendar days of notification of
18 acceptance of such notarized notice of appeal. The Answer Brief shall be served upon Appellant(s)
19 and filed with DOAH within 30 calendar days of the filing and service of the Initial Brief. A Reply
20 Brief must be served upon the attorney of record for Monroe County and filed with DOAH within
21 15 days of the filing and service of the Answer Brief.

22 (1) All filed briefs shall contain the following:

- 23 a. The style of the appeal;
- 24 b. The case number, if any;
- 25 c. The name of the party on whose behalf the brief is filed;
- 26 d. The name, address, e-mail address, and telephone number of the person filing the brief;
- 27 e. The electronic or non-electronic signature of the person filing the brief; and
- 28 f. A certificate of service that copies have been furnished to all other parties to the appeal.

29 (2) All initial briefs shall contain the following:

- 30 a. A statement of all disputed issues of material fact. If there are none, the initial brief must
31 so indicate;
- 32 b. A concise statement of the ultimate facts alleged, including the specific facts the appellant
33 contends warrant reversal of the Building Official's final administrative action; and
- 34 c. An exhaustive statement of all specific local Code sections, ordinances, state statutes, or
35 administrative rules the appellant contends require reversal of the Building Official's final
36 administrative action, including an explanation of how the alleged facts relate to said Code
37 sections, ordinances, state statutes, or administrative rules.

38 (g) Judicial Notice. A hearing officer shall take judicial notice of any matter set forth below when a
39 party properly motions for it and gives each adverse party timely written notice of the request, proof
40 of which is filed with the hearing officer, to enable the adverse party to prepare to meet the request
41 and furnishes the court with sufficient information to enable it to take judicial notice of the matter.

- 42 a. Specifically identified (by pinpoint citation) duly enacted ordinances and resolutions of
43 the Monroe County Board of County Commissioners.
- 44 b. Specifically identified (by pinpoint citation) provisions of the Monroe County Code of
45 Ordinances and Monroe County Land Development Code.
- 46 c. Specifically identified (by pinpoint citation) objectives, policies, and provisions of the
47 Monroe County Comprehensive Plan.
- 48 d. Specifically identified (by pinpoint citation) provisions in the *Florida Building Code*.

- e. Specifically identified (by pinpoint citation) public statutory law and resolutions of the Florida Legislature and the Congress of the United States.
- f. Specifically identified legislative staff reports and legislative materials prepared in connection with slip laws corresponding to public statutory law of the Florida Legislature and the Congress of the United States.
- g. Specifically identified (by pinpoint citation) rules or regulations in the Code of Federal Regulations.
- h. Specifically identified (by pinpoint citation) rules or regulations in the Florida Administrative Code.

Pursuant to the same requirements set forth in this subsection, a hearing officer may take judicial notice of the following matters: Facts that are not subject to dispute because they are capable of accurate and ready determination by resort to sources whose accuracy cannot be questioned.

(h) **Computing Time.** In computing the jurisdictional period of time an appellant must file a notice of appeal under subsection (c) of this section, the day the final administrative decision is issued shall be included. In computing any other period of time under this section, the day of the act from which the period of time begins to run shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday, or legal holiday as that term is defined at Florida Rule of Judicial Administration 2.514(a)(6), in which event the period continues to run until the next day that is not a Saturday, Sunday, or legal holiday as that term is defined at Florida Rule of Judicial Administration 2.514(a)(6).

(i) **Service and Hearing.** The hearing officer shall set the time and place for the appeal hearing and shall serve written notice on all parties at their electronic address of record. If an unrepresented party has no electronic address of record, such written notice shall be sent to the party's street address of record. The hearing officer before whom an appeal is pending may issue any orders necessary to prevent delay, and to promote the just, speedy, and inexpensive determination of all aspects of the appeal.

(j) **Post-Hearing Submittals.** Upon request of the hearing officer, parties may submit written proposed final orders within a time designated by the hearing officer

(k) **Discovery.** No discovery shall be taken in an appeal under this section. No subpoenas may be issued for documents or witnesses under this section. No testimony shall be taken in an appeal under this section. An argument, issue, or ground for relief not raised in an initial brief is deemed abandoned and waived and may not be raised for the first time in a reply brief.

Sec. 122-20. – Violations.

(a) **Violations.** Any development that is not within the scope of the *Florida Building Code* but that is regulated by this chapter which is performed without an issued County permit, that is non-compliant or in conflict with an issued permit, or that does not strictly and fully comply with this chapter, constitutes a violation of this chapter. A building or structure without competent documentation of the elevation of the lowest floor (FEMA Elevation Certificate), other required design certifications, or other competent substantial evidence of compliance required by this chapter or the *Florida Building Code* constitutes a violation thereof until such time as that documentation is provided. It being that violation of this chapter providing for floodplain regulations presents a serious threat to the public health, safety, and welfare, a violation of this chapter is and shall be held to be irreparable or irreversible in nature.

(b) **Authority.** For development that is not within the scope of the *Florida Building Code* but that is regulated by this chapter and which is determined to be a violation of this chapter, the Floodplain Administrator or his or her designee(s) is authorized to serve notices of violation, notices of hearing, cease and desist orders, or stop work orders to persons including but not limited to the owners of the property involved, to the property owner's agent, to tenants, residents, or guests at the property

1 involved, or to the person or persons performing or facilitating the performance of the work. The
2 Floodplain Administrator or his or her designee(s) is also authorized to serve citations for violations
3 of this chapter, which shall be disposed of in county court. Service under this subsection may be
4 accomplished by hand-delivery or attempted mailing (regular, certified, or registered), or by a
5 method authorized under Section 8-34 of the Monroe County Code of Ordinances or Section 162.12,
6 Florida Statutes.

7 **(c) Continuing Violations.** Any person who continues any work on or use of a property, building, or
8 structure, after having been served with a stop work order or cease and desist order ordering that
9 such work or use must stop or cease and desist, except such work as that person is directed to lawfully
10 perform to remove or remedy a violation or unsafe condition, shall be subject to any and all penalties
11 prescribed by law. If any person or entity is found by an administrative hearing officer, the
12 contractors examining board, or a court of competent jurisdiction, to have violated this chapter by
13 continuing to perform such work subsequent to the issuance of a stop work order (red tag), the
14 contractors examining board may take such action as it deems necessary and proper to cease such
15 activity, including but not limited to suspension of the permit pulling privileges of any contractor
16 performing such work. Any person who continues any work on or use of a property, building, or
17 structure after having been served with a notice of hearing or notice of violation which includes a
18 notice that it must be complied with by a specified date and that a fine or other penalties may be
19 imposed, except such work as that person is directed to perform to remove or remedy a violation or
20 unsafe condition, shall be subject to penalties as prescribed by law. A final administrative order
21 finding that a person has violated a cease and desist order previously issued by an administrative
22 tribunal shall constitute prima facie evidence that the County has satisfactorily demonstrated a
23 likelihood of irreparable harm, the unavailability of an adequate remedy at law, a substantial
24 likelihood of success on the merits of the claim at issue in connection with the violation(s) for which
25 the cease and desist order was issued by said tribunal, and consideration(s) of the public interest. A
26 final administrative order finding that a person has violated a cease and desist order previously issued
27 by an administrative tribunal shall constitute prima facie evidence of indirect contempt cognizable
28 and enforceable by a court of competent jurisdiction, including but not limited to by sanctions and
29 contempt order.

30 **(d) Joint and Several Liability.** All owners, part owners, joint owners, tenants in common, tenants in
31 partnership, tenants by the entirety, lessees, sub-lessees, assignees, sub-assignees, and holders of
32 legal or beneficial title to or interest in a parcel of real property, building, or structure held in violation
33 of this chapter, shall be jointly and severally liable with respect to any legal or equitable relief or
34 judgment obtained by the county.

35 **(e) Injunctive Relief.** The county attorney is authorized to seek affirmative or negative injunctive relief
36 authorizing or commanding compliance with this chapter through, including but not limited to,
37 cessation of a use, or removal of a building or structure or a part or portion thereof, by motion for
38 emergency, preliminary, or permanent injunction, including by ex parte motion, or other forms of
39 equitable relief, from a court of competent jurisdiction, upon presentation of prima facie evidence of
40 a violation of this chapter to such court.

41 **(f) Criminal Remedy.** Prosecution of violations of this chapter may be prosecuted in the name of the
42 State of Florida by the prosecuting attorney thereof as more fully set forth in Section 125.69(1),
43 Florida Statutes. Any person found guilty of violating this chapter may be sentenced to up to sixty
44 (60) days in jail or fined in an amount of up to \$500.00 or be subject to both such imprisonment and
45 fines.

46
47 **Sec. 122-21. – Flood Hazard Warning.** All agreements for deed, purchase agreements, leases, or other
48 contracts for sale or exchange or transfer of parcels/lots within special flood hazard areas in the

1 unincorporated areas of the county shall carry the following flood hazard warning prominently displayed
2 on such instrument, in at least 12-point boldfaced and regular-faced font and all-caps and lowercase type
3 as follows:

4
5 **“FLOOD HAZARD WARNING**

6 This property may be subject to flooding. You should contact the county growth
7 management division and obtain the latest information regarding flood elevations and
8 restrictions on development before acquiring and making use of this property.”

9
10 **Sec. 122-22 – 122-24. – Reserved.**

11
12 **ARTICLE III. – FLOOD RESISTANT DEVELOPMENT**

13
14 **Sec. 122-25. – Buildings and Structures.**

15 **(a) Design and construction of buildings, structures and facilities exempt from the Florida Building**
16 **Code.** Pursuant to section 122-11(c) of this chapter, buildings, structures, and facilities that are exempt
17 from the Florida Building Code, including substantial improvement or repair of substantial damage of
18 such buildings, structures and facilities, shall be designed and constructed in accordance with the flood
19 load and flood resistant construction requirements of ASCE 24. Structures exempt from the Florida
20 Building Code that are not walled and roofed buildings shall comply with the requirements of section
21 122-31 of this chapter.

22 **(b) Enclosed areas below elevated buildings.** Enclosed areas (enclosures) below elevated buildings
23 shall comply with all the applicable requirements of the Florida Building Code and the following:

24 (1) Enclosed areas below new and substantially improved one- and two-family dwellings, and below
25 lateral additions to one- and two-family dwellings:

26 a. In Zone A/AE flood hazard areas, not more than 299 square feet may be permitted to be
27 enclosed by walls of opaque materials, except for perimeter foundations
28 (crawl/underfloor spaces that have a wall height less than 5 feet). Additional area may be
29 enclosed with screening or open lattice. The size limitation shall not apply to areas
30 enclosed for parking of aircraft below residential buildings abutting airport districts.

31 b. In coastal high hazard areas (Zone V) and Coastal A Zones, not more than 299 square
32 feet may be permitted to be enclosed by walls of screening or open lattice.

33 (2) Nonconforming enclosed areas of 299 square feet or more below one- and two-family dwellings
34 lawfully established and lawfully existing as of April 12, 2004, shall not be modified, improved,
35 or expanded unless the enclosed areas are brought into compliance with the Florida Building
36 Code, Residential Section R322 and this section.

37 (3) Enclosed areas below other new and substantially improved buildings and structures shall
38 comply with the requirements of Florida Building Code, Building and ASCE 24.

39 (4) Applications that include enclosed areas below elevated buildings shall include a Nonconversion
40 Agreement as specified in section 122-11(i) of this chapter.

41 **(c) Minimum Foundation Requirements for buildings and structures within the scope of the**
42 **Florida Building Code.** Pursuant to the Florida Building Code, and Sections 6-147 and 6-148 of the
43 Monroe County Code of Ordinances, the design of the foundation system for buildings within the scope
44 of the Florida Building Code shall be provided by a Geotechnical Engineer registered in the State of
45 Florida in a site-specific geotechnical report submitted per requirements of Section 1803.6 of the Florida
46 Building Code. The foundation design shall be the more stringent of recommendations of the report and
47 meet the following minimum requirements:

48 (1) All structures or building foundations shall be anchored/socketed into natural rock. This includes, but

1 is not limited to, auger cast concrete piles, precast concrete piles or wooden piles.

2 (2) All concrete piling shall have full depth reinforcing to effectively resist the internal forces induced by
3 the design loads, without failure.

4 (3) All piling shall be anchored to the natural rock with a 14-inch minimum diameter augured socket and
5 a minimum embedment of 3 feet.

6 (4) The pile foundation support system shall be designed to resist the required lateral loading for an
7 unsupported height defined by a full scour condition. The construction documents shall include a
8 statement that the design has been completed and certified for a full scour condition for lateral
9 stability to the elevation of the supporting rock and in accordance with ASCE 24.

10 (5) Pile embedment shall include consideration of decreased resistance capacity caused by scour of soil
11 strata surrounding the piling and have adequate rock penetration to resist the combined wave and
12 wind loads (lateral and uplift).

13 **(d) At-grade residential detached accessory structures.** At-grade detached accessory structures are
14 permitted provided the accessory structures are used only for parking or storage and:

15 (1) If located in special flood hazard areas (Zone A/AE), other than coastal high hazard areas, are
16 one-story and not larger than 600 sq. ft. and have flood openings in accordance with Section
17 R322.2 of the *Florida Building Code, Residential*.

18 a. A variance, in accordance with Section 122-17, may be authorized for the construction or
19 substantial improvement of at-grade detached accessory structures larger than the size
20 limits specified in subsection (1) but not larger than 1,000 sq. ft. in size.

21 (2) If located in coastal high hazard areas (Zone V/VE and Coastal A Zones), are not located below
22 elevated buildings and are not larger than 100 sq. ft.

23 (3) Are anchored to resist flotation, collapse or lateral movement resulting from flood loads.

24 (4) Have flood damage-resistant materials used below the base flood elevation plus one (1) foot.

25 (5) Have mechanical, plumbing and electrical systems, including plumbing fixtures, elevated to or
26 above the base flood elevation plus one (1) foot.

27 (6) Applications for detached accessory structures shall include a Nonconversion Agreement as
28 specified in section 122-11(i) of this chapter.

29 **(e) Nonresidential detached accessory structures.** In all flood hazard areas, nonresidential detached
30 accessory structures shall comply with the requirements of *Florida Building Code, Building* and
31 ASCE 24, including, but not limited to, elevation or dry floodproofing requirements. Applications
32 for detached accessory structures shall include a Nonconversion Agreement as specified in section
33 122-11(i) of this chapter.

34 **Sec. 122-26. – Subdivisions.**

35 **(a) Minimum requirements.** Subdivision proposals, including proposals for manufactured home parks
36 and subdivisions, shall be reviewed to determine that:

37 (1) Such proposals are consistent with the need to minimize flood damage and will be reasonably
38 safe from flooding;

39 (2) All public utilities and facilities such as (including but not limited to) sewer, gas, electric,
40 communications, and water systems are located and constructed to minimize or eliminate flood
41 damage; and

42 (3) Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO,
43 adequate drainage paths shall be provided to guide floodwaters around and away from proposed
44 structures.

45 **(b) Subdivision plats.** Where any portion of proposed subdivisions, including manufactured home parks
46 and subdivisions, lies within a flood hazard area, the following shall be required:

47 (1) Delineation of flood hazard areas and flood zones, and design flood elevations, as appropriate,
48

- 1 shall be accurately depicted and described on preliminary plats;
2 (2) Where the subdivision has more than 50 lots or is larger than 5 acres and base flood elevations
3 are not included on the FIRM, the base flood elevations determined in accordance with section
4 122-13(b)(1) of this chapter; and
5 (3) Compliance with the site improvement and utilities requirements of section 122-27 of this
6 chapter.

7
8 **Sec. 122-27. – Site Improvements, Utilities and Limitations.**

9 **(a) Minimum requirements.** All proposed new development shall be reviewed to determine that:

- 10 (1) Such proposals are consistent with the need to minimize flood damage and will be reasonably
11 safe from flooding;
12 (2) All public utilities and facilities such as (including but not limited to) sewer, gas, electric,
13 communications, and water systems are located and constructed to minimize or eliminate flood
14 damage; and
15 (3) Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO,
16 adequate drainage paths shall be provided to guide floodwaters around and away from proposed
17 structures.

18 **(b) Sanitary sewage facilities.** All new and replacement sanitary sewage facilities, private sewage
19 treatment plants (including all pumping stations and collector systems), and on-site waste disposal
20 systems shall be designed in accordance with the standards for onsite sewage treatment and disposal
21 systems in Chapter 64E-6, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of
22 floodwaters into the facilities and discharge from the facilities into flood waters, and impairment of
23 the facilities and systems. Joints between sewer drain components shall be sealed with caulking,
24 plastic, or rubber gaskets, and manhole covers shall be sealed in a similar manner. Sewer systems
25 which extend below the base flood elevation shall have backflow prevention valves or devices.

26 **(c) Water supply facilities.** All new and replacement water supply facilities shall be designed in
27 accordance with the water well construction standards in Chapter 62-532.500, F.A.C. and ASCE 24
28 Chapter 7 to minimize or eliminate infiltration of floodwaters into the systems.

29 **(d) Limitations on placement of fill.** Subject to the limitations of this chapter, fill shall be designed to
30 be stable under conditions of flooding including rapid rise and rapid drawdown of floodwaters,
31 prolonged inundation, and protection against flood-related erosion and scour. In addition to these
32 requirements, if intended to support buildings and structures (Zone A only), fill shall comply with
33 the requirements of the *Florida Building Code*.

34 **(e) Limitations on sites in coastal high hazard areas (Zone V) and Coastal A Zones.** In coastal high
35 hazard areas and Coastal A Zones, alteration of sand dunes, dune ridges, and mangrove stands shall
36 be permitted only if such alteration is approved by the Florida Department of Environmental
37 Protection and only if the engineering analysis required by section 122-13(c) of this chapter
38 demonstrates that the proposed alteration will not increase the potential for flood damage.
39 Construction or restoration of dunes under or around elevated buildings and structures shall comply
40 with section 122-31(e)(3) of this chapter.

41
42 **Sec. 122-28. – Manufactured Homes.**

43 **(a) General.** All manufactured homes installed in flood hazard areas shall be installed by an installer
44 that is licensed pursuant to section 320.8249, F.S., and shall comply with the requirements of Chapter
45 15C-1, F.A.C. and the requirements of this chapter. Effective June 1, 1977, no manufactured home
46 not already in place shall be placed within areas of special flood hazard except in an existing
47 manufactured home park or subdivision.

48 **(b) Foundations.** All new manufactured homes and replacement manufactured homes installed in flood

1 hazard areas shall be installed on permanent, reinforced foundations that:

2 (1) In flood hazard areas (Zone A), other than coastal high hazard areas and Coastal A Zones, are
3 designed in accordance with the foundation requirements of the *Florida Building Code,*
4 *Residential Section R322.2* and this chapter.

5 (2) In coastal high hazard areas (Zone V) and Coastal A Zones, are designed in accordance with the
6 foundation requirements of the *Florida Building Code, Residential Section R322.3* and this
7 chapter.

8 **(c) Anchoring.** All new manufactured homes and replacement manufactured homes shall be installed
9 using methods and practices which minimize flood damage and shall be securely anchored to an
10 adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of
11 anchoring include, but are not limited to, use of over-the-top or frame ties to ground anchors. This
12 anchoring requirement is in addition to applicable state and local anchoring requirements for wind
13 resistance.

14 **(d) Elevation requirement.** All manufactured homes that are placed, replaced, or substantially
15 improved shall be elevated such that the lowest floor and mechanical equipment is at or above the
16 elevation required, as applicable to the flood hazard area, in the *Florida Building Code, Residential*
17 *Section R322.2 (Zone A) or Section R322.3 (Zone V).*

18 **(e) Enclosures.** Enclosed areas below elevated manufactured homes shall comply with the requirements
19 of the *Florida Building Code, Residential Section R322.2 or R322.3* for such enclosed areas, as
20 applicable to the flood hazard area.

21 **(f) Additions.** Solid wall additions to manufactured homes shall be permitted provided:

22 (1) The addition is constructed under the HUD (Department of Housing and Urban Development)
23 standards and contains a HUD seal;

24 (2) The addition is elevated as required in section 122-28(d); and

25 (3) The addition is structurally independent (fourth wall construction) or certified by a registered
26 design professional.

27 **(g) Screen rooms, open decks and porches.** Screen rooms, open decks and porches are permitted if
28 structurally independent (fourth wall construction).

29 **(h) Utility equipment.** Utility equipment that serves manufactured homes, including (but not limited
30 to) electric, heating, ventilation, plumbing, and air conditioning equipment and other service
31 facilities, shall comply with the requirements of the *Florida Building Code, Residential Section*
32 *R322,* as applicable to the flood hazard area.

34 **Sec. 122-29. – Recreational Vehicles and Park Trailers.**

35 **(a) Temporary placement.** Recreational vehicles and park trailers placed temporarily in flood hazard
36 areas shall:

37 (1) Be on the site for fewer than 180 consecutive days; or

38 (2) Be fully licensed and ready for highway use, which means that the recreational vehicle or park
39 trailer in question is on wheels or a jacking system, is attached to the site only by quick-
40 disconnect type utilities and security devices, and has no permanent attachments such as
41 (including but not limited to) additions, rooms, stairs, decks and porches.

42 **(b) Permanent placement.** Recreational vehicles and park trailers shall not be permanently placed,
43 installed, or anchored.

45 **Sec. 122-30. – Tanks.**

46 **(a) Underground tanks.** Underground tanks in flood hazard areas shall be anchored to prevent flotation,
47 collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions
48 of the design flood, including the effects of buoyancy assuming the tank is empty.

1 **(b) Above-ground tanks, not elevated.** Above-ground tanks that do not meet the elevation
2 requirements of section 122-30(c) of this chapter shall:

- 3 (1) Be permitted in flood hazard areas (Zone A) other than coastal high hazard areas and Coastal A
4 Zones, provided the tanks are anchored or otherwise designed and constructed to prevent
5 flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads
6 during conditions of the design flood, including the effects of buoyancy assuming the tank is
7 empty and the effects of flood-borne debris.

- 8 (2) Not be permitted in coastal high hazard areas (Zone V) and Coastal A Zones.

9 **(c) Above-ground tanks, elevated.** Above-ground tanks in flood hazard areas shall be elevated to or
10 above the design flood elevation and attached to a supporting structure that is designed to prevent
11 flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting
12 structures shall meet the foundation requirements of the applicable flood hazard area.

13 **(d) Tank inlets and vents.** Tank inlets, fill openings, outlets and vents shall be:

- 14 (1) At or above the design flood elevation or fitted with covers designed to prevent the inflow of
15 floodwater or outflow of the contents of the tanks during conditions of the design flood; and
16 (2) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads,
17 including the effects of buoyancy, during conditions of the design flood.

18
19 **Sec. 122-31. – Other Development Not Specified in this Chapter.**

20 **(a) General requirements for other development.** All development, including, but not limited to, man-
21 made changes to improved or unimproved real property, including utilities, for which specific
22 provisions are not specified in this chapter or the *Florida Building Code*, shall:

- 23 (1) Be lawfully located and constructed to minimize flood damage;
24 (2) Be lawfully anchored to prevent flotation, collapse or lateral movement resulting from
25 hydrostatic loads, including, but not limited to, the effects of buoyancy, during conditions of the
26 design flood;
27 (3) Be constructed of flood damage-resistant materials; and
28 (4) Have mechanical, plumbing, and electrical systems above the design flood elevation or meet the
29 requirements of ASCE 24, except that minimum electric service required to address life safety
30 and electric code requirements is permitted below the design flood elevation provided that it
31 conforms to all of the provisions of the electrical part of building code or other pertinent code(s)
32 for wet locations.

33 **(b) Concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and**
34 **similar nonstructural uses in coastal high hazard areas (Zone V) and Coastal A Zones.** In
35 addition to meeting all requirements of the *Florida Building Code*, for parcels in whole or in part in
36 coastal high hazard areas and Coastal A Zones, concrete slabs used as parking pads, enclosure floors,
37 landings, decks, walkways, patios and similar nonstructural uses are permitted beneath or adjacent
38 to buildings and structures provided that the concrete slabs are professionally designed and lawfully
39 constructed to be:

- 40 (1) Structurally independent of the foundation system of the building or structure;
41 (2) Frangible and not reinforced, so as to minimize debris during flooding that is capable of causing
42 significant damage to any building or structure; and
43 (3) Have a maximum slab thickness of not more than four (4) inches.

44 **(c) Decks and patios in coastal high hazard areas (Zone V) and Coastal A Zones.** In addition to the
45 meeting all requirements of the *Florida Building Code*, in coastal high hazard areas and Coastal A
46 Zones, decks and patios shall be located, professionally designed, and lawfully constructed in
47 compliance with the following:

- 48 (1) A deck that is structurally attached to a building or structure shall have the bottom of the lowest

1 horizontal structural member at or above the design flood elevation and any supporting members
2 that extend below the design flood elevation shall comply with the foundation requirements that
3 apply to the building or structure, which shall be designed to accommodate any increased loads
4 resulting from the attached deck.

5 (2) A deck or patio that is located below the design flood elevation shall be structurally independent
6 from buildings or structures and their foundation systems, and shall be professionally designed
7 and lawfully constructed either to remain intact and in place during design flood conditions or to
8 break apart into small pieces to minimize debris during flooding that is capable of causing
9 structural damage to the building or structure or to adjacent buildings and structures.

10 (3) A deck or patio that has a vertical thickness of more than twelve (12) inches or that is constructed
11 with more than the minimum amount of fill necessary for site drainage shall not be approved
12 unless an analysis prepared by a qualified registered design professional competently and
13 substantially demonstrates no harmful diversion of floodwaters or wave runup and wave
14 reflection that would increase damage to the building or structure or to adjacent buildings and
15 structures.

16 (4) A deck or patio that has a vertical thickness of twelve (12) inches or less and that is at natural
17 grade or on nonstructural fill material that is similar to and compatible with local soils and is the
18 minimum amount necessary for site drainage may be approved without requiring analysis of the
19 impact on diversion of floodwaters or wave runup and wave reflection.

20 **(d) Other development in coastal high hazard areas (Zone V) and Coastal A Zones.** In coastal high
21 hazard areas and Coastal A Zones, development activities other than buildings and structures shall
22 be permitted only if also authorized by all the appropriate or required federal, state or local
23 authority(ies); if located outside the footprint of, and not structurally attached to, buildings and
24 structures; and if analyses prepared by qualified registered design professionals competently and
25 substantially demonstrate no harmful diversion of floodwaters or wave runup and wave reflection
26 that would increase damage to adjacent buildings and structures. Such other development activities
27 include but are not limited to:

28 (1) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;

29 (2) Solid fences and privacy walls, and fences prone to trapping debris, unless professionally
30 designed and lawfully constructed to fail under flood conditions less than the design flood or
31 otherwise function to avoid obstruction of floodwaters; and

32 (3) On-site sewage treatment and disposal systems defined in 64E-6.002, F.A.C., as filled systems
33 or mound systems.

34 **(e) Nonstructural fill in coastal high hazard areas (Zone V) and Coastal A Zones.** In coastal high
35 hazard areas and Coastal A Zones:

36 (1) Minor grading and the placement of minor quantities of nonstructural fill shall be permitted for
37 landscaping and for drainage purposes under and around buildings provided that the
38 nonstructural fill does not exceed two (2) feet in depth.

39 (2) Nonstructural fill with finished slopes that are steeper than one unit vertical to five units
40 horizontal shall be permitted only if an analysis prepared by a qualified registered design
41 professional competently and substantially demonstrates no harmful diversion of floodwaters or
42 wave runup and wave reflection that would increase damage to adjacent buildings and structures.

43 (3) Where authorized by the Florida Department of Environmental Protection or applicable local
44 federal, or other state approval, sand dune construction and restoration of sand dunes under or
45 around elevated buildings are permitted without additional engineering analysis or certification
46 of the diversion of floodwater or wave runup and wave reflection if the scale and location of the
47 dune work is consistent with local beach-dune morphology and the vertical clearance is
48 maintained between the top of the sand dune and the lowest horizontal structural member of the

1 building.

2
3
4 **Sec. 122-1. Purpose and Intent.**

- 5 (a) ~~It is the purpose of the floodplain management provisions to promote the public health, safety and~~
6 ~~general welfare and to minimize public and private losses due to flood conditions in specific areas by~~
7 ~~provisions designed to:~~
8 (1) ~~Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion~~
9 ~~hazards, or which result in increases in erosion or in flood heights or velocities;~~
10 (2) ~~Require that uses vulnerable to floods, including facilities that serve such uses, be protected against~~
11 ~~flood damage at the time of initial construction;~~
12 (3) ~~Control the alteration of natural floodplains, stream channels, and natural protective barriers that~~
13 ~~are involved in the accommodation of floodwaters;~~
14 (4) ~~Control filling, grading, dredging and other development that may increase erosion or flood~~
15 ~~damage;~~
16 (5) ~~Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or~~
17 ~~which may increase flood hazards to other lands;~~
18 (6) ~~To minimize the need for rescue and relief efforts associated with flooding and generally~~
19 ~~undertaken at the expense of the general public;~~
20 (7) ~~To minimize prolonged business interruptions;~~
21 (8) ~~To minimize damage to public facilities and utilities such as water and gas mains, electric,~~
22 ~~telephone and sewer lines, and streets and bridges located in floodplains;~~
23 (9) ~~To help maintain a stable tax base by providing for the sound use and development of flood prone~~
24 ~~areas in such manner as to minimize future flood blight areas; and~~
25 (10) ~~To ensure that potential home buyers are notified that the property is in a floodplain area.~~
26 (b) ~~The BOCC deem it in the best interest of its citizens that prudent measures be taken to minimize the~~
27 ~~potential public and private loss due to flooding. It is the intent of the BOCC that the county at all times~~
28 ~~be eligible for, and receive, the benefit of participation in the National Flood Insurance Program. It is~~
29 ~~therefore the intent of the BOCC that the provisions of this chapter be strictly adhered to in all areas of~~
30 ~~special flood hazard within the jurisdiction of the unincorporated areas of the county.~~

31 **Sec. 122-2. General Provisions.**

- 32 (a) ~~**Applicability.** Except as provided for the elevated portion of a nonconforming residential structure by~~
33 ~~Section 122-4(a)(10), no structure or manufactured home hereafter shall be located, extended, converted~~
34 ~~or structurally altered, and no development shall occur, without full compliance with the terms of this~~
35 ~~chapter in addition to other applicable regulations, including, but not limited to, 44 CFR 60.3(a)(2).~~
36 (b) ~~**Basis for Establishing Special Flood Hazard Maps; Species Focus Area Maps (SFAMs) with**~~
37 ~~**Species Focus Area Buffers and Federally Protected Species Area Real Estate (RE) List; and**~~
38 ~~**Species Assessment Guides (SAGs).**~~
39 (1) ~~The areas of special flood hazard identified by the Federal Emergency Management Agency~~
40 ~~(FEMA) in its February 18, 2005 Maps with accompanying supporting data, and any revisions~~
41 ~~thereof, are adopted by reference and declared to be a part of this chapter, and shall be kept on file,~~
42 ~~available to the public, in the offices of the county Building Department. Letter of map~~
43 ~~amendments, letter of map revisions, letter of map revision based on fill, and conditional letter of~~
44 ~~map revisions approved by FEMA are acceptable for implementation of this regulation.~~
45 (2) ~~Species focus area maps (SFAMs) with Species focus area buffers and species real estate (RE) list.~~
46 ~~FEMA and the U.S. Fish and Wildlife Service (FWS) have provided the species focus area maps~~
47 ~~(SFAMs) mailed to Monroe County and dated April 30, 2011, and a listing of real estate numbers~~
48 ~~of parcels (RE list) emailed to Monroe County and dated November 18, 2011, that are within the~~
49 ~~SFAMs and that have been identified by FWS. The SFAMs and the RE list that are within the~~
50 ~~SFAMs identified by the FWS in accordance with the biological opinion, dated April 30, 2010, as~~
51 ~~amended December 14, 2010, are hereby declared to be a part of this chapter. The SFAMs and RE~~

1 list are on file at the Monroe County Clerk's office and the Monroe County Planning &
2 Environmental Resources Department office.

3 (3) ~~Species assessment guides (SAGs). FEMA and FWS provided the May 20, 2012 species~~
4 ~~assessment guides (SAGs) to Monroe County and Monroe County adopted these SAGs on~~
5 ~~September 13, 2012. FEMA and the FWS provided revisions of the SAGs to Monroe County on~~
6 ~~July 29, 2013. Permits applications submitted after February 17, 2014, the effective date of this~~
7 ~~ordinance, shall be reviewed utilizing the July 29, 2013 FWS/FEMA SAGs. These SAGs are~~
8 ~~declared to be a part of this chapter. The SAGs are on file at the Monroe County Clerk's office and~~
9 ~~the Monroe County Planning & Environmental Resources Department office.~~

10 (c) ~~**Rules for interpreting flood hazard issues.** The boundaries of the flood hazard areas shown on the~~
11 ~~official flood insurance rate maps may be determined by scaling distances. Required interpretations of~~
12 ~~those maps for precise locations of such boundaries shall be made by the floodplain administrator, in~~
13 ~~consultation with the Building Official. In interpreting other provisions of this chapter, the Building~~
14 ~~Official shall be guided by the current edition of FEMA's 44 CFR, and FEMA's interpretive letters,~~
15 ~~policy statements and technical bulletins as adopted by resolution from time to time by the BOCC.~~
16 ~~Additionally, the Building Official shall also obtain, review and reasonably use any base flood elevation~~
17 ~~and floodway data available from a federal, state or other source(s), as criteria for requiring that new~~
18 ~~construction, substantial improvements, and other developments meet the criteria required in the~~
19 ~~appropriate flood zone.~~

20
21 **Sec. 122-3. Permit Requirements.**

22 (a) The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to
23 them in this section, except where the context clearly indicates a different meaning:

24 *Adjacent to contiguous native habitat* means an area of native habitat sharing a boundary at one or more
25 points of intersection with other native habitat. For purposes of this land development code, an
26 intervening road, right of way or easement shall not destroy the adjacency of the habitat. However, U.S.
27 1, canals and open water shall constitute a break in adjacency.

28 *Alteration* means any change or modification in construction type, materials, or occupancy.

29 *Base flood* means the flood having a one percent chance of being equaled or exceeded in any given year.

30 *Basement* means any area of the building having its floor subgrade (below ground level) on all sides.

31 *Development* means any manmade change to improved or unimproved real estate, including, but not
32 limited to, buildings or other structures, clearing, mining, dredging, filling, grading, paving, excavation
33 or drilling operations or storage of equipment or materials.

34 *Elevated building* means a nonbasement building that has its lowest elevated floor raised above ground
35 level by foundation walls, shear walls, posts, piers, pilings, or columns.

36 *Enclosure* means that portion of an elevated building below the lowest elevated floor that is either
37 partially or fully shut in by rigid walls and used solely for limited storage, parking or entryways.
38 Enclosures shall not be constructed, equipped or used for habitational or other purposes.

39 *Existing construction* means structures for which the start of construction commenced before January 1,
40 1975. Existing construction is also known as pre-FIRM structures.

41 *Existing manufactured home park* means a manufactured home park or subdivision for which the
42 construction of facilities for servicing the lots on which the manufactured homes are to be affixed
43 (including, at a minimum, the installation of utilities, the construction of the streets, and either final site
44 grading or the pouring of concrete pads is completed before January 1, 1975, and in which, at the time
45 of application, there are no site built residences or the park or subdivision is limited to manufactured
46 home by this chapter.

47 *Finishing materials* means anything beyond basic wall construction pursuant to the most recent FEMA
48 Technical Bulletin, which is normally associated with habitable space. Finishing materials include, but
49 are not limited to, ceiling mold, trim, baseboards, decorative finish work, wainscoting, and textured
50 woods.

51 *Historic structure* means any structure that is:

- 1 (a) ~~Listed individually in the National Register of Historic Places (a listing maintained by the~~
2 ~~Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the~~
3 ~~requirements for individual listing on the National Register;~~
4 (b) ~~Certified or preliminarily determined by the Secretary of the Interior as contributing to the~~
5 ~~historical significance of a registered historic district or a district preliminarily determined by the~~
6 ~~Secretary to qualify as a registered historic district;~~
7 (c) ~~Individually listed on state inventory of historic places in states with historic preservation programs~~
8 ~~which have been approved by the Secretary of the Interior; or~~
9 (d) ~~Individually listed on a county inventory of historic places in communities with historic~~
10 ~~preservation programs that have been certified either:~~
11 ~~(1) By an approved state program as determined by the Secretary of the Interior, or~~
12 ~~(2) Directly by the Secretary of the Interior in states without approved programs.~~

13 ~~*Illegal structure or use* means a structure or use that is not a legal structure or legal use as defined in this~~
14 ~~chapter.~~

15 ~~*Legal structure* means a structure that was permitted by the floodplain regulation in effect at the time~~
16 ~~construction commenced on the structure in its current configuration and received a permit or final~~
17 ~~inspection or certificate of occupancy for the structure in its current configuration.~~

18 ~~*Legal use* means a use that was permitted by the floodplain regulations at the time the use commenced~~
19 ~~on the property.~~

20 ~~*Limited storage* means that which is incidental and accessory to the principal use of the structure. For~~
21 ~~example, if the structure is a residence, storage should be limited to items such as lawn and garden~~
22 ~~equipment, tires, and other low damage items which will not suffer flood damage or can be conveniently~~
23 ~~moved to the elevated part of the building. Flood insurance coverage for enclosures below the base flood~~
24 ~~elevation (BFE) is very limited.~~

25 ~~*Lowest floor* means the lowest floor of the lowest enclosed area (including basement). An unfinished or~~
26 ~~flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other~~
27 ~~than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built~~
28 ~~so as to render the structure in violation of the applicable non-elevation design requirements of this~~
29 ~~chapter.~~

30 ~~*Manufactured home* means a structure, transportable in one or more sections, which is built on a~~
31 ~~permanent chassis and designed to be used with or without a permanent foundation when connected to~~
32 ~~the required utilities. The term also includes park trailer, travel trailers, and similar transportable~~
33 ~~structures placed on a site for 180 consecutive days or longer and intended to be improved property.~~

34 ~~*Market value* means the county property appraiser's value of the structure plus 20 percent. A uniform~~
35 ~~appraisal report for determination of market value submitted by the applicant may be used if the county~~
36 ~~Building Official considers such appraisal consistent with local construction costs. Where appraisal is~~
37 ~~not accepted because it appears to be inconsistent with local construction costs an applicant may request~~
38 ~~review by an independent third party appraiser duly authorized by the county. The cost of independent~~
39 ~~review shall be borne by the applicant. The reviewing appraiser shall determine if the appraisal value~~
40 ~~reasonably reflects an appropriate value of the structure. The independent appraiser's determination shall~~
41 ~~be in writing. Professionals preparing appraisal shall be required to possess certifications as state~~
42 ~~certified residential appraisers for appraising one to four family residential properties and state certified~~
43 ~~general appraisers for all other properties including commercial and multi residential.~~

44 ~~*New construction* means those structures for which the start of construction commenced on or after~~
45 ~~January 1, 1975. New construction is also known as post-FIRM structures.~~

46 ~~*Noneonforming structure* means a below base flood elevation structure or a portion thereof (such as an~~
47 ~~enclosure, materials with no openings, flood resistant materials), which was lawfully existing or~~
48 ~~permitted, and is not fully compliant with the terms of this chapter. A noneonforming structure shall~~
49 ~~remain subject to the terms of this chapter.~~

50 ~~*Notice to proceed* means written authorization by the county growth management division to the~~
51 ~~permittee authorizing permitted development to begin.~~

1 ~~Pure manufactured home park~~ means a manufactured home park that at the time of application has no
2 site built residences or a park or subdivision which is limited to manufactured homes only by this
3 chapter.

4 ~~Recreational vehicle~~ means a vehicle that is:

- 5 (1) ~~Built on a single chassis;~~
6 (2) ~~Four hundred square feet or less when measured at the largest horizontal projection;~~
7 (3) ~~Designed to be self propelled or permanently towable by a light duty truck; and~~
8 (4) ~~Designed primarily not for use as a permanent dwelling but as temporary living quarters for~~
9 ~~recreational, camping, travel or seasonal use.~~

10 ~~Start of construction~~ means (for other than new construction or substantial improvements under the
11 Coastal Barrier Resources Act) includes substantial improvements, and means the date the building
12 permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation,
13 addition, placement or other improvement was within 180 days of the permit date. For substantial
14 improvements the actual start of construction means the first alteration of any wall, ceiling, floor, or
15 other structural part of a building whether or not the alteration affects the external dimensions of the
16 building. The actual start means either the first placement of permanent construction of a structure on a
17 site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any
18 work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does
19 it include the installation of streets and/or walkways; nor does it include excavation for a basement,
20 footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on
21 the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part
22 of the main structure.

23 ~~Substantial damage~~ means damage of any origin sustained by a structure whereby the cost of restoring
24 the structure to it's before damaged condition would equal or exceed 50 percent of the market value of
25 the structure before the damage occurred. All structures that are determined to be substantially damaged
26 are automatically considered to be substantial improvements, regardless of the actual repair work
27 performed. If the cost necessary to fully repair the structure to its before damage condition is equal to or
28 greater than 50 percent of the structure's market value before damages, then the structure must be
29 elevated (or flood proofed if it is non residential) to or above the base flood elevation (BFE), and meet
30 other applicable NFIP requirements. Items that may be excluded from the cost to repair include plans,
31 specifications, survey costs, permit fees, and other items which are separate from the repair. Items that
32 may also be excluded include demolition or emergency repairs (costs to temporarily stabilize a building
33 so that it's safe to enter to evaluate and identify required repairs) and improvements to items outside the
34 building, such as the driveway, septic systems, wells, fencing, landscaping and detached structures.

35 ~~Substantial improvement~~ means any reconstruction, rehabilitation, addition, or other improvement of a
36 structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the
37 "start of construction" of the improvement. This term includes structures which have incurred
38 "substantial damage," regardless of the actual repair work performed. The term does not, however,
39 include either:

- 40
41 (a) Any project for improvement of a structure to correct existing violations of state or local health,
42 sanitary, or safety code specifications which have been identified by the local Building Official and
43 which are the minimum necessary to assure safe living conditions; or
44 (b) The cost of repairs required to remedy health, safety, and sanitary code deficiencies can be deducted
45 from the overall cost of an improvement, but only if:
46 (1) An appropriate regulatory official such as a Building Official, Fire Marshal, or Health Officer
47 was informed about and knows the extent of the code related deficiencies, and
48 (2) The deficiency was in existence prior to the damage event or improvement and will not be
49 triggered solely by the fact that the structure is being improved or repaired.

50 In addition, for any repair required to meet health, sanitary, and safety codes, only the minimum
51 necessary to assure safe living conditions should be deducted, including those improvements
52 required by Chapter 11, 2012 Florida Accessibility Code. Costs of repairs that are in excess of the

1 minimum necessary for continued occupancy or use will be counted toward the cost of the overall
2 improvement; or

3 (c) Any alterations of a "historic structure," provided that the alteration will not preclude the structure's
4 continued designation as a "historic structure."

5 Floodplain management requirements for new construction apply to substantial improvements.

6 *Supplemental information for substantial improvement.*

7 The basic types of improvements that could be made to structures include but are not limited to
8 rehabilitations or reconstructions that do not increase square footage, and lateral or vertical
9 additions that do increase square footage.

10 Rehabilitation or reconstruction would be a partial or complete "gutting" and replacement of
11 internal workings and may or may not include structural changes. If this action is substantial, i.e.,
12 over 50 percent of the structure's market value, it is considered new construction, and the entire
13 building must be elevated to or above the base flood elevation (BFE) (or floodproofed if the
14 building is non-residential).

15 For a lateral addition, if the substantial improvement is to add a room or rooms outside the footprint
16 of the existing building, only the addition is required to be elevated to or above the BFE, i.e.; the
17 existing building does not have to be elevated. If the proposed lateral addition also includes
18 rehabilitation or remodeling of the existing building, then the whole project as a combination of
19 work must be considered. Vertical additions would require that the entire structure be elevated to
20 or above the BFE. Even though the improvement itself is entirely above the BFE, it is dependent
21 on the walls and foundation of the existing building for structural support.

22 (b) Except for work specifically exempted under Chapter 6, the Building Official shall require building
23 permits/floodplain development permits for all proposed construction or other improvements within
24 areas of special flood hazard. In addition to the standard requirements for a building permit, an
25 application for a building permit for construction or improvements within areas of special flood hazard
26 shall contain the information and certifications set forth in a form provided by the Building Official.

27 (c) All building foundations shall rest directly on natural rock, on concrete piling driven to rock or on friction
28 piling (concrete or wood) and shall be anchored to such rock support by holes, 16 inches in minimum
29 diameter, augured into such rock a minimum depth of three feet and reinforced by a minimum of four
30 #5 vertical rods extending up into the piers above a minimum of 18 inches and tied to the vertical steel
31 of the pier. Wooden pilings shall be locked into 16 inch auger foundations by at least a #5 rebar
32 extending through the piling and three to five inches beyond.

33 (d) The permit holder shall provide a floor elevation after the lowest floor is completed or, in instances
34 where the structure is subject to the regulations applicable to coastal high hazard areas, after placement
35 of the lowest horizontal structural members of the lowest floor. Floodproofing certification for
36 nonresidential structures in A Zones shall be provided prior to a certificate of occupancy or prior to final
37 inspection.

38 (e) Within 21 calendar days of establishment of the lowest floor elevation, or upon placement of the lowest
39 horizontal structural members of the lowest floor, whichever is applicable, it shall be the duty of the
40 permit holder to submit to the Building Official a certification of the elevation of the lowest floor within
41 A zones or the lowest portion of the lowest horizontal structural members of the lowest floor within V
42 zones, whichever is applicable, as built in relation to mean sea level. Such certification shall be prepared
43 by or under the direct supervision of a registered land surveyor or professional engineer and certified by
44 the same. When floodproofing is used for a building within A zones, the certification shall be prepared
45 by or under the direct supervision of a professional engineer or architect and certified by same. Any
46 work done within the 21 day period and prior to submission of the certification shall be at the permit
47 holder's risk. The Building Official shall review the floor elevation survey data submitted. Deficiencies
48 detected by such review shall be corrected by the permit holder immediately and prior to further
49 progressive work being permitted to proceed. Failure to submit the survey or failure to make the
50 corrections required hereby shall be causes to issue a stop work order for the project.

51 (f) The degree of flood protection required in this chapter is reasonable for regulatory purposes and is based
52 on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood

1 heights may be increased by manmade or natural causes. This chapter does not imply that land outside
2 the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood
3 damages. This chapter shall not create liability on the part of the county or any officer or employee
4 thereof for any flood damages that result from reliance on this chapter or any administrative decision
5 lawfully made thereunder.
6

7 **Sec. 122-4. Standards for Issuance of Building Permits in Areas of Special Flood Hazard.**

8 (a) ~~Generally.~~ No building permit for proposed construction or development activity within an area of
9 special flood hazard shall be granted, by the Building Official or the floodplain administrator, unless the
10 proposed new construction is in compliance with the standards set forth in this chapter. In all areas of
11 special flood hazard, the following standards apply:

- 12 (1) ~~All new construction and substantial improvements shall be adequately anchored by pilings or~~
13 ~~columns to prevent flotation, collapse and lateral movement of the structure.~~
- 14 (2) ~~All applications deemed substantial or nonsubstantial must be approved by the floodplain~~
15 ~~administrator, or the Building Official/Director.~~
- 16 (3) ~~All new construction and substantial improvements shall be constructed with materials and utility~~
17 ~~equipment resistant to flood damage.~~
- 18 (4) ~~All new construction and substantial improvements shall be constructed by methods and practices~~
19 ~~that minimize flood damage.~~
- 20 (5) ~~All new or replacement water supply systems shall be designed and constructed by methods and~~
21 ~~practices that minimize flood damage.~~
- 22 (6) ~~All new or replacement sanitary sewage systems shall be designed and constructed to minimize or~~
23 ~~eliminate infiltration of floodwaters into the system and discharge from the system into~~
24 ~~floodwaters. Joints between sewer drain components shall be sealed with caulking, plastic or rubber~~
25 ~~gaskets, and all manhole covers shall be sealed in a similar manner.~~
- 26 (7) ~~On-site waste disposal systems shall be located and constructed to minimize or eliminate damage~~
27 ~~to them and contamination from them during flooding.~~
- 28 (8) ~~Any alteration, repair, reconstruction or improvement to a structure that already is in compliance~~
29 ~~with the provisions of this chapter shall meet the requirements of new construction as contained in~~
30 ~~this chapter.~~
- 31 (9) ~~Illegal or nonconforming uses, structures, and construction below elevated post-FIRM buildings~~
32 ~~shall not be expanded or improved or repaired from damages of any origin and no building permit~~
33 ~~shall be issued for any improvements to below base flood enclosures, other than for demolition or~~
34 ~~a permit to remedy a life safety hazard, unless the structure is brought into compliance with this~~
35 ~~chapter.~~
- 36 (10) ~~The elevated portion of any nonconforming structure may be extended, expanded, or structurally~~
37 ~~altered upon meeting the following conditions:~~
 - 38 a. ~~If the structure is located within an A or V zone, and the improvement is not substantial as~~
39 ~~defined in this chapter.~~
 - 40 b. ~~If the structure is located within a V zone, prior to the issuance of a building permit, the permit~~
41 ~~applicant shall submit a professional engineer's or registered architect's sealed certification~~
42 ~~that the improvements to the nonconforming structure do not subject the elevated portion of~~
43 ~~the structure to increased flood risk or structural damage.~~
- 44 (11) ~~No manmade alteration of sand dunes, dune ridge, mangrove stands or wetlands shall be allowed~~
45 ~~which would increase potential flood damage.~~
- 46 (12) ~~All new construction shall be located landward of the reach of mean high tide.~~
- 47 (13) ~~All agreements for deed, purchase agreements, leases, or other contracts for sale or exchange of~~
48 ~~lots within areas of special flood hazard shall carry the following flood hazard warning prominently~~
49 ~~displayed on the document:~~

50 **FLOOD HAZARD WARNING**

1 This property may be subject to flooding. You should contact the county Growth Management
2 Division and obtain the latest information regarding flood elevations and restrictions on
3 development before making use of this property.

4 (b) ~~Additional standards.~~ In all areas of special flood hazard where base flood elevation data has been
5 provided the following provisions are required:

6 (1) ~~Residential construction.~~

- 7 a. ~~New construction and substantial improvement of any residential structure shall have the~~
8 ~~lowest floor for zones A1-30, AE and AH or bottom of the lowest supporting member of the~~
9 ~~lowest floor for zones V1-30, VE or V elevated at or above the base flood elevation level.~~
- 10 b. ~~Electrical and mechanical equipment servicing an elevated structure must be elevated at or~~
11 ~~above the required base flood elevation. Elevators may be placed below the base flood~~
12 ~~elevation, if the mechanical and electrical equipment serving the elevator is designed,~~
13 ~~certified and/or located so as to prevent water from entering or accumulating within the~~
14 ~~components during conditions of flooding.~~
- 15 c. ~~Sewer and storm drainage systems, which extend below the base flood elevation, shall be~~
16 ~~provided with automatic backflow prevention valves or devices installed at the point where~~
17 ~~the line passes an exterior wall or slab.~~
- 18 d. ~~Except as noted in subsection (b)(7) of this section, the space below the lowest floor of an~~
19 ~~elevated structure shall be used exclusively for parking of vehicles, elevators, limited storage~~
20 ~~or building access purposes. Such spaces may be enclosed under the following conditions:~~
- 21 1. ~~Only a maximum of 299 square feet of the space shall be enclosed with opaque~~
22 ~~materials. Any remaining portion of an enclosed area of more than 299 square feet shall~~
23 ~~only be enclosed with screen or open lattice. This limitation shall not apply to parking~~
24 ~~of aircraft beneath residential buildings abutting airport districts. Nonconforming areas~~
25 ~~of 300 square feet or more, enclosed with opaque materials, existing on April 12, 2004,~~
26 ~~the effective date of the ordinance from which this section is derived shall be deemed~~
27 ~~conforming as to the provisions of this subsection 122-4(b)(1)d.1.; however, such~~
28 ~~enclosures shall not be expanded or substantially improved unless they are brought into~~
29 ~~compliance with this chapter.~~
- 30 2. ~~The walls of any enclosed area below the base flood elevation in zone AE, on the~~
31 ~~community FIRM shall be provided with openings such as vents, louvers or automatic~~
32 ~~valves which permit the level of floodwaters within the enclosed area to match the rising~~
33 ~~and falling of floodwaters on the outside of the structure. A minimum of two openings~~
34 ~~located on separate walls shall be provided having a minimum total net area of one~~
35 ~~square inch for each square foot of enclosed area, where the enclosed area is calculated~~
36 ~~by outside dimensions. A vented garage door may be used in lieu of venting one wall~~
37 ~~opening. Openings shall be situated such that the bottom of each opening is no higher~~
38 ~~than one foot above finished grade.~~
- 39 3. ~~Interior walls, ceilings and floor, below base flood elevation, in enclosures may be~~
40 ~~finished with allowable exterior finish, regardless of whether this is specified in the~~
41 ~~permit or not, in accordance with the most recent FEMA Technical Bulletin. The most~~
42 ~~recent Technical Bulletin limits the finish to basic wall ceiling and floor construction.~~
43 ~~This is meant to exclude the use of materials and finishes normally associated with~~
44 ~~living areas constructed above base flood elevation from those areas of the enclosure~~
45 ~~located below the base flood elevation.~~
- 46 4. ~~The interior portion of an enclosed area below an elevated building may not be~~
47 ~~partitioned except that garages may be separated from storage and entryway. In the~~
48 ~~event an existing enclosure is enlarged, the walls between the existing enclosure and the~~
49 ~~additional enclosure must be deleted. Enclosed areas below an elevated building and~~
50 ~~laterally attached enclosed areas below base flood elevation must be void of utilities that~~
51 ~~would service the enclosure and cannot be temperature controlled.~~

5. ~~Necessary electrical switches for required lighting circuits may be located below the base flood elevation, provided they are of the outdoor water resistant variety on a separate ground fault interrupt circuit breaker and do not exceed the minimum number required by law. Except for one GFI, electrical receptacles shall not be located below the base flood elevation.~~
6. ~~Walls constructed entirely of open lattice work or screen mesh shall be considered as satisfying the requirements of subsections 122-4(b)(1)d.2., and 122-4(b)(4) of this section.~~
7. ~~The area enclosed below the base flood elevation shall not be used for human habitation.~~
8. ~~Except as noted in subsections 122-4(b)(1)b. and (b)(1)d.5. of this section or required by an applicable code no electrical, mechanical or plumbing may be located below the base flood elevation.~~

(2) ~~Nonresidential construction.~~

- a. ~~New construction and substantial improvements of any commercial, industrial or other nonresidential structures within zone AE on the community's flood insurance rate map (FIRM) shall have the lowest floor (including basement) elevated to or above the base flood level or, together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Elevating above base flood elevation may decrease the cost of flood insurance. Where a nonresidential structure is intended to be made watertight below the base flood level, a registered professional engineer or architect shall develop and/or review structural design specifications and plans for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions contained herein. A record of such floodproofing certification which shall include the specific elevation (in relation to mean sea level) to which structures are floodproofed shall be provided to the building department. Wet floodproofing is not acceptable. New construction or cumulative substantial improvements of any commercial, industrial or other nonresidential structures within zones V1-30, VE or V shall have the bottom of the lowest horizontal structural member of the lowest floor, elevated to or above the base flood elevation.~~
- b. ~~Enclosed areas below an elevated structure at grade elevation for nonresidential, commercial or industrial uses shall be permitted for limited storage or parking purposes, provided that they are anchored to prevent flotation, collapse or lateral movement of the structure and are in accordance with the requirements of subsection 122-4(b)(5)g. of this section for V zones or subsections 122-4(b)(1)d.2. — (b)(1)d.8. of this section for A zones. Plans for such structure shall be submitted to the building official for approval prior to construction.~~

(3) ~~Accessory structures.~~

- a. ~~Residential accessory structures.~~
 1. ~~Any prefabricated light metal structure, which meets the following criteria, may be permitted in an A or V zone if:
 - (i) ~~The enclosed area is 150 square feet or less;~~
 - (ii) ~~The use is limited to limited storage; and~~
 - (iii) ~~The structure is properly anchored to prevent flotation, collapse, and lateral movement.~~~~
 2. ~~Accessory light metal structures which exceed the 150 square feet enclosed space threshold or concrete or wood accessory structures built on site regardless of size or value may be permitted if they meet all of the criteria outlined in Section 122-4(b)(1)d. within A zones or the criteria set forth in subsection (b)(5)g. within V zones.~~
- b. ~~Nonresidential accessory structures.~~
 1. ~~All nonresidential accessory structures, or enclosed areas, which meet the following criteria, may be permitted if:~~

- (i) ~~The use is restricted to limited storage and parking only;~~
- (ii) ~~They meet the breakaway wall standards outlined in Section 122-4(b)(5)a. within V zones or the venting requirements outlined in Section 122-4(b)(1)d.2. within A zones;~~
- (iii) ~~They meet the other requirements as outlined in subsection (b)(1)d. of this section; and~~
- (iv) ~~The structures are properly anchored to prevent flotation, collapse and lateral movement.~~

~~(4) *Manufactured homes.*~~

- ~~a. Effective June 1, 1977, no manufactured home not already in place shall be placed within areas of special flood hazard except in an existing manufactured home park or subdivision, as hereafter defined. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A-1-30, AH, AE, V and VE on the community's FIRM shall be elevated such that the lowest floor and mechanical equipment is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building Code, Residential Section R322.2 (Zone A) or Section R322.3 (Zone V).~~
- ~~b. Reserved.~~
- ~~c. No solid walled additions may be added to a manufactured home unless the addition is constructed under HUD (Department of Housing and Urban Development) standards and contains a HUD seal or the addition is elevated to or above the base flood elevation. Solid walled additions elevated to or above the base flood elevation must be constructed with fourth wall construction, or certified by an engineer or architect licensed by the state.~~
- ~~d. Screen rooms, open decks and porches may be added to a manufactured home provided the addition is structurally independent and constructed with fourth wall construction.~~
- ~~e. All manufactured homes and state approved manufactured offices or construction trailers for temporary use shall be anchored to resist flotation, collapse and lateral movement by providing over the top and frame ties to ground anchors as provided for in F.A.C. Chapter 15C.~~
- ~~f. An existing manufactured home that is damaged or otherwise in need of repair, reconstruction, improvement, or replacement the value of which meets or exceeds 50 percent of the value of the manufactured home without the repair, reconstruction, improvement or replacement shall not be repaired, reconstructed, improved or replaced except by a manufactured home which meets the most recent standards promulgated by the Department of Housing and Urban Development in 24 CFR 3280.308(C)(2) and, in addition, meets the standards set forth in subsections (b)(4)b., (b)(4)c., and (b)(4)d. of this section, as applicable. For the purposes of determining the value of any replacement manufactured homes under this section, the purchase price, as expressed in an invoice from an arm's length transaction, in a form acceptable to the Building Official, or using market value, as determined in section 122-3(f), whichever is greater, shall control.~~
- ~~g. A manufactured home may be altered or modified by engineering standards more stringent than originally required if the manufactured home is elevated to or above the required base flood elevation.~~

~~(5) *Coastal high hazard areas (V zones).* Within the areas of special flood hazard are areas designated as coastal high hazard areas, which have special flood hazards associated with wave wash. The following provisions shall apply in these areas:~~

- ~~a. New construction or substantial improvements within zones V1-30, VE or V shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) is located at or above the base flood elevation level, with the space below the lowest horizontal structural member open or constructed with breakaway walls so as not to impede the flow of floodwaters. Breakaway walls may be permitted for aesthetic purposes~~

- only and must be designed to wash away in the event of abnormal wave action and in accordance with the provisions of Sections 122-4(b)(5)g., (b)(5)h. and (b)(5)i.
- b. ~~New construction or substantial improvements shall be securely anchored on pilings or columns.~~
 - e. ~~The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values shall be those required by American Society of Civil Engineers (ASCE) Standard number 7.~~
 - d. ~~A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with the accepted standards of practice for meeting the provisions of Sections 122-4(b)(5)a., (b)(5)b. and (b)(5)c.~~
 - e. ~~There shall be no fill used as structural support.~~
 - f. ~~Nonstructural fill shall not be placed in a V zone except with an approved Coastal Model meeting the minimum NFIP standards, that demonstrates such fill will not increase potential flood damage by wave ramping and/or deflection.~~
 - g. ~~If any space below the base flood elevation level is to be enclosed, such enclosed areas shall not be used for human habitation and must meet the provisions of Sections 122-4(b)(1)d.1., (b)(1)d.3., (b)(1)d.8. and (b)(5)a. of this section.~~
 - h. ~~Prior to construction, plans for any structure that will have enclosed space below the base flood elevation level shall be submitted to the Building Official or his designee for approval.~~
 - i. ~~Walls and partitions shall be allowed below the base flood elevation, provided they are not part of the structural support of the building and are designed to break away under the impact of abnormally high tides or wind driven water without damage to the structural integrity of the building on which they are to be used, and provided that a design load limit of not less than ten and no more than 20 pounds per square foot shall be used as the safe load design for breakaway walls.~~
 - j. ~~Compliance with the provisions contained in Section 122-4(b)(5)i. of this section shall be certified by a registered professional engineer or architect.~~
 - k. ~~Any alteration, repair, reconstruction or improvement to a structure shall not enclose the space below the base flood elevation level except as provided for in Sections 122-4(b)(5)g. and (b)(5)i. of this section.~~
 - 1. ~~No manmade alteration of mangroves or beach berm system shall be permitted which will increase the potential for flood damage.~~
- (6) ~~Basement construction.~~ No basement shall be constructed in the county.
- (7) ~~Enclosures below base flood elevation.~~ No enclosure below the base flood elevation shall be constructed or equipped for such uses as a kitchen, dining room, family room, recreation room, office, bedroom, bathroom or workshop. This prohibition does not apply to new improvements that are not substantial to post FIRM structures rendered noncompliant by amendments to the flood insurance rate map as long as the improvement is at the same elevation the structure was originally built to; ground level structures whose initial construction began prior to January 1, 1975; and those structures that are listed on the National Register of Historic Places, the Florida Inventory of Historic Places or any inventory of local historic places.
- (8) ~~Below base flood elevation variance.~~ In no event shall a below base flood elevation variance be necessary for improvements to an existing structure whose initial construction began prior to December 31, 1974, or to a legally placed manufactured home when the improvements are not substantial.
- (9) ~~Recreational vehicles.~~ Require that recreational vehicles placed on sites within zones A1-30, AH, and AE, V-130, V and VE on the community's FIRM either:
- a. ~~Be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use; or~~

- 1 b. ~~Meet the permit requirements of Section 122-4(b)(4). A recreational vehicle is ready for~~
2 ~~highway use if it is on its wheels or internal jacking system, designed to be self-propelled or~~
3 ~~permanently towable by a light duty truck, is attached to the site only by quick disconnect~~
4 ~~type utilities and security devices, and has no permanent attached additions.~~

5
6 **Sec. 122-5. Variances to the Floodplain Management Requirements.**

7 (a) ~~**Generally.** Where, owing to special conditions, a literal enforcement of the floodplain management~~
8 ~~provisions of this chapter would result in exceptional hardship unique to that property or proposed~~
9 ~~project, the Division of Administrative Hearings (DOAH) may grant requests for variances from the~~
10 ~~terms of those provisions as will not be contrary to the public interest, will be in harmony with the~~
11 ~~general purpose and intent of this chapter, and will be the minimum variance that will allow reasonable~~
12 ~~use of the property.~~

13 (b) ~~**Procedures.**~~

14 (1) ~~An application for a variance from the provisions of this chapter for development in an area of~~
15 ~~special flood hazard shall be filed with the Building Department at the time of application for a~~
16 ~~building permit.~~

17 (2) ~~Within ten (10) days of receipt of a complete application for a variance from the terms of the~~
18 ~~floodplain management provisions of this chapter, the Building Official shall review the~~
19 ~~application, and submit a report and recommendation to the DOAH.~~

20 (3) ~~The DOAH shall review the application and the reports and recommendations of the Building~~
21 ~~Official and may consider granting the application for variance in accordance with the~~
22 ~~administrative hearing process in Florida under chapter 120, Florida Statutes and Florida~~
23 ~~Administrative Code Chapter 28-106, Parts I and II.~~

24 (c) ~~**Conditions.**~~

25 (1) ~~Variances shall be issued only upon a determination that the variance is the minimum necessary,~~
26 ~~considering the flood hazard, to afford relief, and only upon all of the following conditions:~~

27 a. ~~A showing of good and sufficient cause;~~

28 b. ~~A determination that failure to grant the variance would result in exceptional hardship to the~~
29 ~~applicant;~~

30 c. ~~A determination that the granting of a variance will not result in increased flood heights; result~~
31 ~~in additional threats to public safety; result in extraordinary public expense; create nuisance;~~
32 ~~cause fraud on or victimization of the public; or conflict with other provisions of this chapter~~
33 ~~or this Code; and~~

34 d. ~~Specific written findings linked to the factors below.~~

35 (2) ~~The following factors shall be relevant in the granting of a variance:~~

36 a. ~~Physical characteristics of construction;~~

37 b. ~~Whether it is possible to use the property by a conforming method of construction;~~

38 c. ~~The possibility that materials may be swept onto other lands to the injury of others;~~

39 d. ~~The danger to life and property due to flooding or erosion damage;~~

40 e. ~~The susceptibility of the proposed facility and its contents to flood damage and the effects of~~
41 ~~such damage on the individual owner;~~

42 f. ~~The importance to the community of the services provided by the proposed facility;~~

43 g. ~~The necessity to the facility of a water dependent location, where applicable;~~

44 h. ~~The availability of alternate locations less subject to flooding;~~

45 i. ~~The compatibility of the proposed use with existing and anticipated development;~~

46 j. ~~The relationship of the proposed use to the comprehensive plan, land development regulations~~
47 ~~and the floodplain management program for that area;~~

48 k. ~~The safety of access to the property for ordinary and emergency vehicles in times of flood;~~

49 l. ~~The expected heights, velocity, duration, rate of rise, and sediment transport of the~~
50 ~~floodwaters and the effects of wave action, if applicable, expected at the site; and~~

- 1 m. ~~The costs of providing governmental services during and after flood conditions, including~~
2 ~~maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water~~
3 ~~systems, and streets and bridges.~~
- 4 (3) ~~When the DOAH considers the propriety of granting a variance, the following factors shall not be~~
5 ~~considered relevant:~~
- 6 a. ~~The physical disabilities or handicaps and health of the applicant or members of his family;~~
7 b. ~~The domestic difficulties of the applicant or members of his family;~~
8 c. ~~The financial difficulty of the applicant in complying with the floodplain management~~
9 ~~provisions of this chapter; or~~
- 10 d. ~~The elevation of surrounding structures.~~
- 11 (4) ~~Any applicant to whom a variance is granted shall be given written notice by the DOAH specifying~~
12 ~~the difference between the base flood elevation and the elevation to which the structure is to be~~
13 ~~built and stating that the cost of flood insurance will be commensurate with the increased risk~~
14 ~~resulting from the lowest floor being located below the base flood elevation.~~
- 15 (5) ~~All variances issued shall require that an owners affidavit be prepared, and recorded with the clerk~~
16 ~~of the circuit court, which shows that the proposed construction will be located in a special flood~~
17 ~~hazard area, the number of feet that the lowest floor of the proposed structure will be below the~~
18 ~~base flood level, and that actuarial flood insurance rates increase as the lowest floor within A zone~~
19 ~~and the bottom of the lowest horizontal structural member of the lowest floor within V zones~~
20 ~~elevation decreases.~~
- 21 (6) ~~The Building Official shall maintain records of all variance actions and annually report any~~
22 ~~variances to the Federal Emergency Management Agency.~~

23
24 **Sec. 122-6. Required Inspections of Residential Structures.**

- 25 (a) ~~**Applicability.** Prior to the transfer of ownership of any property occupied by an elevated residential~~
26 ~~structure with a below base flood enclosed area defined as "new construction" (i.e., construction~~
27 ~~commenced on or after January 1, 1975) under this chapter, a county approved inspection of the below~~
28 ~~base flood enclosure shall be conducted. The required inspection shall be conducted no earlier than 180~~
29 ~~days prior to the transfer of the property by the seller or the potential purchaser, with the sellers~~
30 ~~permission. The intent of this inspection, which is strictly limited to the below base flood enclosure, is~~
31 ~~to identify for county records and purchasers any nonconformities or illegal structures or uses.~~
- 32 (b) ~~**Inspections.** The inspection required under this section may be conducted either by an inspector from~~
33 ~~the growth management division or by an inspector approved by the growth management division. Fees~~
34 ~~for inspections conducted by the growth management division shall be in accordance with the schedule~~
35 ~~established by resolution of the BOCC for inspections conducted under the county's flood insurance~~
36 ~~inspection and compliance program.~~
- 37 (c) ~~**Inspection procedures and forms.** All inspections required under this section shall be conducted in~~
38 ~~accordance with procedures and recorded on county forms approved by the growth management director.~~
- 39 (d) ~~**Private inspectors' approval.** Non county inspectors from an approved list maintained by the growth~~
40 ~~management division may be retained by property owners to complete the inspections required by this~~
41 ~~section. These inspectors shall be approved by the growth management division director and shall be~~
42 ~~required to take an inspection training session conducted by the growth management division to ensure~~
43 ~~all inspectors fully understand county inspection and reporting requirements. All inspections conducted~~
44 ~~and inspection reports prepared by non county inspectors are subject to review by the growth~~
45 ~~management division. Inspection reports that are found to be incomplete, inaccurate, or contain errors~~
46 ~~and omissions, may result in the inspector being removed from the approved list of inspectors by the~~
47 ~~growth management director.~~
- 48 (e) ~~**Inspection submittal requirements.** The original of the inspection report, signed by the county~~
49 ~~inspector or county approved inspector, shall be submitted to the buyer and Building Department ten~~
50 ~~days prior to the closing date for transfer of property.~~
- 51 (f) ~~**Failure to comply with inspection submittal requirements.** Should the inspection report required by~~
52 ~~this section not be filed with the Building Department and buyer, the seller and buyer will be notified~~

1 that the structure is in violation of this section. The buyer and his successors and assigns may enforce
2 the terms of this section in law or at equity. The plaintiff may seek injunctive relief in a court of
3 competent jurisdiction to prevent a violation of this section. Attorney's fees and costs incurred in an
4 action to enforce these regulations may be awarded to a substantially prevailing party at the discretion
5 of the court. A plaintiff may seek and the court may award treble damages to an aggrieved party. The
6 sole intent of this inspection is to provide information for recording and monitoring improvements to
7 downstairs enclosures subject to the county's floodplain regulations and in accordance with Board of
8 County Commission Resolution 440 2011, which does not require that the property be brought into
9 compliance prior or subsequently to transfer. This inspection is not intended to be used to identify or
10 prosecute any other unpermitted improvements that are not subject to the floodplain regulations.

11 ~~(g) Nothing in this section shall prohibit the county from prosecuting illegal, unpermitted improvements~~
12 ~~under the Pilot Inspection Program (44 CFR 59.30); however the Pilot Inspection Program requires an~~
13 ~~independent inspection.~~

14 ~~(h) If the results of the inspection identify illegal unpermitted improvements Section 122-4 applies when a~~
15 ~~building permit or special floodplain permit is sought by an applicant.~~

16 **Sec. 122-7. Floodplain Certificate of Compliance Program.**

17 ~~(a) **Generally.** Any property owner who has obtained an inspection of his downstairs enclosure or structure~~
18 ~~below base flood elevation through either:~~

19 ~~(1) FEMA Insurance Inspection Program; or~~

20 ~~(2) Inspection at time of sale; or~~

21 ~~(3) Voluntary inspection is eligible to obtain a certificate of compliance. The structure must have been~~
22 ~~found in compliance with the Monroe County floodplain regulations by Monroe County staff. Prior~~
23 ~~to obtaining the certificate, the owner must record a nonconversion agreement in the Monroe~~
24 ~~County official land records on a form to be provided by the county. Properties that have received~~
25 ~~their inspections prior to implementation of the certificate of compliance program may receive a~~
26 ~~certificate of compliance; however, a re-inspection (with no fee) is necessary to assure compliance~~
27 ~~has been maintained and the owner must also record the nonconversion agreement, which shall be~~
28 ~~recorded in the official land records of Monroe County.~~

29 ~~(b) **Outreach.** The county will mail written notices to property owners, every two years, with downstairs~~
30 ~~living areas as follows:~~

31 ~~(1) The county will obtain data from the Monroe County Property Appraiser Office which will identify~~
32 ~~all single family residences which contain enclosures that are identified as living area on the ground~~
33 ~~floor. Once this data is captured, technical staff will deduct all the parcels that have already received~~
34 ~~inspections through the FEMA Insurance Inspection Pilot Program, transfer of ownership program,~~
35 ~~or the previously applicable inspection on building permit program, and been made compliant.~~

36 ~~(2) The remaining property owners will be notified by regular mail that in order to receive a certificate~~
37 ~~of compliance, an inspection is required of any below base flood elevation structures, to verify~~
38 ~~compliance with the Monroe County floodplain regulations. Owners will also be notified that~~
39 ~~noncompliant structures may be subject to code compliance proceedings.~~

40 ~~(3) If owners seek and obtain a certificate of compliance inspection, and are compliant, they will~~
41 ~~receive a certificate of compliance as outlined in this section. This is a proactive opportunity for~~
42 ~~property owners to receive evidence that they have a compliant structure which should, long term,~~
43 ~~create a positive market condition. If an owner has a noncompliant structure, he will be notified of~~
44 ~~all the required corrections to the enclosure to become compliant and that permits are required to~~
45 ~~authorize construction.~~

46 ~~(c) **Inspections.** Inspections may be conducted for a certificate of compliance according to this chapter for~~
47 ~~FEMA Insurance Inspection Program or for Inspection of Residential Structures prior to transfer of~~
48 ~~ownership found in Section 122-6.~~

49 ~~(d) **Compliant structures.** The county will provide a certificate of compliance to property owners with~~
50 ~~compliant structures after property owners sign and record a nonconversion agreement (with a~~
51 ~~corresponding drawing demonstrating the permitted improvements allowed below base flood elevation~~
52

1 attached to the agreement). The nonconversion agreement shall be recorded by the county in the Monroe
2 County official land records so future buyers of properties understand what has been approved for areas
3 below base flood elevation. Property owners shall pay recording fees.

4 (e) ~~Nonecompliant structures.~~ The county Building Official shall refer any nonecompliant structures to the
5 Code Compliance Department for enforcement through appropriate processes.

6 (f) ~~New construction.~~ New construction that contains any type of below base flood elevation enclosure,
7 will be required to record a "Notice of Non-Conversion" in the Monroe County land records indicating
8 the square footage permitted to be constructed below base flood elevations, with a corresponding
9 drawing demonstrating the permitted improvements permitted, prior to receiving a certificate of
10 occupancy.

11
12 **Sec. 122-8. Inclusion of United States Federal Emergency Management Agency (FEMA) and United**
13 **States Fish and Wildlife Service (FWS) Required Permit Referral Process (PRP) in Final**
14 **Permit Determinations for Development.**

15 (a) ~~Purpose and intent.~~ It is the purpose of Section 122-8 to implement regulations that will assure,
16 consistent with the 10th Amendment to the U.S. Constitution, state and county regulations, proper record
17 retention, coordination, and notification of FEMA and FWS regarding permit applications filed with or
18 issued by Monroe County, inclusive of FEMA/FWS requirements agreed to by the applicant.

19 (b) ~~Lands to which this section apply.~~ See Section 122-2(b)2.

20 (c) ~~Rules for interpreting SFAMs.~~ The boundaries of the flood hazard areas shown on the FWS SFAMs
21 may be determined by scaling distances. Required interpretations of those maps for precise locations of
22 such boundaries shall be made by the county Planning Director or his/her designee, in consultation with
23 the Building Official.

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

25 (1) ~~SFAM review required.~~ For parcels or lots shown within the SFAMs in which an application for
26 development permit has been made, if the SFAM indicates the parcel or lot contains only unsuitable
27 habitat for any of the following species: Key Largo Cotton Mouse, Key Largo woodrat, Key tree-
28 cactus, Lower Keys marsh rabbit, Eastern indigo snake, Key deer, Schaus swallowtail butterfly,
29 silver rice rat, and Stock Island tree snail, and the parcel or lot is not listed on the RE list, the
30 Planning Director or his/her designee shall provide for a notation in the development application
31 permit files that indicates:

32 a. The name of the official that reviewed the development application for FWS requirements;

33 b. The date of the review;

34 c. The date of the SFAM and RE list used to conduct the review.

35 Once the review has established that a parcel or lot contains unsuitable habitat, action may be
36 taken on the permit application for development by Monroe County staff.

37 (2) ~~FWS technical assistance permit requirements.~~ For parcels or lots shown within the SFAMs in
38 which an application for a permit for development has been made including 1) expanding the
39 footprint of a structure; and/or 2) expanding clearing in habitat (including native vegetation
40 removal); and/or 3) placement of fencing into Key deer habitat, if the SFAM indicates the parcel
41 or lot contains suitable habitat for any of the following species: Key Largo Cotton Mouse, Key
42 Largo wood rat, Key tree cactus, Lower Keys marsh rabbit, Eastern indigo snake, Key deer, Schaus
43 swallowtail butterfly, silver rice rat, and/or Stock Island tree snail, and the parcel or lot is listed on
44 the RE list, the Planning Director or his/her designee shall use the SAGs to determine whether a
45 floodplain development permit application requires:

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

48 b. If, according to the SAGs, the proposed development needs technical assistance by the
49 service, the county may take action on the permit application for entry into ROGO or NROGO
50 and/or shall issue the permit in accordance with Chapter 2012-205, Laws of Florida,
51 indicating a notice to proceed must be obtained prior to any construction, removal of
52 vegetation, or commencement of development, with a condition that:

1. ~~The applicant seek and obtain technical assistance from the service; and~~
 2. ~~The applicant obtain, prior to the issuance of the notice to proceed, all applicable state or federal permits or approvals pursuant to Section 122-2(a); 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.~~
- e. ~~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 chapter 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.~~
 - g. ~~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 this permit referral process, unless mitigation was completed for the associated impacts.~~
 - h. ~~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 development permit.~~
 - i. ~~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 chapter, 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 previously tolled allocations and annual allocation awards from the Rate of Growth Ordinance (ROGO), Non-Residential Rate of Growth Ordinance (NROGO) allocations or building permits/floodplain development permits. Building permits and allocations have been tolled under authority of Monroe County Resolutions 420-2005, 166-2006, 185-2007 and 219-2008 and 282-2011 as a result of the injunction prohibiting FEMA from issuing flood insurance policies under the National Flood Insurance Program which was imposed in the case of Florida Key Deer et. al., v. Fugate et. al., 90-10037 CIV Moore.~~

- 1 a.—~~In order for those persons whose allocations or whose building permits were tolled to be~~
2 ~~eligible for federal flood insurance and meet their obligations under the Federal Endangered~~
3 ~~Species Act, the following is required:~~
- 4 1.—~~Owners with allocations who do not need coordination with FWS after they are~~
5 ~~processed through the permit referral process:~~
- 6 i.—~~Have 180 days from the date of a county issued written notice to pick up their~~
7 ~~building permits; or~~
- 8 ii.—~~Have 300 days from the date of a county issued written notice, if there is a~~
9 ~~need to redesign an onsite wastewater treatment system, to receive a permit~~
10 ~~from the department of health (DOH) and pick up their building permits.~~
- 11 2.—~~Owners with building permits who do not need coordination with FWS after they are~~
12 ~~processed through the permit referral process:~~
- 13 i.—~~Have 180 days from the date of a county issued written notice, to~~
14 ~~recommence development and receive a passed inspection; or~~
- 15 ii.—~~Have 300 days from the date of a county issued written notice, if there is a~~
16 ~~need to redesign an onsite wastewater treatment system to receive a permit~~
17 ~~from the DOH, recommence development and receive a passed inspection.~~
- 18 (5)—~~Permit issuance for Annual allocation awards from the Rate of Growth Ordinance (ROGO),~~
19 ~~Non-Residential Rate of Growth Ordinance (NROGO) allocations. Permit applications~~
20 ~~processed through the permit referral process that result in a "may affect determination" for the~~
21 ~~proposed development through the application of the species assessment guides which require the~~
22 ~~permittee to coordinate with FWS shall have a total of 360 days from the date of a county issued~~
23 ~~written notice to conclude the required coordination with FWS and pick up the building permit,~~
24 ~~and receive a notice to proceed from Monroe County. This timeframe may be extended by the~~
25 ~~Planning Director if the applicant submits a written request prior to the expiration of the allocation~~
26 ~~award and/or the permit and the applicant affirmatively demonstrates that he has timely and~~
27 ~~actively sought coordination.~~
- 28 (6)—~~Properties for which a permit has been issued and for which development has not commenced will~~
29 ~~be required to be processed through the permit referral process. Permit reviews that result in a "may~~
30 ~~affect determination" for the proposed development through the application of the species~~
31 ~~assessment guides which require the permittee to coordinate with FWS shall have a total of 360~~
32 ~~days from the date of a county issued written notice to conclude the required coordination with~~
33 ~~FWS, commence development and receive a passed inspection from Monroe County. This~~
34 ~~timeframe may be extended by the Planning Director if the applicant can affirmatively demonstrate~~
35 ~~that he has timely and actively sought coordination.~~

36
37 **Sec. 122-9. Appeals.**

- 38 (a)—**Authority.** ~~The Division of Administrative Hearings (DOAH) shall have the authority to hear and decide~~
39 ~~appeals from administrative actions regarding the floodplain management provisions of this Land~~
40 ~~Development Code.~~
- 41 (b)—**Initiation.** ~~An appeal may be initiated by an owner, applicant, adjacent property owner, any aggrieved~~
42 ~~or adversely affected person, as defined by F.S. § 163.3215(2), or any resident of real property, from~~
43 ~~administrative actions regarding the floodplain management provisions of this Land Development Code.~~
- 44 (c)—**Procedures.** ~~A notice of appeal in the form prescribed by the Building Official must be filed with the~~
45 ~~county administrator and with the Building Department within 30 calendar days of the administrative~~
46 ~~action. Failure to file such appeal shall constitute a waiver of any rights under this article to appeal~~
47 ~~administrative actions regarding the floodplain management provisions of this Land Development Code.~~
48 ~~Such notice shall be accompanied by the names and addresses of the owner, applicant, property owner,~~
49 ~~and adjacent property owners. The filing of such notice of appeal will require the County to forward to~~
50 ~~the BOCC any and all records concerning the subject matter of the appeal and to send written notice of~~
51 ~~the appeal to the owner, applicant, property owner, and adjacent property owners, if different from the~~
52 ~~person filing the appeal. Upon receipt of the written notice of the appeal, the County shall refer the~~

1 appeal to DOAH with a request that an administrative law judge be assigned to conduct a hearing. The
2 request shall be accompanied by a copy of the petition and a copy of the notice of County action.

3 (d) ~~Effect of filing an appeal.~~ The filing of a notice of appeal shall stay all permit activity and any
4 proceedings in furtherance of the action appealed unless the Building Official certifies in writing to the
5 BOCC and the applicant that a stay poses an imminent peril to life or property, in which case the appeal
6 shall not stay further permit activity and any proceedings. The BOCC shall review such certification and
7 grant or deny a stay of the proceedings.

8 (e) ~~Action of DOAH.~~ DOAH shall consider the appeal pursuant to Rule 28-106.201(3) F.A.C.
9

10 IV. CONSISTENCY WITH THE MONROE COUNTY LAND DEVELOPMENT CODE

11
12 The proposed amendment is consistent with one or more of the required provisions of LDC Section 102-
13 158(d)(7)(b):

14 1. Changed projections (e.g., regarding public service needs) from those on which the text or
15 boundary was based;

16 N/A

17
18 2. Changed assumptions (e.g., regarding demographic trends);

19 N/A

20
21 3. Data errors, including errors in mapping, vegetative types and natural features described in
22 volume 1 of the plan;

23 N/A

24
25 4. New issues;

26
27
28 Amendments to the County's Floodplain Management Ordinance (Ch. 122 of the Land
29 Development Code) are necessary to be consistent with FEMA updated provisions (Technical
30 Bulletins, policies, and guidance), incorporate and be consistent with the Florida Division of
31 Emergency Management (DEM) State Floodplain Management Office Model Floodplain
32 Management Ordinance and to continue to fulfill the National Flood Insurance Program
33 requirements. Additionally, the Code update will allow the County to continue to meet the
34 requirements and activities of the Community Rating System.

35
36 5. Recognition of a need for additional detail or comprehensiveness; or

37
38 The National Flood Insurance Program (NFIP) is a federally-subsidized flood damage
39 insurance program administered by the Federal Emergency Management Agency (FEMA)
40 enabling property owners in participating communities to purchase flood insurance in
41 exchange for the community's adoption of floodplain management regulations to reduce future
42 flood damages. The County has been participant of the NFIP program since 1973, with the
43 adoption and effective date of the initial floodplain management regulations of Monroe
44 County.

45
46 Since the 2010 edition of the *Florida Building Code* (FBC), the FBC has incorporated flood
47 provisions that meet or exceed the minimum NFIP requirements for buildings and structures.
48 The FBC was updated in 2014, 2017 and 2020 to continue to reflect, meet and/or exceed the

1 minimum NFIP requirements. Additionally, in 2015, FEMA started issuing updated Technical
2 Bulletins and policies with new standards and guidance for development within the Special
3 Flood Hazard Areas.
4

5 Further in 2012, Florida Division of Emergency Management (DEM) State Floodplain
6 Management Office developed a Model Floodplain Management Ordinance for communities,
7 written explicitly to rely on the flood provisions in the *Florida Building Code*. FEMA
8 approved the Model Floodplain Management Ordinance in 2013. Over the past almost 10
9 years, DEM has worked with nearly all of Florida's 468 NFIP communities to transition to the
10 Model Floodplain Management Ordinance.
11

12 6. Data updates;

13
14 N/A
15

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

21 The proposed text amendment is not anticipated to result in an adverse community change.
22

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

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

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

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

42 **Policy 101.5.32:** Within 1 year of the effective date of this policy, Monroe County shall adopt Land
43 Development Regulations which provide a Flood Protection Height Exception to Policy 101.5.30 to promote
44 public health, safety and general welfare; allow adaptation to coastal flooding, storm surge and other hazards;
45 protect property from flooding and minimize damages; minimize public and private losses due to flooding;
46 minimize future expenditures of public funds for flood control projects and for recovery from flood events;
47 and mitigate rising flood insurance premiums. A Flood Protection Height Exception of up to a maximum of
48 five (5) feet above the 35-foot height limit shall be provided to allow lawfully existing buildings to be
49 voluntarily elevated up to three (3) feet above FEMA base flood elevation; and a flood protection height

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

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

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

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

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

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

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

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

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

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

1
2 **Objective 102.3:** Monroe County shall maintain land development regulations which will direct new
3 development to areas having appropriate topography and soil conditions and to where site disturbance and
4 man's activities will have fewer adverse effects on natural vegetation, terrestrial wildlife, natural landforms
5 and marine resources.
6

7 **Objective 102.7:** Monroe County shall take actions to discourage new private development in areas
8 designated as units of the Coastal Barrier Resources System (CBRS).
9

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

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

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

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

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

32 **GOAL 204:** The health and integrity of Monroe County's marine and freshwater wetlands shall be protected
33 and, where possible, restored and enhanced.
34

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

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

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

49 **GOAL 205:** The health and integrity of Monroe County's native upland vegetation shall be protected and,
50 where possible, enhanced.
51

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

1
2 **Policy 206.1.4:** Monroe County shall implement a "Permit Referral Process" for review of all development
3 that occurs within areas designated as "Species Focus Areas (SFAs)" or "Species Buffer Areas (SBAs)". The
4 SFAs or SBAs are areas identified by the U.S. Fish and Wildlife Service (USFWS) which contain potentially
5 suitable habitat for nine federally protected species including: Eastern Indigo Snake, Key Deer, Key Largo
6 Cotton Mouse, Key Largo Woodrat, Key Tree-Cactus, Lower Keys Marsh Rabbit, Schaus Swallowtail
7 Butterfly, Silver Rice Rat, and Stock Island Tree Snail.
8

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

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

23 **Objective 206.2:** Monroe County shall provide guidance to private landowners to reduce disturbances to
24 wildlife species designated by the FWS as threatened or endangered.
25

26 **GOAL 208:** Monroe County shall discourage private land uses on its mainland, offshore islands and
27 undeveloped coastal barriers, and shall protect existing conservation lands from adverse impacts associated
28 with private land uses on adjoining lands.
29

30 **GOAL 210:** The health and integrity of Monroe County's beach/berm resources shall be protected and, when
31 possible, restored and enhanced.
32

33 **Objective 212.5:** Monroe County shall maintain land development regulations pertaining to shoreline
34 stabilization.
35

36 **GOAL 216:** Monroe County shall maintain a program of hazard mitigation and post-disaster redevelopment
37 to increase public safety and reduce damages and public expenditures.
38

39 **Objective 216.1:** Monroe County shall maintain a program of hazard mitigation in the Coastal High Hazard
40 Area (CHHA) which reduces floodplain alteration and damage or loss due to natural disasters.
41

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

48 **Policy 216.1.5:** Monroe County shall continue to participate in the National Flood Insurance Program(NFIP)
49 Community Rating System (CRS) to the maximum extent possible and shall seek to improve its current CRS
50 Class rating.
51

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

6 **Policy 216.1.7:** Monroe County shall consider floodplain management and CHHA issues in making public
7 acquisition decisions.
8

9 **Policy 216.1.8:** Monroe County shall require that, to the greatest extent practicable, development activity,
10 such as land clearing, grading and filling will not disturb natural drainage patterns.
11

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

17 **Policy 216.2.3:** The Post-Disaster Redevelopment Plan shall identify areas particularly susceptible to damage
18 within the CHHA such as the FEMA designated V-zones and repetitive loss areas as defined by FEMA and
19 shall specify procedures for relocating or replacing public infrastructure away from them, where feasible.
20

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

26 **Objective 216.3:** Monroe County shall maintain land development regulations which directs future growth
27 away from the Coastal High Hazard Area (CHHA).
28

29 **Objective 601.3:** Monroe County shall continue implementation efforts to eliminate substandard housing and
30 to preserve, conserve and enhance the existing housing stock, including historic structures and sites.
31

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

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

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

39 Dilapidated (Substandard): A housing unit in this category indicates that the unit can no longer provide
40 safe and adequate shelter or is of inadequate original construction including being constructed below the
41 minimum required elevation by FEMA or the County's Floodplain Regulations.
42

43 **Policy 601.3.2:** The County Code Compliance Office and Building Department will enforce building code
44 regulations and County ordinances governing the structural condition of the housing stock, to ensure the
45 provision of safe, decent and sanitary housing and stabilization of residential neighborhoods.
46

47 **GOAL 1501:** Monroe County shall coordinate with the municipalities of Key West, Key Colony Beach,
48 Islamorada, Layton and Marathon; regional, State, and federal government agencies, nongovernmental
49 organizations and private organizations to exchange data and develop coordinated strategies to address energy
50 conservation and impacts from climate change.
51

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

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

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

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

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

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

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

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

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

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1. The Florida Keys Aqueduct and water supply facilities;
 2. Sewage collection, treatment, and disposal facilities;
 3. Solid waste treatment, collection, and disposal facilities;
 4. Key West Naval Air Station and other military facilities;
 5. Transportation facilities;
 6. Federal parks, wildlife refuges, and marine sanctuaries;
 7. State parks, recreation facilities, aquatic preserves, and other publicly owned properties;
 8. City electric service and the Florida Keys Electric Co-op; and
 9. Other utilities, as appropriate.

- (i) Protecting and improving water quality by providing for the construction, operation, maintenance, and replacement of stormwater management facilities; central sewage collection; treatment and disposal facilities; and the installation and proper operation and maintenance of onsite sewage treatment and disposal systems.
- (j) Ensuring the improvement of nearshore water quality by requiring the construction and operation of wastewater management facilities that meet the requirements of ss. 381.0065(4)(l) and 403.086(10), as applicable, and by directing growth to areas served by central wastewater treatment facilities through permit allocation systems.
- (k) Limiting the adverse impacts of public investments on the environmental resources of the Florida Keys.
- (l) Making available adequate affordable housing for all sectors of the population of the Florida Keys.
- (m) Providing adequate alternatives for the protection of public safety and welfare in the event of a natural or manmade disaster and for a postdisaster reconstruction plan.
- (n) Protecting the public health, safety, and welfare of the citizens of the Florida Keys and maintaining the Florida Keys as a unique Florida resource.

Pursuant to Section 380.0552(7) Florida Statutes, the proposed amendment is not inconsistent with the Principles for Guiding Development as a whole and is not inconsistent with any Principle.

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

163.3161(4), F.S. – It is the intent of this act that local governments have the ability to preserve and enhance present advantages; encourage the most appropriate use of land, water, and resources, consistent with the public interest; overcome present handicaps; and deal effectively with future problems that may result from the use and development of land within their jurisdictions. Through the process of comprehensive planning, it is intended that units of local government can preserve, promote, protect, and improve the public health, safety, comfort, good order, appearance, convenience, law enforcement and fire prevention, and general welfare; facilitate the adequate and efficient provision of transportation, water, sewerage, schools, parks, recreational facilities, housing, and other requirements and services; and conserve, develop, utilize, and protect natural resources within their jurisdictions.

163.3161(6), F.S. – It is the intent of this act that adopted comprehensive plans shall have the legal status set out in this act and that no public or private development shall be permitted except in conformity with comprehensive plans, or elements or portions thereof, prepared and adopted in conformity with this act.

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

163.3177(1), F.S. – The comprehensive plan shall provide the principles, guidelines, standards, and strategies for the orderly and balanced future economic, social, physical, environmental, and fiscal development of the area that reflects community commitments to implement the plan and its elements. These principles and strategies shall guide future decisions in a consistent manner and shall contain programs and activities

1 to ensure comprehensive plans are implemented. The sections of the comprehensive plan containing the
2 principles and strategies, generally provided as goals, objectives, and policies, shall describe how the local
3 government's programs, activities, and land development regulations will be initiated, modified, or
4 continued to implement the comprehensive plan in a consistent manner. It is not the intent of this part to
5 require the inclusion of implementing regulations in the comprehensive plan but rather to require
6 identification of those programs, activities, and land development regulations that will be part of the
7 strategy for implementing the comprehensive plan and the principles that describe how the programs,
8 activities, and land development regulations will be carried out. The plan shall establish meaningful and
9 predictable standards for the use and development of land and provide meaningful guidelines for the
10 content of more detailed land development and use regulations.
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12 163.3177(6)(d), F.S. –A conservation element for the conservation, use, and protection of natural resources
13 in the area, including air, water, water recharge areas, wetlands, waterwells, estuarine marshes, soils,
14 beaches, shores, flood plains, rivers, bays, lakes, harbors, forests, fisheries and wildlife, marine habitat,
15 minerals, and other natural and environmental resources, including factors that affect energy conservation.
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17 163.3178(2)(a), F.S. – A land use and inventory map of existing coastal uses, wildlife habitat, wetland and
18 other vegetative communities, undeveloped areas, areas subject to coastal flooding, public access routes
19 to beach and shore resources, historic preservation areas, and other areas of special concern to local
20 government.
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22 163.3178(2)(f), F.S. – A redevelopment component that outlines the principles that must be used to eliminate
23 inappropriate and unsafe development in the coastal areas when opportunities arise. The component must:
24 1. Include development and redevelopment principles, strategies, and engineering solutions that reduce
25 the flood risk in coastal areas which results from high-tide events, storm surge, flash floods, stormwater
26 runoff, and the related impacts of sea-level rise.
27 2. Encourage the use of best practices development and redevelopment principles, strategies, and
28 engineering solutions that will result in the removal of coastal real property from flood zone designations
29 established by the Federal Emergency Management Agency.
30 3. Identify site development techniques and best practices that may reduce losses due to flooding and
31 claims made under flood insurance policies issued in this state.
32 4. Be consistent with, or more stringent than, the flood-resistant construction requirements in the Florida
33 Building Code and applicable flood plain management regulations set forth in 44 C.F.R. part 60.
34 5. Require that any construction activities seaward of the coastal construction control lines established
35 pursuant to s. 161.053 be consistent with chapter 161.
36 6. Encourage local governments to participate in the National Flood Insurance Program Community
37 Rating System administered by the Federal Emergency Management Agency to achieve flood insurance
38 premium discounts for their residents.
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40 163.3194(1)(a), F.S. – After a comprehensive plan, or element or portion thereof, has been adopted in
41 conformity with this act, all development undertaken by, and all actions taken in regard to development
42 orders by, governmental agencies in regard to land covered by such plan or element shall be consistent
43 with such plan or element as adopted.
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45 163.3201, F.S. – Relationship of comprehensive plan to exercise of land development regulatory authority.—
46 It is the intent of this act that adopted comprehensive plans or elements thereof shall be implemented, in
47 part, by the adoption and enforcement of appropriate local regulations on the development of lands and
48 waters within an area. It is the intent of this act that the adoption and enforcement by a governing body of
49 regulations for the development of land or the adoption and enforcement by a governing body of a land
50 development code for an area shall be based on, be related to, and be a means of implementation for an
51 adopted comprehensive plan as required by this act.
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- 1 163.3202(2), F.S. – Local land development regulations shall contain specific and detailed provisions
2 necessary or desirable to implement the adopted comprehensive plan and shall at a minimum:
3 (a) Regulate the subdivision of land.
4 (b) Regulate the use of land and water for those land use categories included in the land use element and
5 ensure the compatibility of adjacent uses and provide for open space.
6 (c) Provide for protection of potable water wellfields.
7 (d) Regulate areas subject to seasonal and periodic flooding and provide for drainage and stormwater
8 management.
9 (e) Ensure the protection of environmentally sensitive lands designated in the comprehensive plan.

12 VI. PROCESS

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

19
20 The Planning Commission shall hold at least one public hearing. The Planning Commission shall review
21 the application, the reports and recommendations of the Department of Planning & Environmental
22 Resources and the Development Review Committee and the testimony given at the public hearing. The
23 Planning Commission shall submit its recommendations and findings to the Board of County
24 Commissioners (BOCC). The BOCC holds a public hearing to consider the adoption of the proposed
25 amendment, and considers the staff report, staff recommendation, Planning Commission
26 recommendation and the testimony given at the public hearing. The BOCC may adopt the proposed
27 amendment based on one or more of the factors established in LDC Section 102-158(d)(7).
28

29 VII. STAFF RECOMMENDATION

30 Approval

33 VIII. EXHIBITS

- 34
35 Exhibit 1 – DEM’s State Floodplain Management Office - Model Floodplain Management Ordinance
36 Exhibit 2 – Flood Resistant Provisions in the 7th Edition *Florida Building Code* (2020)
37 Exhibit 3 – HIGHLIGHTS OF ASCE 24-14 Flood Resistant Design and Construction
38 Exhibit 4 – FEMA Policy #104-008-03: Floodplain Management Requirements for Agricultural
39 Structures and Accessory Structures
40 Exhibit 5 – DEM’s State Floodplain Management Office - Florida Guidance for At-grade wet
41 floodproofed Accessory Structures in Flood Hazard Areas
42 Exhibit 6 – Marathon Floodplain Management Ordinance 2018-05
43 Exhibit 7 – Marathon Floodplain Management Ordinance 2021-06
44 Exhibit 8 – Layton Floodplain Damage Prevention Chapter 114 - Ordinance 2018-09-03
45 Exhibit 9 – Layton Floodplain Damage Prevention Ordinance 2021-04-01
46 Exhibit 10 – Key West Floodplain Management – Chapter 34 Article II
47 Exhibit 11 – Key Colony Beach Floodplain Management Article - Ordinance 2018- 456A
48 Exhibit 12 – Monroe County Resolution 193-2014 – Implementation Plan (Remedial Plan)