



MONROE COUNTY, FLORIDA  
MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

ORDINANCE NO. -2022

AN ORDINANCE BY MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADOPTING AMENDMENTS TO THE MONROE COUNTY CODE OF ORDINANCES CHAPTER 6 – BUILDINGS AND CONSTRUCTION, ARTICLE II – BUILDING CODE; AMENDMENTS ARE PROPOSED TO UPDATE THE PURPOSE AND SCOPE, ADD DEFINITIONS; ADDRESS THE ADMINISTRATION OF THE BUILDING DEPARTMENT INCLUDING THE BUILDING OFFICIAL’S AUTHORITY AND DUTIES (INCLUDING THE PROVISIONS OF CH. 122 OF THE MONROE COUNTY LAND DEVELOPMENT CODE (PART II OF THIS CODE) AS THE DESIGNATED FLOODPLAIN ADMINISTRATOR); UPDATE THE REFERENCES TO THE REQUIREMENTS OF THE FLORIDA BUILDING CODE; AND FOR CLARIFICATION AND OTHER PURPOSES; TO ADOPT TECHNICAL AMENDMENTS TO THE FLORIDA BUILDING CODE; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AMENDMENT TO AND INCORPORATION IN THE MONROE COUNTY CODE OF ORDINANCES; PROVIDING FOR TRANSMITTAL TO THE DEPARTMENT OF STATE AND FOR AN EFFECTIVE DATE.

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**WHEREAS**, Monroe County Code of Ordinances, Chapter 6 – Buildings and Construction, Article II – Building Code, govern the administration and enforcement of the *Florida Building Code* and associated technical construction standards and regulations within the unincorporated limits of the county; and

**WHEREAS**, the Monroe County Board of County Commissioners (BOCC) recognizes that the work of ordinance codification is an ongoing process that requires a continuing effort by various County officials and staff, and it is the goal of the BOCC to ensure that Monroe County Code of Ordinances Chapter 6 is kept current and of maximum use and clarity; and

**WHEREAS**, the Legislature of the State of Florida has, in Chapter 125 – County Government, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

**WHEREAS**, pursuant to Article 8 of the Florida Constitution and Section 125.66, Florida Statutes, Monroe County possesses the police powers to enact ordinances in order to protect the health, safety, and welfare of the County’s citizens; and

1           **WHEREAS**, the Federal Emergency Management Agency has identified special flood  
2 hazard areas within the boundaries of unincorporated Monroe County and such areas may be  
3 subject to periodic inundation which may result in loss of life and property, health and safety  
4 hazards, disruption of commerce and governmental services, extraordinary public expenditures for  
5 flood protection and relief, and impairment of the tax base, all of which adversely affect the public  
6 health, safety and general welfare, and  
7

8           **WHEREAS**, the Monroe County was accepted for participation in the National Flood  
9 Insurance Program on June 15, 1973 and the Monroe County Board of County Commissioners  
10 desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59  
11 and 60, necessary for such participation; and  
12

13           **WHEREAS**, the National Flood Insurance Program (NFIP) is a federally-subsidized flood  
14 damage insurance program administered by the Federal Emergency Management Agency (FEMA)  
15 enabling property owners in participating communities to purchase flood insurance in exchange  
16 for the community's adoption of floodplain management regulations to reduce future flood  
17 damages; and  
18

19           **WHEREAS**, the participating communities floodplain management regulations must meet  
20 or exceed the minimum administrative and technical requirements in the NFIP regulations (44  
21 CFR Part 59 and Part 60); and  
22

23           **WHEREAS**, Chapter 553, Florida Statutes, was adopted by the Florida Legislature to  
24 provide a mechanism for the uniform adoption, updating, amendment, interpretation and  
25 enforcement of a state building code, called the *Florida Building Code*; and  
26

27           **WHEREAS**, the Florida Division of Emergency Management (DEM), Bureau of  
28 Mitigation, State Floodplain Management Office developed a Model Floodplain Management  
29 Ordinance for communities, written explicitly to rely on the flood provisions in the *Florida*  
30 *Building Code*; and  
31

32           **WHEREAS**, since the 2010 edition, the flood provisions of the *Florida Building Code*  
33 meet or exceed the minimum NFIP requirements for buildings and structures; and  
34

35           **WHEREAS**, the Federal Emergency Management Agency (FEMA) approved the State's  
36 Model Floodplain Management Ordinance in 2013; and  
37

38           **WHEREAS**, the Monroe County Board of County Commissioners has determined that it  
39 is in the public interest to adopt the proposed floodplain management regulations (Chapter 122 of  
40 Land Development Code) that rely on and are coordinated with the *Florida Building Code*; and  
41

42           **WHEREAS**, amendments are necessary within Monroe County Code of Ordinances,  
43 Chapter 6 – Buildings and Construction, Article II – Building Code, to update the purpose and  
44 scope of Article II; update and add definitions; address the administration of the Building  
45 Department including the Building Official's authority and duties (including the provisions of Ch.  
46 122 of the Monroe County Land Development Code (part II of this Code) as the designated

1 Floodplain Administrator); update the unsafe buildings provisions; update the construction board  
2 of adjustment and appeals provisions; update the administrative appeals procedures; update  
3 variance procedures; update the provisions for permit exemptions during a declared a State of  
4 Local Emergency; update the building permit valuation provisions; update the provisions for  
5 inspections prior to issuance of certificate of occupancy, including updating the reference to the  
6 inspection requirements of section 110 of the *Florida Building Code*; update the provisions for a  
7 certificate of occupancy, including updating the reference to the requirements of section 111 of the  
8 *Florida Building Code*; and creating sections for **local amendments** to the *Florida Building Code*;  
9 and

10  
11 **WHEREAS**, Chapter 553, Florida Statutes, allows for local technical amendments to the  
12 *Florida Building Code* that provide for more stringent requirements than those specified in the  
13 Code and allows adoption of local administrative and local technical amendments to the *Florida*  
14 *Building Code* to implement the National Flood Insurance Program and incentives; and

15  
16 **WHEREAS**, Section 553.73, Florida Statutes, governs the adoption of local amendments to the  
17 *Florida Building Code*; and

18  
19 **WHEREAS**, the Monroe County Board of County Commissioners previously adopted a  
20 requirement with a limit to the size of enclosures below elevated dwellings (299 square foot  
21 enclosure limit) and requiring a V-Zone and Coastal A Zone Construction Certification Form, for  
22 buildings and structures in flood hazard areas prior to July 1, 2010 and, pursuant to Section  
23 553.73(5), Florida Statutes, is formatting that requirement to coordinate with the *Florida Building*  
24 *Code*; and

25  
26 **WHEREAS**, the Monroe County Board of County Commissioners is adopting a  
27 requirement to establish the minimum foundation requirements, increase the minimum elevation  
28 requirement (a 3-foot freeboard requirement for residential buildings and structures), require  
29 declarations of land restriction (nonconversion agreements) for enclosures below elevated  
30 buildings, and require the replacement of exterior mechanical, plumbing and electrical systems,  
31 equipment and components to be located at or above the base flood elevation identified on the  
32 FIRM that was effective when the building was originally permitted, for buildings and structures  
33 in flood hazard areas for the purpose of participating in the National Flood Insurance Program’s  
34 Community Rating System and, pursuant to Section 553.73(5), Florida Statutes, is formatting that  
35 requirement to coordinate with the *Florida Building Code*; and

36  
37 **WHEREAS**, the Monroe County Board of County Commissioners has determined that it  
38 is in the public interest to adopt the proposed local technical amendments to the *Florida Building*  
39 *Code* and the proposed amendments are not more stringent than necessary to address the need  
40 identified, do not discriminate against materials, products or construction techniques of  
41 demonstrated capabilities, are in compliance with section 553.73(4), Florida Statutes; and

42  
43 **WHEREAS**, on \_\_\_\_\_, the Monroe County Board of County Commissioners  
44 held a public hearing, , and provided for public comment and public participation in accordance  
45 with the requirements of state law and the procedures adopted for public participation in the  
46 planning process; and

1  
2       **WHEREAS**, recognizing that where an extant legislatively approved law is repealed by a  
3 subsequent legislative act that substantially reenacts that repealed extant law, the prior legislatively  
4 approved law and the subsequent legislative act shall be regarded as one continuous law  
5 uninterrupted in its operation, *see McKibben v. Mallory*, 293 So. 2d 48, 52-53 (Fla. 1974), *see also*  
6 *Goldenberg v. Dome Condo. Ass’n*, 376 So. 2d 37, 38 (Fla. 3<sup>rd</sup> DCA 1979), it is the express  
7 legislative intent and purpose of the BOCC, in relation to or in connection with subsequent  
8 administrative and judicial construction, that all recodified or reenacted provisions of Monroe  
9 County Code of Ordinances Chapter 6 shall be deemed to have been in operation continuously  
10 from their original enactment whereas the changes or substantial modifications are treated as  
11 amendments effective from the time they go into legal effect;

12  
13 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**  
14 **COMMISSIONERS OF MONROE COUNTY, FLORIDA:**

15  
16       **Section 1. Recitals.** The foregoing recitals are true and correct and are hereby incorporated  
17 as if fully stated herein.

18  
19       **Section 2.** The text of the Monroe County Code of Ordinances Chapter 6 – Buildings and  
20 Construction, Article II – Building Code is amended as shown and stated herein.. Proposed  
21 Amendments are shown with deletions ~~stricken through~~ and additions are underlined.

22  
23 **Chapter 6 - BUILDINGS AND CONSTRUCTION**

24  
25 **Sec. 6-1. - Moving of buildings.**

26       When any building is moved from any location within or from without the county, to any  
27 location within the unincorporated area of the county, the building shall immediately be made to  
28 conform to all provisions of the standard building code and the zoning ordinance of the county.  
29 The persons causing the building to be moved shall secure a building permit from the building  
30 department and shall post a performance bond of \$1,000.00, conditioned upon the building being  
31 made to conform to all codes of the county and this chapter, within six months from the date of  
32 issuance of the permits; the bond to be returned when all work has been completed in accordance  
33 therewith.

34  
35 **Sec. 6-2. - Construction trailers.**

36       A special permit may be granted for the placement of a construction trailer on a site where  
37 construction is being done, provided no human habitation shall be allowed therein, and the  
38 applicant furnishes the building department with an affidavit stating that such permit does not  
39 violate deed restrictions in the subdivision in which the trailer is to be placed. Such permit shall  
40 be for a duration of up to 120 days. If conditions so warrant, then one extension may be granted  
41 by the planning director. Any further extensions may be granted by the planning commission upon  
42 good cause shown.

43  
44 **Sec. 6-3. - Temporary construction staging areas.**

45       A special permit may be granted by resolution by the board of county commissioners (BOCC)  
46 to allow a property to be used as a construction staging area for an off-site project. The BOCC

1 shall hold a public hearing on the request for a temporary construction staging area and shall issue  
2 a resolution granting, granting with conditions or denying the request. The resolution shall take  
3 effect on the date of enactment by the BOCC.

4 (a) *Applicability.* A temporary construction staging area for an off-site project is a permitted  
5 activity in any land use (zoning) district, provided it is approved by a special permit and  
6 meets the criteria set forth in this section. This special permit shall approve the temporary  
7 construction staging area location and use and shall not override or substitute for any  
8 other provision of the Florida Building Code and Monroe County Code that require an  
9 additional type of building permit, certification or approval.

10 (b) *Criteria.* Approval of such a special permit shall be granted only if the following criteria  
11 are met:

12 (1) The temporary construction staging area shall serve a project being carried out in  
13 the vicinity of the construction staging area;

14 (2) The temporary construction staging area shall serve a project being carried out by  
15 a governmental agency;

16 (3) The temporary construction staging area shall not be located in a tier I designated  
17 area;

18 (4) The property subject to the request shall be posted and surrounding property owners  
19 within 300 feet shall be notified in writing at least 15 days prior to the BOCC public  
20 hearing, with the notice located so it shall be easily visible from all public streets and  
21 public ways abutting the property;

22 (5) Prior to establishment of the temporary construction staging area, a special building  
23 permit approving any associated temporary structure shall be issued in accordance  
24 with section 6-112;

25 (6) No clearing or filling shall occur to accommodate the temporary construction  
26 staging area;

27 (7) Other than fencing, no temporary structure associated with a temporary  
28 construction staging area shall be located in any required setback, unless the BOCC  
29 determines the temporary construction staging may occur temporarily within the  
30 setbacks to alleviate increased public expenses; avoid threats to public health and  
31 safety; or the project work cannot be readily performed otherwise; and

32 (8) The temporary construction staging area shall be compatible with existing uses on  
33 surrounding properties, as determined by the BOCC. If necessary, prior to issuance  
34 of a special permit allowing the temporary construction staging area, the BOCC may  
35 attach conditions to any special permit approval to a) avoid substantial harm to public  
36 health or safety; b) avoid substantial harm to, or impairment of the normal use of, a  
37 public place; and/or c) avoid substantial harm to the environment. Depending on the  
38 nature and anticipated duration of the use, as a condition of approval to the special  
39 permit, the board reserves the right to:

40 a. Provide a deadline for termination of the construction staging area;

41 b. Limit the hours of operation;

42 c. Limit the type of equipment and materials on the site;

43 d. Require fencing, landscaping and/or other screening to limit potential visual and  
44 noise impacts of the use on adjacent property owners;



- e. Provide for temporary setback variances to allow construction staging to occur temporarily within the setbacks, provided the adjacent property owners submit letters of no objections to the temporary variance; and
  - f. Require surface water management improvements to the affected site; and
- (9) The property shall be restored to its prior condition

Secs. 6-4—~~6-14 22.~~ Reserved.

**ARTICLE II. - BUILDING CODE**  
**DIVISION 1. - GENERALLY**

**Sec. 6-15 Purpose.** The purpose of this chapter shall be interpreted cumulatively with its intent, and shall be taken into account, granted substantial weight, and guide all interpretations and constructions of this article. The purpose of this chapter is to govern the administration and enforcement of the *Florida Building Code* and associated technical construction standards and regulation within the unincorporated limits of the county. The Board of County Commissioners legislatively finds that the purposes and intent of this article are to safeguard the public health, safety, and general welfare. All interpretations of this article shall in all proceedings and cases further, rather than impair, limit, restrict, or obstruct, the purposes of this article.

**Sec. 6-16. Scope.** The *Florida Building Code* shall be applicable to and govern all buildings and structures, and parts and portions thereof, and all devices and safeguards thereto, within the unincorporated limits of the county, except as specifically exempted under state statutes.

**Sec. 6-17 Intent.** The intent of this article shall be interpreted cumulatively with its purpose, and shall be taken into account, granted substantial weight, and guide all interpretations and constructions of this article. It is the intent of the Board of County Commissioners that the provisions and requirements of this article be strictly adhered to, and to accomplish the purposes of this article.

**Sec. 6-18 Construction and Interpretation.** In the interpretation and application of this article, all provisions herein shall be considered as minimum requirements and shall not be deemed to forfeit, waive, eliminate, limit, condition, qualify, or repeal any other powers granted to the County pursuant to Florida law. This article, being in the interest of the public health, safety, and welfare, and being necessary to safeguard and ensure the public health, safety, and welfare, shall be liberally construed to effect the intent and purposes hereof, and interpretation and construction of this article shall be construed in favor of Monroe County and such construction and interpretation shall be entitled to great weight in adversarial administrative proceedings, at trial, and on appeal.

**Sec. 6-19 Administrative Deference.** The Board of County Commissioners legislatively finds that the construction of this article by the primary county department or office charged with its administration, the County Building Department, shall be legally entitled to deference and great weight in adversarial administrative proceedings, at trial, and on appeal, and that such administrative interpretations should not be modified or overturned by an administrative hearing officer or court of competent jurisdiction unless clearly erroneous. If such administrative staff

1 interpretation is within the range of possible and reasonable interpretations, it is not clearly  
2 erroneous and should be affirmed.

3  
4 **Sec. 6-20 Effect of State and Federal Laws.** If a state or federal law, whether existing at the time  
5 of this article’s effective date or enacted after its effective date, which is applicable to and limits,  
6 prohibits, restricts, conditions, or qualifies the meaning, effectiveness, or operation of any  
7 provision or requirement herein, such provision or requirement of this article shall be interpreted,  
8 administered, and enforced to the maximum extent permitted by law.

9  
10 **Sec. 6-21 No Waiver or Estoppel.** The County’s delay or failure to enforce any provision  
11 contained in this article, however long continued, shall not be deemed a waiver or estoppel of the  
12 right for the County to enforce this article at any time thereafter.

13  
14 **Sec. 6-22 Severability.** If any provision of this article, or any portion thereof, is held to be invalid  
15 or unenforceable by any administrative hearing officer or court of competent jurisdiction, the  
16 invalidity or unenforceability of such provision, or any portion thereof, shall neither limit nor  
17 impair the operation, enforceability, or validity of any remaining portion(s) thereof, or of any other  
18 provision of this article. All remaining portion(s) thereof and all other provisions of this article  
19 shall continue unimpaired in full force and effect.

20  
21  
22 **Sec. 6-23. - Definitions.**

23 The following words, terms and phrases, when used in this article, shall be, except as  
24 specifically provided otherwise herein, the same as they have been defined in the *Florida Building*  
25 *Code* or, if not defined by the *Florida Building Code*, then the same as defined in the *Monroe*  
26 *County Land Development Code* (part II of this Code), or, if neither defined by the *Florida*  
27 *Building Code* nor by the *Land Development Code*, shall have such ordinarily accepted meaning  
28 as its context and the context of its provision’s structural placement imply. The following words,  
29 phrases, and terms shall have the following specific definitions as used herein ~~shall have the~~  
30 meanings ascribed to them in this section, except where the context clearly indicates a different  
31 meaning:

32 *Abandon or abandonment* means:

- 33 (1) Termination of a construction project by a contractor without just cause or proper  
34 notification to the owner including the reason for termination;  
35 (2) Failure of a contractor to perform work without just cause for 90 days; or  
36 (3) Failure to obtain an approved inspection within 180 days from the previous approved  
37 inspection.

38 ~~*Appraised value* means either:~~

- 39 ~~(1) One hundred and twenty percent of the assessed value of the structure as indicated by~~  
40 ~~the county property appraiser’s office; or~~  
41 ~~(2) The value as indicated in a certified appraisal from a certified appraiser.~~

42 ~~*Assessed value* means the value of real property and improvements thereon as established by~~  
43 ~~the county property appraiser.~~

44 *Authorized agent* means a person specifically authorized by the holder of a certificate of  
45 competency to obtain permits in his or her stead.

1 Building means any structure used or intended for supporting or sheltering any use or  
2 occupancy.

3 Building component means an element or assembly of elements integral to or part of a  
4 building.

5 Building Official means the officer or other designated authority charged with the  
6 administration and enforcement of the *Florida Building Code* and this code, or a duly authorized  
7 representative.

8 Building shell means the structural components that completely enclose a building, including,  
9 but not limited to, the foundation, structural frame, floor slabs, exterior walls and roof system.

10 Building system means a functionally related group of elements, components and/or  
11 equipment, such as, but not limited to, the electrical, plumbing and mechanical systems of a  
12 building.

13 Certificate of competency (certificate) means an official document evidencing that a person is  
14 qualified to engage in the business of contracting, subcontracting or the work of a specific trade.

15 Certificate of experience means an official document evidencing that an applicant has satisfied  
16 the work experience requirements for a certificate of competency.

17 Certificate of occupancy (CO) means an official document evidencing that a building satisfies  
18 the work requirements of the county for the occupancy of a building.

19 Certification means the act or process of obtaining a certificate of competency from the state  
20 through the review of the applicant's experience and financial responsibility as well as successful  
21 passage of an examination.

22 Certified contractor means any contractor who possesses a certificate of competency issued  
23 by the department of professional regulation of the state.

24 Change of occupancy means a change from one building code occupancy classification or  
25 sub-classification to another. This includes, but is not limited to, a change of use within an  
26 occupancy group.

27 Commercial building means any building, structure, improvement or accessory thereto, other  
28 than a one- or two-family dwelling.

29 ~~Cumulative construction cost means the sum total of costs associated with any construction~~  
30 ~~work done to a building or structure either at one time or at different times within a specified period~~  
31 ~~of time.~~

32 Demolition means the act of razing, dismantling or removal of a building or structure, or  
33 portion thereof, to the ground level.

34 Examination means an exam prepared, proctored and graded by a recognized testing agency  
35 unless otherwise implied in context or specifically stated otherwise.

36 Erodible Soils mean soil subject to wearing away and movement due to the effects of wind,  
37 water, or other geological processes during a flood or storm or over a period of years.

38 Fair market value, commercial, means the total cost of materials plus labor costs. The total  
39 cost of labor and materials shall be as indicated on a sworn professional actual cost breakdown,  
40 such as the original or a notarized copy of an original invoice of an arm's-length transaction; or,  
41 an estimate from a licensed contractor; or if no such invoice is available, the labor and materials  
42 shall be as calculated pursuant to the most recent edition of Means Construction Data or the  
43 ICC/Construction Costs Valuation manual. The terms "donated labor," "voluntary labor,"  
44 "donated material", and/or "gift material," and/or similar terms thereto, shall not be used to  
45 represent fair market value.



1 Fair market value, residential, means the total cost of materials plus labor costs. The total cost  
 2 of labor and materials shall be as indicated on the original or a notarized copy of an original invoice  
 3 of an arm's-length transaction; or, an estimate from a licensed contractor; or if no such invoice is  
 4 available, the labor and materials shall be as calculated pursuant to the most recent edition of  
 5 Means Construction Data or ICC/Construction Costs Valuation manual. The terms "donated  
 6 labor", "voluntary labor," "donated material", and/or "gift material," and/or similar terms thereto,  
 7 shall not be used to represent fair market value.

8 *FCILB* means the Florida Construction Industry Licensing Board.

9 *Imminent danger* means:

- 10 (1) Structurally unsound conditions of a structure or portion(s) thereof that is likely to cause  
 11 physical injury to a person entering the structure;  
 12 (2) Due to structurally unsound conditions, any portion of the structure is likely to fall,  
 13 collapse, be carried by the wind, or otherwise detach or move, and in doing so cause  
 14 physical injury, harm, or damage to a person on the property or to a person or property  
 15 nearby; or  
 16 (3) The condition of the property is such that it harbors or is inhabited by pests, vermin, or  
 17 organisms injurious to human health, safety, and welfare, the presence of which  
 18 constitutes an immediate hazard to a person or people in the vicinity.

19 *Inspection warrant* means a court order authorizing the Building Official or his or her  
 20 designee to perform an inspection of a particular property named in the warrant.

21 *Intensification of use* means an increase in capacity or number of units of a residential or  
 22 commercial building.

23 *Interior finish* means the preparation of interior spaces of a commercial building for the first  
 24 occupancy thereof.

25 *Licensed contractor* means a contractor certified by the state or the local jurisdiction who has  
 26 satisfied all state or local requirements to be actively engaged in contracting.

27 *Market value* means as defined in the floodplain regulations of part II of this Code.

28 *Natural Rock* means any naturally occurring aggregate of minerals or a body of  
 29 undifferentiated mineral matter formed into a rigid composition by exposure to varying degrees of  
 30 heat and/or pressure and belonging to one of the three main classes: igneous, sedimentary,  
 31 including limestone, and metamorphic.

32 *Nonconversion Agreement* means as defined in the floodplain regulations of part II of this  
 33 Code.

34 *Normal maintenance or ordinary minor repair work* means the repair or replacement of any  
 35 existing component if the replacement has the same size, capacity, technical characteristics and  
 36 location, as determined by the Building Official, and if the fair market value of the repair work  
 37 or replacement is less than \$2,500.00.

38 *Owner's agent* means a person, firm or entity authorized in an original writing executed by  
 39 the owner to act for or in place of the owner.

40 *Permit* means an official document authorizing performance of a specific activity regulated  
 41 by this chapter.

42 *Permit card or placard* means a document issued by the jurisdiction evidencing the issuance  
 43 of a permit and recording of inspections.

44 *Qualifying agent, primary*, means a person:

- 45 (1) Who possesses the requisite skill, knowledge, experience and certificate of competency;

- 1 (2) Who has the responsibility to supervise, direct, manage, and control the contracting
- 2 activities of the business organization with which he or she is associated;
- 3 (3) Who has the responsibility to supervise, direct, manage and control construction activities
- 4 on a job for which he or she has obtained a permit; and
- 5 (4) Whose technical and personal qualifications have been determined by investigation and
- 6 examination and is evidenced by his or her possession of a certificate of competency.

7 *Qualifying agent, secondary*, means a person:

- 8 (1) Who possesses the requisite skill, knowledge, experience and certificate of competency;
- 9 (2) Who has the responsibility to supervise, direct, manage and control construction activities
- 10 on a job for which he or she has obtained a permit; and
- 11 (3) Whose technical and personal qualifications have been determined by investigation and
- 12 examination and is evidenced by his or her possession of a certificate of competency.

13 *Reciprocity* means to accept a verified affidavit from any municipality or county of the state

14 that the applicant has satisfactorily completed a written examination in its jurisdiction equal in

15 content with the examination required by this chapter.

16 *Registered contractor* means a contractor who has officially registered with the department of

17 professional regulation of the state pursuant to fulfilling the competency requirements of the local

18 jurisdiction.

19 *Registration* means the act or process of registering a locally obtained certificate of

20 competency with the state, or the act or process of registering a state issued certificate of

21 competency with the county municipality.

22 *Remodeling* means work that changes the original size, configuration or material of the

23 components of a building.

24 *Residential building* means any one- or two-family building or accessory.

25 *Roofing* means the installation of roof coverings.

26 *Scour* means the removal of soil or fill material by the flow of flood waters. Flow moving past

27 a fixed object accelerates, often forming eddies or vortices and scouring loose sediment from the

28 immediate vicinity of the object. The term is frequently used to describe storm-induced, localized

29 conical erosion around pilings and other foundation supports, where the obstruction of flow

30 increases turbulence.

31 *Spa* means any constructed or prefabricated pool containing water jets.

32 *Special Flood Hazard Areas* means an area in the floodplain subject to a 1 percent or greater

33 chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A,

34 AO, A1 - A30, AE, A99, AH, V1 - V30, VE or V.

35 *Specialty contractor* means a contractor whose services do not fall within the categories

36 specified in F.S. § 489.105(3).

37 *Start of construction, building*, means the removal, disassembly, repair, replacement,

38 installation or assembly of the building, structure, building system or building components in

39 whole or parts thereof.

40 *Start of construction, site*, means the physical clearing of the site in preparation for foundation

41 working, including, but not limited to, site clearing, excavation, de-watering, pilings and soil

42 testing activities.

43 *Stop work order* means an order by the Bbuilding Oofficial, or his or her designee, that

44 requires the immediate cessation of all work and work activities described in the order.

1        *Structural component* means any part of a system, building or structure, loadbearing or  
 2 nonloadbearing, that is integral to the structural integrity thereof, including, but not limited to,  
 3 walls, partitions, columns, beams and girders.

4        *Structural work or alteration* means the installation or assembling of new structural  
 5 components into a system, building or structure. The term also includes any change, repair or  
 6 replacement of any existing structural component of a system, building or structure.

7        *Substantial completion* means where the construction work has been sufficiently completed  
 8 in accordance with the applicable local-city, state and federal codes, so that the owner can occupy  
 9 or use the project for the use for which it is intended.

10        *Value* means job cost.

11        V-Zone and Coastal A Zone Construction Certification Form means the Monroe County V-  
 12 Zone and Coastal A Zone Construction Certification Form for New Construction & Substantially  
 13 Improved/Damaged Structures as defined in the floodplain regulations of part II of this Code.

14 **Sec. 6-24. -- Purpose.**

15        ~~The purpose of this chapter is to govern the administration and enforcement of the Florida~~  
 16 ~~Building Code and associated technical construction standards and regulations within the~~  
 17 ~~unincorporated limits of the county.~~

18  
 19 **Sec. 6-25. -- Scope.**

20        ~~The Florida Building Code shall be applicable to all structures and buildings within the~~  
 21 ~~unincorporated limits of the county, except as specifically exempted under state statutes.~~

22  
 23 **Sec. 6-26. - Windload requirements.**

24        All major structures within the unincorporated limits of the county, except  
 25 mobile/manufactured homes, shall be designed pursuant to the *Florida Building Code*.  
 26

27 **Sec. 6-27. - Unsafe buildings.**

28 (a) *Definitions:* All buildings, structures, electrical, gas, mechanical or plumbing systems which  
 29 are unsafe, unsanitary, or do not provide adequate egress, or which constitute a fire or  
 30 windstorm hazard, or are otherwise harmful or dangerous to human life, or which in relation  
 31 to existing use, constitute a hazard to safety or health, shall be deemed to be unsafe structures  
 32 by the Building Official or his/her authorized designee, and a permit shall be obtained to  
 33 demolish the structure or where specifically allowed by this section, to bring the building into  
 34 compliance with the applicable codes as provided herein.

35 (b) *Physical criteria.*

36 (1) A building shall be deemed a fire or windstorm hazard and/or unsafe when:

- 37 a. There is an accumulation of debris or other material therein representing a hazard of  
 38 combustion.
- 39 b. The building condition creates hazards with respect to means of egress and fire  
 40 protection.

41 (2) A building, or a part or portion thereof, shall be deemed unsafe by the Building Official  
 42 or his/her authorized designee if:

- 43 a. There is a falling away, hanging loose or loosening of any siding, block, brick, or  
 44 other building material; or
- 45 b. There is a deterioration of the structure or structural parts; or

- 1 c. The building is partially destroyed; or  
 2 d. There is an unusual sagging, rippling, torsion, or leaning out of plumb of the building  
 3 or any parts of the building and such effect is caused by deterioration or over-  
 4 stressing; or  
 5 e. The electrical, plumbing or mechanical installations or systems create a hazardous  
 6 condition contrary to the standards of the *Florida Building Code* and the National  
 7 Electric Code; or  
 8 f. There is electrical service at or in the building or structure, without a permit having  
 9 been obtained as required by the *Florida Building Code*; or  
 10 g.f. An unsanitary condition exists by reason of inadequate, insufficient, or  
 11 malfunctioning sanitary facilities or waste disposal systems; or  
 12 h.g. There is no potable water service or electrical service; or  
 13 i.h. The construction, enlargement, alteration, repair or demolition of the building or  
 14 part thereof or the impact resistant coverings of the building or construction or the  
 15 installation of systems or components within the building or structure has been  
 16 commenced or completed without a permit having been obtained as required by the  
 17 *Florida Building Code* or where the permit has expired prior to appropriate  
 18 inspections and completion or when a building or structure is occupied prior to the  
 19 issuance of a certificate of occupancy or certificate of completion; or  
 20 j.i. The building or structure is vacant and abandoned, and covered at doors or windows  
 21 with materials not previously approved by the Bbuilding Official; or  
 22 k.j. The building or structure has been substantially damaged by the elements, acts of  
 23 God, fire, explosion or otherwise;  
 24 l. The building is being used illegally or improperly pursuant to ~~based on~~ the *Florida*  
 25 *Building Code*; or  
 26 i. A change in the existing use originally approved or a previously-approved  
 27 existing use has occurred without required permits, inspections, and/or  
 28 approvals; or  
 29 ii. A change in occupancy classification of a building or structure or portion  
 30 thereof has occurred that does not comply with the *Florida Building Code*; or  
 31 iii. Maintenance of conditions of occupancy or requirements of the existing  
 32 occupancy classification of a building or structure or a portion thereof does not  
 33 comply with the *Florida Building Code* from the time period when the building  
 34 was originally constructed or with the code in effect at the time of construction;  
 35 and  
 36 m.k. The building or part thereof meets the physical criteria of an unsafe structure set  
 37 forth above in Section (b)(1)(a) and/or (b) and/or Section (b)(2)(a)-(l), as determined  
 38 by the Building Official or Fire Marshall, with proper notice as defined in Chapter  
 39 6-27, Section (d). This provision does not supersede the authority of the Bbuilding  
 40 Official under the Florida Statutes or the *Florida Building Code*.

41 (c) *Abatement:*

- 42 (1) All unsafe buildings, structures or systems are hereby declared illegal and shall be abated  
 43 by repair and rehabilitation or demolition.  
 44 (2) All swimming pools or spas that contain stagnant water or do not conform with Section  
 45 424.2.17 of the Florida Building Code are deemed unsanitary and/or dangerous to human  
 46 life and public welfare. If the stagnant water is not removed and/or all repairs made and

1 brought into full compliance with the building code within a reasonable period of time,  
2 then these swimming pools or spas will be demolished.

3 (d) Notice. When the Building Official or his/her authorized designee has after inspection  
4 declared or deemed a building, structure, electrical, gas, mechanical or plumbing system to be  
5 unsafe, then the Building Official or his/her authorized designee shall issue ~~provide~~ a  
6 written unsafe declaration and/or notice of violation/notice of hearing specifying the unsafe  
7 physical criteria, the suggested methods for abatement or remediation, the time period allowed  
8 for the required abatement or remediation, and that the matter will be referred to code  
9 compliance and be prosecuted by the code compliance department if left uncured following  
10 expiration of after the time period prescribed by the Building Official for that particular  
11 declaration. The unsafe declaration and/or notice of violation/notice of hearing shall state that  
12 the specific details concerning the violations can be obtained in writing from the Building  
13 Official or his or her designee upon request. In addition, the notice will explain the right of  
14 appeal of the decision of the Building Official or his or her designee to applicable appellate  
15 tribunal, and advise that the jurisdictional time period to file an appeal is 30 days. The written  
16 unsafe declaration and/or notice of violation/notice of hearing shall be mailed to the owner of  
17 the property in question at either the address listed in the property appraiser's database as  
18 shown on the property record card for the parcel, or at the address listed in the tax collector's  
19 office for tax notices via first class mail. The unsafe declaration and/or notice of  
20 violation/notice of hearing shall also be affixed to the building concerned. The Building  
21 Official or his or her designee, in his or her discretion, also or alternatively may elect to publish  
22 a notice in a newspaper of general circulation once a week for two (2) consecutive weeks; the  
23 published notice shall contain the address of the subject property and the names of the owner  
24 and any interested party, and state that the subject property has been found unsafe and in  
25 violation of the Florida Building Code or this chapter and may be subject to demolition. If the  
26 unsafe physical criteria are is not abated or remedied within the designated reasonable period  
27 of time prescribed by the Building Official or his/her designee, then the matter shall be  
28 referred to the code compliance department for prosecution before the code compliance  
29 special magistrate. Upon expiration of the period of appeal provided in the unsafe declaration  
30 and/or notice of violation/notice of hearing, the Building Official may record an appropriate  
31 instrument in the Official Records of the Clerk of Court, indicating that the property is in  
32 violation of the Florida Building Code or this chapter. The recording of the unsafe declaration  
33 and/or notice of violation/notice of hearing shall constitute constructive notice of the violation  
34 to all concerned, subsequent purchasers, transferees, mortgagees, lessees, grantees, and all  
35 persons claiming or acquiring interest in the property. In the event that the violation(s) is  
36 corrected, the Building Official shall file proof of the same upon payment for all fees incurred  
37 by the building department. This provision does not supersede the authority of the Building  
38 Official under the Florida Statutes or the *Florida Building Code*.

39 (e) General.

- 40 (1) All buildings now existing or hereafter constructed or developed, and all parts and portions  
41 thereof, shall be continuously and uninterruptedly maintained in a safe condition, and all  
42 devices or safeguards that are required by the Florida Building Code or this chapter shall  
43 be continuously and uninterruptedly maintained in good working order in compliance with  
44 all applicable codes.
- 45 (2) The Building Official or his or her designee, on his or her own initiative or as a result of  
46 reports from others, shall examine or cause to be examined every building appearing or



- 1 reported to be unsafe, and if such is found to be an unsafe building as provided for in this  
2 section, the Building Official or his or her designee shall proceed as set forth in this section.
- 3 (3) A buildings meeting the criteria of an unsafe building set forth above in Section (b)(1)(a)  
4 or (b) and/or a criterion under Section (b)(2)(a)-(l), shall be presumed and deemed or  
5 declared unsafe and a permit shall be immediately obtained to demolish the building and  
6 remove it from the premises or where specifically allowed under the Monroe County  
7 Codes, the *Florida Building Code*, and the Monroe County Comprehensive Plan, to  
8 immediately bring the building into compliance with such Codes and Comprehensive Plan.
- 9 (4) Incomplete buildings commenced without a permit or for which the permit has expired, or  
10 completed buildings commenced without a permit or for which the permit has expired,  
11 prior to completion and no certificate of occupancy has been issued, shall be presumed and  
12 deemed or declared unsafe and a permit shall be immediately obtained to demolish the  
13 building and remove it from the premises or where specifically allowed under the Monroe  
14 County Codes, the *Florida Building Code*, and the Monroe County Comprehensive Plan,  
15 to immediately bring the building into compliance with such Codes and Comprehensive  
16 Plan.
- 17 (5) Buildings that are, or hereafter shall become, unsafe, unsanitary, or deficient, facilities with  
18 inadequate means of egress, or which constitute a fire or windstorm hazard, or are  
19 dangerous to human life or public welfare by reason of illegal or improper occupancy, use,  
20 or maintenance, or which have been substantially damaged by the elements, acts of God,  
21 fire, explosion or otherwise, shall be declared or deemed or declared unsafe buildings or  
22 structures and a permit shall be immediately obtained to demolish the building and remove  
23 it from the premises or where specifically allowed under the Monroe County Codes, the  
24 *Florida Building Code*, and the Monroe County Comprehensive Plan, to immediately bring  
25 the building into compliance with such Codes and Comprehensive Plan.
- 26 (6) All costs incurred pursuant to any of the provisions of this chapter or under the *Florida*  
27 *Building Code* shall be paid by the owner(s) or occupant(s) of the premises on which the  
28 violation occurred.
- 29 (7) The enforcing county department, including but not limited to the code compliance  
30 department and the building department, may institute a suit to recover such expenses  
31 against any liable person or may cause such expenses to be charged against the property  
32 on which the violation occurred as an enforceable lien.
- 33 (8) The action of the Building Official and/or Fire Marshal deeming or declaring a building to  
34 be unsafe shall not be construed as authorizing unpermitted or unapproved construction,  
35 development, additions, replacements, repairs, renovations, or demolition. All required  
36 permits and approvals must be obtained prior to the commencement of any such work.

37  
38 **Sec. 6-28. - Requirements not covered; liability of county or employees.**

39 Any requirements necessary for the strength, stability or proper operation of an existing or  
40 proposed building, structure, electrical, gas, mechanical or plumbing system, or for the public  
41 safety, health and general welfare, not specifically covered by the *Florida Building Code* or the  
42 other technical codes and regulations, or this chapter, shall be determined by the Building  
43 Official, or his or her authorized designee.  
44  
45  
46

1 **Sec. 6-29. - Permitting and inspections.**

2 (1) The obtainment of a building department inspection or approval does not discharge,  
3 exempt, waive, or otherwise release an applicant or owner from his or her duty to comply with any  
4 additional requirements of the Monroe County Codes or Monroe County Comprehensive Plan.  
5 Neither a Building Department inspection nor an approval issued solely by the Building  
6 Department shall constitute administrative action by or approval from the Planning and  
7 Environmental Resources Department.

8 (2) The inspection or permitting of any building, system or plan by the county under the  
9 requirements of the *Florida Building Code* shall not be construed in any court as a warranty of the  
10 physical condition of such building, system or plan or their adequacy. Neither the county nor any  
11 employee thereof shall be liable in tort for damages for any defect or hazardous or illegal condition  
12 or inadequacy in such building, system or plan, nor for any failure of any component of such, that  
13 may occur subsequent to such inspection or permitting, unless the employee of the county is found  
14 to have acted in bad faith or with malicious purpose in a manner exhibiting wanton and willful  
15 disregard of safety, health and welfare of the public.

16 (3) The Building Official, or his or her authorized designee, may void, rescind, suspend, or  
17 revoke a permit or approval issued under the provisions of this chapter in the case of any false  
18 statement or misrepresentation of fact in an application or on the plans on which the permit or  
19 approval was in whole or in part based, or if a permit has been otherwise fraudulently obtained, or  
20 erroneously issued.

21  
22 **Sec. 6-30. - Mobile/manufactured homes.**

23 The placement of mobile/manufactured homes shall be governed by F.A.C. ch. 15C.  
24

25 **Sec. 6-31. - Stop work orders.**

26 Upon notice from the Building Official, use or work on any building, structure, electrical,  
27 gas, mechanical or plumbing system that is being done contrary to the provisions of this Code, the  
28 Florida Building Code, or in a dangerous or unsafe manner, shall immediately cease such use or  
29 work. Such notice shall be in writing and shall be issued given to the owner of the property, or to  
30 his or her agent, and/or to the person doing the work, and shall state the conditions under which  
31 work may be resumed. Where an emergency exists, the Building Official shall not be required  
32 to give a written notice prior to stopping the work.  
33

34 **Sec. 6-32. - Working through a stop work order.**

35 If any person or entity is found by the contractors examining board to violate this chapter by  
36 continuing to perform work subsequent to the issuance of a stop work order/red tag and/or a cease  
37 and desist order, the contractors' examining board may take such action as it deems necessary and  
38 proper to cease such activity, up to, and including a six-month suspension of the permit pulling  
39 privileges of any contractor, including but not limited to subcontractor(s), performing such work.  
40

41 **Sec. 6-33. - Site debris.**

42 (a) The contractor and/or owner of any active or inactive construction project shall be responsible  
43 for the clean-up and removal of all construction debris or any other miscellaneous discarded  
44 articles prior to receiving final inspection approval.

- 1 (b) Construction jobsites must be kept clean, such that accumulation of construction debris must  
 2 not remain on the property or a period of time exceeding 14 days.
- 3 (c) All construction related debris and/or construction related materials, shall be kept in such a  
 4 manner as to prevent it from being spread by any other means.
- 5 (d) After a tropical storm watch or warning or a hurricane watch or warning is issued, all  
 6 construction related materials, including but not limited to, roof tiles, lumber, scaffolding and  
 7 debris shall be removed from the construction site, or secured in such a manner as to minimize  
 8 the danger of such materials causing projectile damage to persons or property due to a high  
 9 wind event. This prohibition shall continue until the tropical storm watch or warning or  
 10 hurricane watch or warning is lifted.

11  
 12 **Secs. 6-34—6-54. - Reserved.**

13  
 14 **DIVISION 2. - ADMINISTRATION**

15 **Sec. 6-55. - Building department.**

- 16 (a) *Organization and administration.* There is hereby established a department called the  
 17 Building Department headed by the Building Official. Upon recommendation of the  
 18 County Addministrator, the department shall be assigned to the division of county  
 19 government that the Board of County Commissioners determines appropriate. The  
 20 County Addministrator with the approval of the Board of County Commissioners shall  
 21 designate the Building Official.
- 22 (b) *Employee qualifications.* The Building Official shall be licensed as a building code  
 23 administrator by the state. All appointed or hired inspectors and plan examiners shall meet the  
 24 qualifications for licensing in the appropriate trade as established by the state.
- 25 (c) *Building official authority and duties.* In addition to the jurisdiction, authority and duties that  
 26 may be conferred upon the Building Official by other provisions of the Monroe County Codes,  
 27 the Building Official shall have authority to administer, interpret, and enforce provisions  
 28 of the *Florida Building Code*, ~~floodplain management regulations~~, and this chapter. Such  
 29 authority, jurisdiction, and duties shall include the following:
- 30 (1) To process building permit applications and issue, void, rescind, suspend, and revoke  
 31 building permits and/or applications;
  - 32 (2) To inspect sites, buildings and structures as required by this chapter, the *Florida Building*  
 33 *Code* and the Standard Unsafe Building Abatement Code;
  - 34 (3) To issue, void, rescind, suspend, and revoke certificates of occupancy and certificates of  
 35 completion;
  - 36 (4) To maintain building permits, financial, and other public records related to of the  
 37 department's affairs;
  - 38 (5) To establish such policies, and procedures and rules of procedure necessary for the  
 39 administration of his or her responsibilities under the *Florida Building Code* and this  
 40 chapter;
  - 41 (6) To provide a recording secretary for the purpose of keeping the board of adjustment and  
 42 appeals;
  - 43 (7) To apprise the Construction Board of Adjustment and Appeals of all facts and information  
 44 at his or her disposal with respect to matters brought before it;
  - 45 (8) To apprise the Contractors Examining Board of all facts and information at his or her  
 46 disposal with respect to matters brought before it;

- 1 (97) To be the official authoritative source to render interpretations of this chapter and the  
2 Florida Building Code;
- 3 (108) To enforce provisions of the Florida Building Code and this chapter and the provisions  
4 of Ch. 122 of the Monroe County Land Development Code (part II of this Code) as the  
5 designated Floodplain Administrator;
- 6 (119) To issue stop work orders;
- 7 (12) To issue cease and desist orders and/or cease and desist letters;
- 8 (13) To prevent any imminent threat of any violation of the Florida Building Code or this  
9 chapter;
- 10 (14) To prepare and submit petitions for declaratory statements to the Florida Building  
11 Commission;
- 12 (15) To prepare and submit requests for non-binding interpretations of the Florida Building  
13 Code to the Florida Building Commission and/or Building Officials Association of  
14 Florida;
- 15 (160) To conduct all other such duties and responsibilities as are otherwise required by the  
16 Florida Building Code and this chapter;
- 17 (174) To determine the extent of damage or destruction of nonconforming uses and structures,  
18 in cooperation with the Planning Director;
- 19 (18) To the extent such decision may substantively involve the Florida Building Code or this  
20 chapter, in his or her discretion, issue a concurrence with the Planning Director's  
21 decision to suspend consideration of any application for development approval during  
22 the pendency of a code compliance proceeding involving all or a portion of a parcel  
23 proposed for development;
- 24 (12) To review building permit applications for repair within areas of special flood hazard to  
25 determine that the proposed repair satisfies the requirements of the floodplain  
26 management provisions of the code;
- 27 (13) To review building permit applications for new construction or substantial improvement  
28 within areas of special flood hazard to ensure that the proposed construction (including  
29 prefabricated and mobile homes) satisfies the floodplain management requirements of  
30 the code;
- 31 (19) (14) To advise permittees that additional federal or state permits may be required, and if  
32 specific federal or state permits are known to have been issued, to require that true and  
33 correct complete copies of such permits be obtained and provided and maintained on  
34 file with the building permit application;
- 35 (20) Whenever the Building Official reasonably believes that the work for which a permit or  
36 approval has been issued is not being performed in conformity with plans,  
37 specifications, or descriptions, or approved plans are not being kept at the site, to take  
38 appropriate action authorized under the Florida Building Code, this chapter, or as  
39 otherwise provided for in the County Codes;
- 40 (15) To notify adjacent communities and the Florida Department of Community Affairs prior  
41 to any alteration or relocation of a watercourse, and to submit evidence of such  
42 notification to the Federal Emergency Management Agency;
- 43 (16) To ensure that maintenance is provided within the altered or relocated portion of a  
44 watercourse so that the flood carrying capacity is not diminished;
- 45 (17) To verify and record the actual elevation (in relation to mean sea level) of the lowest floor  
46 (including basement) of all new or substantially improved structures;

- 1 (18) To verify and record the actual elevation (in relation to mean sea level) to which the new  
 2 or substantially improved structures have been floodproofed;
- 3 ~~(19) In coastal high hazard areas, to review certifications obtained from registered~~  
 4 ~~professional engineers or architects that the structure is securely anchored to adequately~~  
 5 ~~anchored pilings or columns in order to withstand velocity waters and hurricane wave~~  
 6 ~~wash;~~
- 7 ~~(20) To make interpretations, as needed, as to the exact location of boundaries of the areas of~~  
 8 ~~special flood hazard;~~
- 9 ~~(21) When base flood elevation data has not been provided in accordance with chapter 122,~~  
 10 ~~to obtain, review and reasonably use any base flood elevation data available from a~~  
 11 ~~federal, state or other source in order to administer the floodplain management~~  
 12 ~~provisions of the code;~~
- 13 ~~(21)~~ (22) To provide the Board of County Commissioners and the Planning Commission  
 14 with reports and recommendations with respect to matters before such bodies, as  
 15 directed by the Board of County Commissioners, ~~growth management division~~  
 16 ~~director or P~~lanning Director, Assistant County Administrator, or the County  
 17 AAdministrator; and
- 18 ~~(22)~~ (23) To administratively review those building permits issued before October 1, 1998  
 19 and close said permits if no known factor exists to keep said permit open.
- 20 ~~(23)~~ Concealed Work. The Building Official may order portions of the structural frame of a  
 21 building and/or structure to be exposed for inspection when, in his or her opinion, there  
 22 are good reasons to believe that a building or a part or portion thereof, is in an unsafe or  
 23 dangerous condition or that there is willful or negligent concealment of a violation of  
 24 the *Florida Building Code* or this chapter.
- 25 ~~(24)~~ Illegal Change of Occupancy/Occupancy Use. Whenever any building or structure or  
 26 part or portion thereof is being used or occupied contrary to the provisions of the *Florida*  
 27 *Building Code* or this chapter, the Building Official shall order such use or occupancy  
 28 discontinued and the building or structure or part or portion thereof vacated. Such order  
 29 shall be by notice in writing, issued to the person or persons using, or causing to be used,  
 30 such building or structure or part or portion thereof. Use or occupancy shall not resume  
 31 until the violations for which particular notice was issued have all been cured.
- 32 (d) Defense of Building Official. The county shall defend the Building Official in any action  
 33 wherein the Building Official's act of administratively closing an open permit is challenged.  
 34 If said defense is unsuccessful, the county shall be responsible for any damages resulting  
 35 directly from the action against the Building Official.

36  
 37 **Sec. 6-56. - Construction board of adjustment and appeals.**

- 38 (a) *Jurisdiction, authority, and duties*. There is hereby established a board called the construction  
 39 board of adjustment and appeals. This board shall have the following jurisdiction, authority,  
 40 and duties:
- 41 (1) To consider and render decisions on appeals of administrative decisions and interpretations  
 42 of the Building Official or his or her authorized designee related to the *Florida Building*  
 43 *Code* and this chapter;
- 44 (2) To consider and grant variances to the *Florida Building Code*; and
- 45 (3) To approve cost approach appraisals for determination of fair market value pursuant to the  
 46 floodplain regulations under part II of this Code.



1 (4) This board shall not serve as the local construction regulation board. The contractors  
2 examining board shall serve as the local construction regulation board. The powers and  
3 duties of the contractors examining board are defined in chapter 6, division 3 of this Code.

4 (5) The failure or denial of a permit pursuant to or by reason of the planning director's  
5 determination of non-compliance with part II of this Code or with the Comprehensive  
6 Plan shall not be within the jurisdiction or scope of review of the board of adjustment  
7 and appeals. The failure or denial of a permit pursuant to or by reason of administrative  
8 actions, decisions, or interpretations regarding the floodplain management provisions of  
9 the county Codes shall not be within the jurisdiction or scope of review of the board of  
10 adjustment and appeals. No decision by the code compliance special magistrate, by the  
11 planning commission, by an administrative hearing officer, or by the historic preservation  
12 commission, shall be jurisdictionally reviewable or within the scope of review of the  
13 board of adjustment and appeals.

14 (b) *Membership, appointment, removal, terms, and vacancies:*

15 (1) The construction board of adjustment and appeals shall consist of ten members.

16 (2) The construction board of adjustment and appeals shall consist of all the members of the  
17 contractors examining board, with the exception of the two alternate members as provided  
18 for in section 6-263(6) plus one registered architect and one registered professional  
19 engineer appointed by the board of county commissioners.

20 (3) Terms of office, removal, vacancies, the regularity of meetings and administrative hearings  
21 shall be governed by the same rules and regulations as the contractors examining board.

22 (c) *Standard of Review.* An appeal under this section shall be considered an appeal to an  
23 administrative tribunal and shall not be a hearing de novo but shall be limited to appellate  
24 review of the record created before the Building Official. The appellant shall be required to  
25 demonstrate that the Building Official's, or his or her designee's, decision or interpretation is  
26 clearly erroneous, based upon clearly convincing record evidence. In resolving an appeal  
27 under this section, the Building Official's administrative interpretations of the Florida  
28 Building Code and this chapter, the county Building Department's administrative staff  
29 interpretations of the Florida Building Code and this chapter, and the county Planning and  
30 Environmental Resources Department's and the county Code Compliance Department's  
31 administrative staff interpretations of the Monroe County Codes are legally entitled to  
32 deference and great weight before the construction board of adjustment and appeals, at trial,  
33 and on appeal, and such administrative interpretations should not be modified or overturned  
34 unless clearly erroneous. If such administrative interpretation is within the range of possible  
35 and reasonable interpretations, it is not clearly erroneous and should be affirmed.

36 (d) *Standing.* An appeal may be initiated by the owner of a building, structure, or service system,  
37 who has received a final, written administrative decision or interpretation from the Building  
38 Official or his or her authorized designee, or by a person who, as a result of such a decision  
39 or interpretation, has suffered or will resultantly suffer a special injury differing in kind from  
40 that suffered by the community at large. For justiciability or standing purposes, the only  
41 interests covered by special injuries under this section are interests expressly protected by this  
42 chapter, the Florida Building Code, or health and safety interests. It shall be legally  
43 insufficient for justiciability or standing purposes for an appellant to allege a special injury  
44 that is only different in degree from the community at large and that is not different in kind  
45 from the community at large. Further, for justiciability or standing purposes, an alleged special  
46 injury must exceed in degree the general interest in a community good. For example, take the

1 following non-exhaustive scenarios: Neither party's claim that such a decision or  
 2 interpretation adversely affects his or her generalized interest in environmental or natural  
 3 resource protection, nor a party's claim that such a decision or interpretation adversely affects  
 4 his or her generalized interest in building code enforcement, shall be justiciable.

5 (e) *The Record.* The appellant's record shall close upon the date of the final administrative decision  
 6 or interpretation of the Building Official. The Building Official shall have up to 70 calendar  
 7 days from the date the appellant's notice of appeal is deemed properly and timely filed, and  
 8 complete, in which to serve all parties and the construction board of adjustment and appeals  
 9 all staff reports and materials that his or her final administrative decision or interpretation  
 10 relied upon.

11 (f) *Discovery.* No discovery shall be taken in an appeal under this section. No subpoenas may be  
 12 issued for documents or witnesses under this section.

13 (g) *Action of the Construction Board of Adjustment and Appeals.* The construction board of  
 14 adjustment and appeals shall consider all of its proceedings at a duly advertised public hearing  
 15 following receipt of all records concerning the subject matter of the appeal and following the  
 16 Building Official's arrangement for the scheduling of said hearing. Any person entitled to  
 17 initiate an appeal may, along with County staff and counsel, have an opportunity to address  
 18 the construction board of adjustment and appeals at that hearing and all parties to the appeal  
 19 shall have the opportunity to present evidence and create an appellate record before the  
 20 construction board of adjustment and appeals; the term "appellate record" shall not be  
 21 construed or interpreted to abrogate subsections (c) or (e) of this section. Any appeals before  
 22 the construction board of adjustment and appeals shall be based upon and restricted to the  
 23 record in conformity with subsections (c) and (e) of this section.

24 (h) *Decisions Appeal to Administrative Hearing Officer.* Any person participating as an appellant  
 25 or appellee may request an appeal of the decision of the construction board of adjustment and  
 26 appeal, under Chapter 102, Division 2 of Part II of this Code by filing the notice required by  
 27 that article within 30 days after the date of the written decision of the construction board of  
 28 adjustment and appeals. The construction board of adjustment and appeals shall, in every case,  
 29 reach a decision without unreasonable or unnecessary delay. Any hearing related to an appeal  
 30 or variance shall be conducted in accordance with procedures for quasi-judicial matters. Each  
 31 decision of the board shall also include the reason for the decision. If a decision of the board  
 32 reverses or modifies a refusal, order, or disallowance of the building official or varies the  
 33 application of any provision of this Code, the building official shall immediately take action  
 34 in accordance with such decision. Every decision shall be promptly filed in writing in the  
 35 office of the building official and shall be open to public inspection. A certified copy of the  
 36 decision shall be sent by mail or otherwise to the appellant and a copy shall be kept publicly  
 37 posted in the office of the building official for two weeks after filing. Every decision of the  
 38 board shall be final, subject however to such remedy as any aggrieved party might have at  
 39 law or in equity.

40  
 41 **Sec. 6-57. - Administrative Appeals and Procedures.**

42 (a) *Scope of appeals.* An appellant may file an appeal under Section 6-56(a)(1) The owner of a  
 43 building, structure or service system, or his duly authorized agent, may appeal an  
 44 administrative decision or interpretation of the building official relative to a building, structure  
 45 or service owned by such person related to the Florida Building Code to the construction board  
 46 of adjustment and appeals only if one of the following conditions is alleged to exist:

- 1 (1) The Building Official or his or her authorized designee rejected or refused to approve
- 2 the mode or manner of construction proposed to be followed or materials to be used in the
- 3 installation or alteration of a building, structure or service system;
- 4 (2) The provisions of the Florida Building Code or this chapter do not apply to this specific
- 5 case;
- 6 (3) An equally good or more desirable form of installation can be employed in any specific
- 7 case; or
- 8 (4) The true intent, purpose and meaning of the Florida Building Code, this chapter, or any of
- 9 the regulations thereunder have been misconstrued or incorrectly interpreted.

10 (b) Initiation of appeals. A notice of appeal in the form prescribed and approved by the Building

11 Official must be timely filed by the appellant with the county Building Department within 30

12 calendar days of the date of the decision or interpretation forming the subject of the appeal,

13 and must be timely served upon the County Attorney's Office within 30 calendar days of such

14 date. The notice of appeal shall be accompanied by a nonrefundable fee. No notice of appeal

15 shall be deemed complete without payment of required fees. The failure to timely and properly

16 initiate an appeal under this section shall constitute an irremediable jurisdictional waiver of

17 any rights to appeal or otherwise challenge or attack such decision or interpretation, for failure

18 to exhaust available administrative remedies. The waiver effectuated by failure to timely and

19 properly appeal within 30 calendar days of such decision or interpretation, shall also operate

20 as an irrevocable jurisdictional waiver of the right to appeal or otherwise challenge or attack

21 any portion of a subsequent administrative decision or interpretation, that in part or in whole

22 relies upon an earlier related administrative decision or interpretation, which was never timely

23 and properly appealed pursuant to this section.

24 (1) Upon receipt of a notice of appeal, the Building Department shall deem it complete, and

25 properly and timely filed, or shall deem it improperly or untimely filed, or incomplete. The

26 County shall have 30 working days to notify an appellant if its notice of appeal is untimely

27 or improperly filed or is incomplete. No further action shall be taken on the appeal

28 application unless all deficiencies are remedied. An untimely, improperly filed, or

29 incomplete notice of appeal shall not constitute a valid, legally effective, or legally

30 cognizable notice of appeal, and in no event shall the 30-day period to initiate a notice of

31 appeal under this section be tolled during any period in which a notice of appeal has been

32 deemed improperly filed, incomplete, or otherwise insufficient.

33 (2) If the Building Department determines the notice of appeal is complete, and has been

34 properly and timely filed, it shall notify the appellant. ~~The appellant shall complete and~~

35 submit a written notice of appeal to the building department within 30 days of the decision.

36 The notice of appeal shall be in a form approved by the building official and accompanied

37 by a nonrefundable fee. No notice of appeal shall be deemed complete without payment of

38 required fees.

39 (c) Briefs Procedures. Briefs, if any, shall be typed or printed pursuant to the same rules for

40 appellate briefs set forth in the Florida Rules of Appellate Procedure. The appellant's initial

41 brief shall be served upon the attorney of record for Monroe County and filed with the

42 Building Department within up to 30 days of notification that the appellant's notice of appeal

43 has been deemed complete and timely. The answer brief shall be served upon appellant within

44 up to 30 days of the filing and service of the initial brief. A reply brief, if any, must be served

45 upon the attorney of record for Monroe County and filed with the Building Department within

46 15 days of the filing and service of the answer brief. An argument, issue, or ground for relief

1 not raised in the initial brief is deemed abandoned and waived and may not be raised for the  
 2 first time in a reply brief.

3 (1) All briefs shall contain the following:

- 4 a. The style of the appeal;
- 5 b. The case number, if any;
- 6 c. The name of the party on whose behalf the brief is filed;
- 7 d. The name, address, e-mail address, and telephone number of the person filing the brief;
- 8 e. The electronic or non-electronic signature of the person filing the brief; and
- 9 f. A certificate of service that copies have been furnished to all other parties to the  
 10 appeal.

11 (2) All initial briefs shall, at minimum, contain the following:

- 12 a. A table of contents listing the issues presented for review, with reference to pages;
- 13 b. A table of citations with cases listed alphabetically, statutes and other authorities and  
 14 the pages of the brief on which each citation appears;
- 15 c. A statement of all disputed issues of material fact. If there are none, the initial brief  
 16 must so indicate;
- 17 d. A concise statement of the ultimate facts alleged, including the specific facts the  
 18 appellant contends warrant reversal of the Building Official's administrative decision  
 19 or interpretation; and
- 20 e. An exhaustive statement of all specific local Code sections, ordinances, state statutes,  
 21 or administrative rules the appellant contends require reversal of the Building  
 22 Official's decision or interpretation, including an explanation of how the alleged facts  
 23 relate to said Code sections, ordinances, state statutes, or administrative rules; and
- 24 f. A conclusion, of not more than one page, setting forth the precise relief sought.

25 (3) All reply briefs, if any, shall, at minimum, contain the following:

- 26 a. A table of contents listing the issues presented for review, with reference to pages;
- 27 b. A table of citations with cases listed alphabetically, statutes and other authorities and  
 28 the pages of the brief on which each citation appears; and
- 29 c. A conclusion, of not more than one page, setting forth the precise relief sought. Upon  
 30 receipt of a complete notice to appeal, the building official shall schedule a hearing to  
 31 consider the appeal at the next regularly scheduled meeting of the construction board  
 32 of adjustment and appeals. The building officials shall prepare a staff report and shall  
 33 forward in a timely manner the appellant's notice and staff report along with all records  
 34 relevant to the appeal to the construction board of adjustment and appeals prior to the  
 35 scheduled hearing.

36 (d) *Motions.* All motions shall be in writing and shall fully state the action requested and the  
 37 grounds relied upon. All motions must be filed with the Building Department and served on  
 38 all parties. Non-moving parties may, within 20 days of service of a motion, file a response in  
 39 opposition. No reply to the response shall be permitted. Motions other than motions to dismiss,  
 40 for a more definite statement, or to strike, shall include a statement that the movant has  
 41 conferred with all other parties of record and shall state as to each party whether the party has  
 42 any objection to the motion. The statement that the movant was unable to contact the other  
 43 party or parties before filing the motion must provide information regarding the date(s) and  
 44 method(s) by which contact was attempted.

45 (1) Motions to Dismiss.

1           a. A motion to dismiss may be filed no later than 30 days after the filing and service of  
2           the initial brief. The service of such a motion to dismiss shall alter the period of time  
3           by which the appellee must file and serve its answer brief so that if the construction  
4           board of adjustment and appeals denies the motion, the appellee's answer brief shall  
5           be filed and served within 30 days after appellee's attorney of record's receipt of the  
6           order denying the motion.

7           b. The appellee may file a motion to dismiss the appeal with no applicable time limit if  
8           the motion is based upon a lack of jurisdiction or incurable errors in the notice of  
9           appeal or appeal brief.

10          (2) Motions for More Definite Statement. If a brief is so vague and ambiguous that a party  
11          cannot reasonably be required to frame an answer brief or reply brief, that party may move  
12          for a more definite statement before interposing an answer brief or reply brief. The service  
13          of such a motion for a more definite statement shall alter the period of time by which the  
14          appellee must file and serve its answer brief so that if the construction board of adjustment  
15          and appeals denies the motion, the appellee's answer brief shall be served within 30 days  
16          after the appellee's attorney of record's receipt of the order denying the motion. The motion  
17          shall point out the defects complained of and the details desired. If the construction board  
18          of adjustment and appeals grants such motion, the amended brief shall be filed and served  
19          within 20 days after notice of the board of adjustment's action. If the motion is granted and  
20          the board of adjustment's order is not obeyed within 20 days after notice of the order or  
21          such other time as the hearing officer may fix, the appeal shall be dismissed with prejudice.

22          (3) Motion to Strike. A party may move to strike or the construction board of adjustment and  
23          appeals may strike redundant, immaterial, impertinent, scandalous, or non-record material  
24          from any brief or motion at any time.

25          (4) Motion for Extension of Time. Motions for extension of time shall be filed and served prior  
26          to the expiration of the deadline sought to be extended and shall state good cause for the  
27          request.

28          (5) Motion for Continuance. Motions for continuance of an appeal hearing may be granted for  
29          good cause shown. Except in cases of emergency, motions for continuance must be made  
30          at least five (5) business days prior to the date noticed for the hearing.

31          (6) Motion for Judicial Notice. The construction board of adjustment and appeals shall take  
32          judicial notice of any matter set forth below when a party properly motions for it and gives  
33          each adverse party timely written notice of the request, proof of which is filed with the  
34          county Building Department and served upon the opposing attorney of record, to enable  
35          the adverse party to prepare to meet the request and furnishes the court with sufficient  
36          information to enable it to take judicial notice of the matter.

37           a. Specifically identified (by pinpoint citation) duly enacted ordinances and resolutions  
38           of the Monroe County Board of County Commissioners.

39           b. Specifically identified (by pinpoint citation) provisions of the Monroe County Code of  
40           Ordinances and Monroe County Land Development Code.

41           c. Specifically identified (by pinpoint citation) objectives, policies, and provisions of the  
42           Monroe County Comprehensive Plan.

43           d. Specifically identified (by pinpoint citation) provisions in the Florida Building Code.

44           e. Specifically identified (by pinpoint citation) public statutory law and resolutions of the  
45           Florida Legislature and the Congress of the United States.



1           f. Specifically identified legislative staff reports and legislative materials prepared in  
2           connection with slip laws corresponding to public statutory law of the Florida  
3           Legislature and the Congress of the United States.

4           g. Specifically identified (by pinpoint citation) rules or regulations in the Code of Federal  
5           Regulations.

6           h. Specifically identified (by pinpoint citation) rules or regulations in the Florida  
7           Administrative Code.

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

16           (f) *Decisions on appeals.* In rendering its decision in accordance with the provisions of section 6-  
17           56(ge), the construction board of adjustment and appeals must find that at least one of the  
18           conditions in subsection (a) of this section have been met in order to overturn an administrative  
19           decision or interpretation of the Building Official or his or her designee.

20           ~~(e) *Waiver of rights.* Failure to file notice of appeal within the 30 calendar day appeal period shall~~  
21           ~~constitute a waiver of any rights under this chapter to appeal the decision or interpretation of~~  
22           ~~the building official.~~

## 23           **Sec. 6-58. - Variances.**

24           (a) *Purpose.* The purpose of this section is to establish procedures and standards for varying the  
25           application of provisions of the Florida Building Code.

26           (b) *Authority and scope of authority.* The construction board of adjustment and appeals shall have  
27           the authority to vary the application of any provision of the *Florida Building Code* in  
28           accordance with the standards in subsection (d) of this section. The construction board of  
29           adjustment and appeals shall not consider variance requests pertaining to floodplain  
30           management requirements which shall be reviewed pursuant to the provisions of Ch. 122 of  
31           the Monroe County Land Development Code (part II of this Code).

32           (c) *Application and procedures.* An application in the form prescribed and approved by the  
33           Building Official must be timely filed by the applicant with the Building Department within  
34           30 days of the date of the decision, determination, application, or interpretation of the *Florida*  
35           *Building Code* by the Building Official or Building Department staff person triggering or  
36           giving rise to the variance application. The application shall be accompanied by a  
37           nonrefundable fee. No application shall be deemed complete without payment of required  
38           fees. The failure to timely and properly file a variance application under this section shall  
39           constitute an irremediable jurisdictional waiver of any rights to appeal or otherwise challenge  
40           or attack such decision, determination, application, or interpretation of the *Florida Building*  
41           *Code*, for failure to exhaust available administrative remedies. The waiver effectuated by  
42           failure to timely and properly appeal within 30 calendar days of such action shall also operate  
43           as an irrevocable jurisdictional waiver of the right to appeal or otherwise challenge or attack  
44           any portion of a subsequent decision, determination, or interpretation of the Florida Building  
45           Code, that in part or in whole relies upon an earlier related decision, determination,  
46

1 application, or interpretation of the *Florida Building Code*, for which a variance application  
 2 was never timely and properly filed.

3 (1) Upon receipt of a variance application, the Building Department shall deem it complete,  
 4 and properly and timely filed, or shall deem it improperly or untimely filed, or incomplete.  
 5 The County shall have 30 working days to notify an applicant if the application is  
 6 improperly filed or is incomplete. No further action shall be taken on the variance  
 7 application unless all deficiencies are remedied. An untimely, improperly filed, or  
 8 incomplete variance application shall not constitute a valid, legally effective, or legally  
 9 cognizable variance application, and in no event shall the 30-day period to initiate an  
 10 application for variance relief under this section be tolled during any period in which a  
 11 variance application has been deemed improperly filed, incomplete, or otherwise  
 12 insufficient.

13 (2) If the Building Department determines the variance application is complete, and has been  
 14 properly and timely filed:

15 a. The Building Department shall notify the applicant, and the Building Official or his or  
 16 her designee shall arrange for a hearing to be scheduled before the construction board  
 17 of adjustment and appeals;

18 b. Within sixty (60) days of receipt of a complete and properly and timely filed application  
 19 for a variance under this section, the Building Official and/or his or her designee(s)  
 20 shall review the application, and file a Report and Recommendation with the  
 21 construction board of adjustment and appeal. The same shall be served upon the  
 22 applicant. The variance applicant may file a written objection to the Reports and  
 23 Recommendations of the Building Official and/or his or her designee(s) within 30  
 24 calendar days of the date of filing of the Report(s) and Recommendation(s).

25 ~~The applicant shall file a request for a variance along with a nonrefundable fee to the building~~  
 26 ~~department on a form approved by the building official. The application for a variance is not~~  
 27 ~~complete without payment of the required fees. The building official shall schedule a hearing~~  
 28 ~~to consider the applicant's request at the next regularly scheduled meeting of the construction~~  
 29 ~~board of adjustment and appeals. The building official shall prepare a staff report with~~  
 30 ~~recommendations and forward in a timely manner the applicant's request and staff report along~~  
 31 ~~with all records relevant to the request to the construction board of adjustment and appeals~~  
 32 ~~prior to the scheduled hearing.~~

33 (d) *Decisions on variance requests.*

34 (1) In rendering its decision in accordance with the provisions of section 6-56(ge), the  
 35 construction board of adjustment and appeals shall only grant a variance if it finds that  
 36 enforcement of the *Florida Building Code* to this specific situation would do manifest  
 37 injustice and would be contrary to its ~~intent, text, spirit~~ and purpose, and the public interest,  
 38 and if it also finds all of the following:

39 a.~~(1)~~ Special conditions and circumstances exist that are peculiar to the building, structure or  
 40 service system involved and that are not applicable to others;

41 b.~~(2)~~ The special conditions and circumstance do not result from the action or inaction of the  
 42 applicant;

43 c.~~(3)~~ Granting the variance requested will not confer on the applicant any special privilege  
 44 that is denied by the *Florida Building Code* to other buildings, structures or service  
 45 systems;

1 d.(4) The variance granted is the minimum variance that will make possible the reasonable  
2 use of the building, structure or service system; and

3 f.(5) The grant of the variance will be consistent with the text, ~~in harmony with the general~~  
4 intent and purpose of this Code and will not be detrimental to the public health, safety  
5 and general welfare.

6 (2) The applicant carries the initial legal and evidentiary burden to demonstrate compliance  
7 with the County's Codes and *Florida Building Code*, and to support its application. The  
8 applicant's evidentiary burden shall be to prove all material factual allegations by clear and  
9 convincing evidence.

10 (3) In resolving an application under this section, the Building Official's administrative  
11 interpretations of the *Florida Building Code* and this chapter, the Building Department's  
12 administrative staff interpretations of the *Florida Building Code* and this chapter, and the  
13 Planning and Environmental Resources Department's and the Code Compliance  
14 Department's administrative staff interpretations of the Monroe County Codes are legally  
15 entitled to deference and great weight before the construction board of adjustment and  
16 appeals, at trial, and on appeal, and such administrative interpretations should not be  
17 modified or overturned unless clearly erroneous. If such administrative interpretation is  
18 within the range of possible and reasonable interpretations, it is not clearly erroneous and  
19 should be affirmed.

20 (e) Limitations. When the construction board of adjustment and appeals considers whether to grant  
21 a variance, the following factors shall not be considered material or relevant to the board of  
22 adjustment and appeals' decision:

23 (1) The physical disabilities or handicaps and health of the applicant or members of his or her  
24 family;

25 (2) The domestic difficulties of the applicant or members of his or her family;

26 (3) The financial difficulty of the applicant in complying with this chapter or with the *Florida*  
27 *Building Code*;

28 (4) The difficulty of marketing, advertising, or selling the property, building, or structure;

29 (5) The uses, occupancies, types, configuration, value, elevation, or materials of surrounding  
30 or nearby buildings or structures;

31 (6) Any difficulty related to a codified law, rule, regulation, or matter of record, which the  
32 applicant or members of his or her family, were on actual or constructive notice of prior to  
33 acquiring the property, and could therefore have been avoided, or which may be  
34 characterized as a self-created hardship;

35 (7) Non-unique or non-peculiar characteristics of the applicant's property, building, or  
36 structure.

37 (f) Variance conditions. In granting the variance, the construction board of adjustment and appeals  
38 may prescribe a reasonable time limit within which the action for which the variance is  
39 required shall be commenced or completed or both. In addition, the board may prescribe  
40 appropriate conditions and safeguards in conformity with the Florida Building Code.  
41 Violation of the conditions of a variance shall be deemed a violation of this chapter and the  
42 Florida Building Code.

43 (g) Appeal to Administrative Hearing Officer. The applicant or the County may request an appeal  
44 of the decision of the construction board of adjustment and appeal, under Chapter 102,  
45 Division 2 by filing the notice required by that article within 30 days after the date of the  
46 written decision of the construction board of adjustment and appeals.

1  
2 **Sec. 6-59. - Right of entry.**

- 3 (a) *Inspections.* Whenever necessary to make an inspection to enforce any of the provisions of  
4 the *Florida Building Code*, or whenever the Bbuilding Oofficial or his or her authorized  
5 designee has reasonable cause to believe that there exists in any building or structure or upon  
6 any premises any condition or code violation that makes such building, structure, premises,  
7 electrical, gas, mechanical or plumbing systems unsafe, dangerous or hazardous, the  
8 Bbuilding Oofficial or his or her authorized designee may enter such building, structure or  
9 premises at all reasonable times to inspect the same or to perform any duty imposed upon the  
10 Bbuilding Oofficial by the *Florida Building Code*. If such building, structure or premises are  
11 occupied, he or she shall first present proper credentials and request entry. If such building,  
12 structure, or premises are unoccupied, he or she shall first make a reasonable effort to locate  
13 the owner or other persons having charge or control of such and request entry. If entry is  
14 refused, the Bbuilding Oofficial or his or her authorized designee shall have recourse to every  
15 remedy provided by law and equity to secure entry.
- 16 (b) *Prohibition on entry.* When the Bbuilding Oofficial shall have first obtained a proper  
17 inspection warrant or other remedy provided by law or equity to secure lawful entry, no owner  
18 or occupant or any other persons having charge, care or control of any building, structure, or  
19 premises shall fail or neglect, after proper request is made as herein provided, to permit prompt  
20 entry therein by the Bbuilding Official or his or her authorized designee for the purpose of  
21 inspection and examination pursuant to the *Florida Building Code* and this chapter.

22  
23 **Secs. 6-60—6-76. - Reserved.**

24  
25 **DIVISION 3. - PERMITS, INSPECTIONS AND CERTIFICATES OF OCCUPANCY**

26  
27 **Subdivision I. - In General**

28  
29 **Sec. 6-77. - Certificate of competency required.**

30 It shall be unlawful for any person or firm to engage in the business or act in the capacity of a  
31 contractor, subcontractor, master, journeyman or maintenance personnel, as hereinafter defined,  
32 anywhere within the unincorporated areas of this county without a current valid certificate of  
33 competency issued by either the county or by the state.

34  
35 **Sec. 6-78. - Tests for product compliance.**

36 For products not covered under the statewide product evaluation and approval system, the  
37 Bbuilding Oofficial or his or her authorized designee may require tests or test reports as proof of  
38 compliance. Required tests are to be made at the expense of the owner, or his or her agent, by an  
39 approved testing laboratory or other approved agency.

40 **Secs. 6-79—6-99. - Reserved.**

41  
42  
43 **Subdivision II. - Permits**

44  
45 **Sec. 6-100. - Permits required.**

1 (a) *Applicability.* A permit shall be required for all work shown in the following table, except  
 2 where specifically exempted this section.  
 3

<i>Work Requiring a Permit</i>	<i>Residential Exceptions*</i>
<i>Site preparation including: land clearing, placements of fill, excavation, and blasting; however, no permit for site preparation may be issued except in conjunction with the establishment of a use or structure allowed in the land use district.</i>	<i>None. However, no fee (including education; contractor investigation; or tech fees) shall be charged for invasive exotic vegetation removal if permit is not classified as clearing and grubbing.</i>
Removal of invasive exotic vegetation	A permit is not required for the removal of ten or fewer stems of invasive exotic vegetation on parcels with a lawfully established principal use; however, this exemption shall not apply if the removal is part of a larger clearing operation undertaken in segments within any one calendar year, whether by the same or different contractors and/or the property owner or if undertaken in conjunction with any construction.
Demolition	<del>None. Residential demolition where the fair market value of the demolition work is less than \$2,500.00 and all pertinent utilities have been properly disconnected.</del>
Tie downs of habitable structures	None
Signs	Those signs that are specifically exempt from permit requirements pursuant to part II of this Code; however, in no case shall a sign be exempt if its installation represents a threat to life and safety.
Fences	None
Sheds	None. Effective July 1, 2013, sheds are no longer exempt from permitting per this Section.
Chickees not constructed by Miccosukee or Seminole Indians	None
Any new construction and remodeling work of principal and accessory structures	Interior remodeling where the fair market value of such work is less than \$2,500.00 and there is no change in the original size or configuration.
	Exterior and interior painting of single- and two-family residential buildings.
	Installation of carpeting and floor coverings in single- and two-family residential buildings that have previously been inhabited, if the fair market value of the work is less than \$5,000.00.
	Normal maintenance or ordinary minor repairs where the fair market value of such work is less than \$2,500.00.
All work in the electrical, mechanical, and plumbing trades	Normal maintenance or ordinary minor repairs where the fair market value of such work is less than \$2,500.00.



	The installation of satellite antennas and microwave receiving antennas that do not exceed one meter in diameter but only where mounted on existing buildings or structures.
All work subject to the floodplain management requirements of <u>the Florida Building Code and</u> part II of this Code	Normal maintenance or ordinary minor repairs where the fair market value of such work is less than \$2,500.00.
Resource extraction activities (as defined in part II of this Code)	None
Any work involving life safety	None

1 \*Note: Notwithstanding the exceptions set forth herein, permits will always be required for new work  
 2 involving electrical, mechanical, plumbing or any improvements subject to floodplain regulations; and if  
 3 the construction, repair, remodeling or improvement work is a part of a larger or major operation, whether  
 4 undertaken by the same or different contractor. NO EXCEPTIONS apply to work conducted below base  
 5 flood elevation and/or subject to the floodplain management requirements of the Florida Building Code  
 6 and the Monroe County Codes to buildings or structures located within a Coastal Barrier Resource System  
 7 (CBRS) or structures located within flood zone AE or flood zone VE. All residential work that is exempt  
 8 from Monroe County permitting shall still comply with the *Florida Building Code*, this chapter, and part II  
 9 of this Code and shall be subject to code compliance.

10  
 11 (b) *Separate permit required.* A separate permit shall be required for each principal structure and  
 12 any dock, seawall, and riprap accessory structure.

13 (c) *Blanket invasive exotic removal permit.* An annually renewable blanket permit for the removal  
 14 of invasive exotic vegetation is available to not-for-profit conservation agencies as approved  
 15 by the county biologist.

16 (d) *Permit exemptions for a Hurricane Wilma event with declared a State of Local Emergency.*  
 17 Notwithstanding the provisions of subsection (a) of this section, the following work shall be  
 18 exempted from requiring a permit prior to the time periods specified below:

19 (1) No permit shall be required where imminent danger to life or safety exists or to prevent  
 20 further property damage caused by a Hurricane Wilma. Property owners may make  
 21 necessary repairs to the minimum extent necessary without a permit; however,  
 22 photographs should be taken before and after the necessary repairs for inclusion with  
 23 subsequent permit applications, as necessary. This exemption from the permitting  
 24 requirements of this chapter shall be for a period of 60 days based a resolution approved  
 25 by the Board of County Commissioners (BOCC) from the effective date of the ordinance  
 26 from which this section is derived. The permit exemption duration may only be extended  
 27 at the discretion of the BOCC by an additional resolution.

28 (2) No permit shall be required for any residential work involving the replacement of 300  
 29 square feet or less of storm damage roof shingle and underlayment. This exemption from  
 30 the permitting requirement of this chapter shall be for a period of 60 days based a  
 31 resolution approved by the Board of County Commissioners (BOCC) from the effective  
 32 date of the ordinance from which this section is derived. The permit exemption duration  
 33 may only be extended at the discretion of the BOCC by an additional resolution.

34 (3) No permit shall be required for any work involving the demolition/removal of dry wall,  
 35 cabinet and vanities, heating/cooling and electrical systems, and floor coverings in  
 36 flooded structures, and demolition of storm damaged accessory structures or docks,  
 37 seawalls, and lifts. This exemption from the permitting requirement of this chapter shall

1 be for a period of 90 days based a resolution approved by the Board of County  
 2 Commissioners (BOCC) from the effective date of the ordinance from which this section  
 3 is derived. The permit exemption duration may only be extended at the discretion of the  
 4 BOCC by an additional resolution.

- 5 (e) *Miccosukee and Seminole chickee huts.* Chickees constructed by the Miccosukee Tribe of  
 6 Indians or the Seminole Tribe of Florida require a land development permit. The term  
 7 "chickee" means an open-sided wooden hut that has a thatched roof or palmetto or other  
 8 traditional materials, and that does not incorporate any electrical, plumbing, or other non-  
 9 wood features. Chickees shall comply with part II of this Code and shall be subject to code  
 10 compliance.

11  
 12 **Sec. 6-101. - Building permit application process.**

- 13 (a) *Application.* An applicant for a building permit shall submit a completed application on a form  
 14 prescribed and approved by the Bbuilding Oofficial along with a nonrefundable fee, if  
 15 required by this chapter, and any other drawings, diagrams, and materials required by the  
 16 Bbuilding Oofficial to ensure compliance with the *Florida Building Code* and this chapter.  
 17 The application shall be properly executed signed by the owner of the property or his or her  
 18 authorized agent. No application shall be accepted for processing that is not deemed complete,  
 19 legally sufficient, and that includes payment of all required fees, without the express written  
 20 approval of the Bbuilding Oofficial.  
 21 (b) *Agents for owner builders.* In accordance with F.S. ch. 489, an agent may not apply for, nor be  
 22 issued a permit on behalf of an owner builder.  
 23 (c) *Permit issuance.* A building permit shall only be issued if the Bbuilding Oofficial finds that it  
 24 is consistent with the *Florida Building Code* and this chapter and is compliant with part II of  
 25 this Code, as determined by the Pplanning Ddirector.  
 26 (d) *Permit conditions.* The Bbuilding Oofficial may place conditions on a permit as are necessary  
 27 to ensure development is carried out in compliance with all applicable laws and regulations.  
 28 Violation of a permit condition shall be constitute a violation of this chapter by operation of  
 29 law.  
 30 (e) *Inspection prior to issuance of a permit.* Before issuing a permit, the Bbuilding Oofficial may  
 31 examine or cause to be examined any building, electrical, gas, mechanical or plumbing system  
 32 for which an application has been received for a permit to enlarge, alter, repair, move,  
 33 demolish, install or change the occupancy. He or she, or his or her authorized designee, shall  
 34 inspect all buildings, structures, electrical, gas, mechanical and plumbing systems, from time  
 35 to time, during and upon completion of the work for which a permit was issued. He or she, or  
 36 his or her designee, shall make a record of every such examination and inspection and of all  
 37 violations of the technical codes.

38  
 39 **Sec. 6-102. - Permit application time limitations.**

- 40 (a) *Time limitations on permit application.* Unless the permit has been issued or the approved  
 41 permit application has been entered into the permit allocation system process as provided for  
 42 under part II of this Code, an application for a permit shall be deemed to have been abandoned  
 43 and become null and void six months after the date of filing for the permit, except as otherwise  
 44 provided for in this chapter. A one-time extension for a period of not more than 90 days may  
 45 be authorized by the Bbuilding Oofficial provided that the extension is requested in writing  
 46 along with a nonrefundable fee.

- 1 (b) *Notification of ready permit.* The building department shall notify the permit applicant for  
 2 principal structures that the permit is ready to be issued (the "ready permit"). In the case of  
 3 applications within the permit allocation system, as governed by part II of this Code,  
 4 notification shall be by certified mail to the name and address given by the applicant on the  
 5 application. For all other permit applications, notice may be verbal or written as appropriate.  
 6 (c) *Expiration of ready permits.* In the case of permit applications within the permit allocation  
 7 system, ready permits that are not picked up within 60 days of the notification by certified  
 8 mail shall automatically expire and become null and void. Except for demolition permits, all  
 9 other permits that are ready but have not been picked up shall automatically expire in  
 10 accordance with the provisions of subsection (a) of this section. In either case, to renew the  
 11 expired permit a new building permit application together with appropriate nonrefundable fees  
 12 must be submitted to the building department for approval.  
 13

#### 14 **Sec. 6-103. - Issued permits.**

- 15 (a) *Permit intent.* A permit issued shall be construed to be a license to proceed with the work and  
 16 not as authority to violate, cancel, alter or set aside any of the provisions of the *Florida*  
 17 *Building Code* ~~or and~~ other technical codes or of the Monroe County Codes. Nor shall issuance  
 18 of a permit prevent the Building Official from thereafter requiring a correction of errors in  
 19 plans, construction, or violations of ~~this the~~ the Florida Building Code or this chapter.  
 20 (b) *Permit time limitations.* Every permit issued shall become null and void unless the work  
 21 authorized by such permit is commenced within six months after its issuance, or if the work  
 22 authorized by such permit is suspended or abandoned for a period of six months after the time  
 23 the work is commenced. Work is considered commenced if it has received an approved initial  
 24 inspection pursuant to permit requirements or an approved temporary electrical inspection.  
 25 Any valid permit, for which construction has commenced, must progress in a timely fashion.  
 26 The only method by which timely valid progress of authorized work may be demonstrated is  
 27 through the building department's having performed and approved a required inspection on  
 28 the building permit display card within 180 days measured from either:  
 29 (1) As to the initial inspection, the date work was required to begin; or  
 30 (2) As to inspections subsequent to the initial inspection, from the date of the last performed  
 31 and approved required inspection on the display card.  
 32 (c) *Reserved.*  
 33 (d) *Failure to obtain inspections.* Failure to obtain an approved inspection within 180 days of the  
 34 previous approved inspection shall constitute suspension or abandonment that shall render the  
 35 permit null and void and/or expired. Any work completed without an approved inspection  
 36 may be subject to code compliance proceedings.  
 37 (e) *Extensions.* After work is commenced, a one-time only extension of time for a period of not  
 38 more than 180 days, may be allowed by the Building Official for the permit, provided the  
 39 extension is requested in writing and justifiable cause is demonstrated prior to the expiration  
 40 date. Any extension request shall be accompanied by a nonrefundable fee.  
 41

#### 42 **Sec. 6-104. - Revocation of permits.**

43 The Building Official may suspend, void, rescind, or revoke any building permit under any  
 44 one of the following circumstances:

- 45 (1) A materially false statement is contained in the application or plans for which the permit  
 46 was issued;

- 1 (2) Work is undertaken outside the scope or contrary to the conditions of the building permit;  
2 or
- 3 (3) The permit was issued in error and, in the opinion of the planning director, the Bbuilding  
4 Official, or the fire marshal, the error would result in a threat to the health, safety or  
5 welfare of the public; or;
- 6 (4) On a basis authorized under the Florida Building Code or this chapter.

7  
8 **Sec. 6-105. - Permit applications for hazardous occupancies.**

9 The Bbuilding Official, or his or her authorized designee, may require that any application  
10 for a permit involving a hazardous occupancy shall contain:

- 11 (1) A general site plan drawn at a legible scale that shall include, but not be limited to, the  
12 location of all buildings, exterior storage facilities, permanent accessways, evacuation  
13 routes, parking lots, internal roads, chemical loading areas, equipment cleaning areas,  
14 storm and sanitary sewer accesses, emergency equipment and adjacent property uses. The  
15 exterior storage areas shall be identified with the hazard classes and the maximum  
16 quantities per hazard class or hazardous materials stored; and
- 17 (2) A building floor plan drawn to a legible scale, that shall include, but not be limited to, all  
18 hazardous materials storage facilities within the building and shall indicate rooms,  
19 doorways, corridors, exits, fire-rated assemblies with their hourly rating, location of  
20 liquid-tight rooms, and evacuation route. Each hazardous materials storage facility shall  
21 be identified on the plan with the hazard classes and quantity range per hazard class of  
22 the hazardous materials stored.

23  
24 **Sec. 6-106. - Mobile/manufactured homes plan review criteria.**

25 Building permit applications submitted for placement of mobile/manufactured homes shall  
26 contain, but not necessarily be limited to, the following information required by the Bbuilding  
27 Official for plans review:

- 28 (1) Site requirements: setback/separation and location of on-site wastewater treatment  
29 facilities;
- 30 (2) Structural: wind zone, flood hazard area, anchoring, and blocking;
- 31 (3) Mechanical: exhaust systems, including clothes dryer and kitchen equipment exhausts;  
32 and
- 33 (4) Electrical: exterior disconnect location.

34  
35 **Sec. 6-107. - Reserved.**

36  
37 **Sec. 6-108. - Fees.**

- 38 (a) *Purpose.* The purpose of this section is to establish the authority, schedule, and exemptions for  
39 permitting and related fees.
- 40 (b) *Authority and fee schedule.* Except as specifically established by this chapter, the board of  
41 county commissioners may by resolution establish a fee schedule for, but not limited to, permit  
42 applications, permits, plans examination, certificates of competency, re-inspections, permit  
43 renewals, administrative fees, variance requests, and administrative appeals.
- 44 (c) *Required.* Except as authorized by this chapter, no permit shall be issued without payment of  
45 all appropriate fees. Where a nonrefundable application fee is charged, the fee may be applied

1 to off-set the total permit fee at the time the permit is issued, except where the application fee  
 2 exceeds the total permit fee. In this case, the application fee shall become the total permit fee.

3 (d) *Exemptions.* Exemptions only exist as specifically provided by state statute and for volunteer  
 4 fire departments.

5 (e) *Waivers.* Any entity may apply to the board of county commissioners for fee waivers from the  
 6 building permit and building permit application fees for construction or renovation of  
 7 affordable, low or very low income housing intended for occupancy for those households with  
 8 income up to 120 percent of the median annual adjusted gross income as defined by Monroe  
 9 County. Persons or entities which have a development order in effect as of February 17, 2010  
 10 for affordable housing may apply for such fee waivers. Persons or entities building affordable  
 11 housing which uses a higher percentage median income than 120 percent for qualification for  
 12 occupancy may apply for a waiver from building permit and permit application fees only if  
 13 the specific project for development is being subsidized with or is leveraging state or federal  
 14 funding. All such waivers apply only to the individual housing units being constructed. There  
 15 are no other waivers of permit fees.

16 (f) *Refunds.* No fees paid for permit fees shall be refunded without the approval of the Bbuilding  
 17 Official with concurrence from the planning director.

#### 18 **Sec. 6-109. - Building permit valuations.**

19 If in the opinion of the Bbuilding Official or his or her authorized designee, the valuation of  
 20 building, alteration, structure, electrical, gas, mechanical or plumbing systems appears to be  
 21 underestimated on a building permit application, the permit application shall be denied, unless the  
 22 applicant can show detailed estimates to meet the approval of the Bbuilding Official. Permit  
 23 valuations shall include total cost, such as electrical, gas, mechanical, plumbing equipment and  
 24 other systems, including materials and labor. The permit valuation may be calculated using the  
 25 most recent edition of Means Construction Data and/or ICC/Construction Costs Valuation Manual  
 26 the latest Building Valuation Data published by the Southern Building Code Congress  
 27 International, Inc., or other applicable model code organization, at the option of the Bbuilding  
 28 Official.

#### 29 **Sec. 6-110. - Fees and permitting requirements for work done without a permit.**

30 (a) *After-the-fact permits and fees.*

31 (1) Any person who commences any work requiring a permit under this chapter on a building,  
 32 structure, electrical, gas, mechanical or plumbing system before obtaining the Bbuilding  
 33 Official's approval or necessary permits shall pay \$500.00 for completed construction  
 34 work that is valued at \$5,000.00 or less or, pay \$1,000.00 for completed work that is  
 35 valued at more than \$5,000.00 or ten percent of the value of the construction work already  
 36 completed, whichever is greater.

37 (2) Before any permit may be issued under subsection (a) of this section, the person, firm or  
 38 corporation seeking the permit shall, at his own expense provide the building department  
 39 with the following:

40 a. Drawings sealed by an engineer licensed to practice in the state that certifies that all  
 41 work already done is in compliance with the *Florida Building Code*; and

42 b. A certification from an engineer licensed in the state that all steel work is in compliance  
 43 with the *Florida Building Code* and relevant state law and that such compliance has  
 44 been verified through generally accepted engineering practice.  
 45  
 46



- 1 Compliance with the engineer certification requirements of this subsection shall neither  
 2 relieve the person, firm or corporation of fully complying with all other relevant county  
 3 regulations, county ordinances or state statutes, nor from any penalties prescribed herein.
- 4 (3) Any person who commences to place fill that requires a permit under this chapter before  
 5 obtaining the Building Official's approval or necessary permits shall:  
 6 a. Pay \$500.00 for fill placed over 100 square feet or less of area, or pay \$1,000.00 for  
 7 fill placed over more than 100 square feet of area;  
 8 b. Pay a mitigation fee to the county's restoration fund of \$3.00 per square foot of wetlands  
 9 area affected; and  
 10 c. Restore to the original condition and grade those filled areas that cannot be permitted  
 11 under the *Florida Building Code* and part II of this Code.
- 12 (4) Any person who commences to clear lands that require a permit under this chapter or part  
 13 II of this Code before obtaining the Building Official's approval or necessary permits  
 14 shall:  
 15 a. Pay \$500.00 for clearing of 100 square feet or less of land, or pay \$1,000.00 for clearing  
 16 of more than 100 square feet of land; and  
 17 b. Comply with the requirements of section 118-11.
- 18 (b) *Demolition*. In lieu of obtaining an after-the-fact permit or approval from the Building  
 19 Official above, the person, firm or corporation may remove all unpermitted work and return  
 20 the site to its original condition. A demolition permit shall be required for all commercial work  
 21 (regardless of value), and for residential work when the fair market value of the unpermitted  
 22 construction work is \$1,000.00 or more. For removal of unpermitted fill, a demolition permit  
 23 shall be required, the fees and requirements for the demolition permit including payment of  
 24 mitigation funds shall be the same as those for an after-the-fact permit pursuant to subsection  
 25 (a)(3) of this section. For unpermitted land clearing, an after-the-fact permit, not a demolition  
 26 permit, shall be required pursuant to the provisions of subsection (a)(4) of this section.
- 27 (c) *Unpermitted placement of fill and land clearing; after-the-fact permit*.  
 28 (1) If land has been cleared in excess of what may be permitted, no building permit shall be  
 29 issued for after-the-fact construction work under this section until the requirements of  
 30 section 118-11 and subsection (a)(4) of this section have been met.  
 31 (2) If placement of fill has occurred in excess of what may be permitted, no building permit  
 32 shall be issued for after-the-fact construction work under this section until the  
 33 requirements of subsection (a)(3) of this section have been met.
- 34 (d) *Work that is unpermittable*. In the event the construction work, land clearing, or placement of  
 35 fill is unpermittable under the *Florida Building Code* or ~~and~~ part II of this Code, the site shall  
 36 be restored to its original condition pursuant to subsection (b) of this section.
- 37 (e) *Appeals*. An appeal from any administrative decision made by the Building Official in  
 38 enforcing this section shall be pursuant to part II of this Code.
- 39 (f) *Emergency exemption*. The provisions of this section shall not apply to emergency work when  
 40 delay clearly would have placed life or property in imminent danger. But in all such cases the  
 41 required permit must be obtained within three business days and any unreasonable delay in  
 42 obtaining said permit shall result in the charge of an after-the-fact permit fee as per subsection  
 43 (a) of this section. The payment of this fee shall not preclude or be deemed a substitute for  
 44 prosecution for commencing work without first obtaining a permit. The Building Official  
 45 may grant extensions of time or waive fees when justifiable cause has been demonstrated in  
 46 writing.

~~(g) Hurricane Irma waiver. After the fact demolition permits having an issued date from the date of Hurricane Irma, September 10, 2017, until December 31, 2019, shall have all after the fact fees waived. During this waiver period the penalty fee of 100 percent above the applicable fee for the work and any additional fees related to completed construction work shall not be imposed. If the fee(s) has already been paid, then the county shall reimburse the party making the payment. On January 1, 2020, this subsection shall expire by its own terms and all after the fact fees, including after the fact permit fees shall revert to the established fee amount.~~

**Sec. 6-111. - Motion picture, commercial and television production.**

A special, no-fee permit, is required for construction of temporary facilities and improvements incidental to motion picture, commercial and television production, including, but not limited to, sets, stages, tents, and supporting facilities and power. Any such special permit shall require that the site be restored to its original condition and shall state that the permit is not authorization for any work requiring a permit under this chapter or part II of this Code.

**Sec. 6-112. - Temporary structures.**

The ~~B~~uilding ~~O~~fficial, or his or her authorized designee, may issue a special building permit for a limited time of not more than six (6) months for the erection of temporary structures, including but not limited to sheds, trailers, seats, canopies, tents, and fences used in construction work or for temporary uses and events. Any such permit for temporary uses shall be in compliance with this section and the provisions of the Land Development Code, specifically section 130-5, and Chapter 122 if located in flood hazard areas. Any structures shall be completely removed upon expiration of the time stated in the permit, which shall be the minimum amount of time necessary to accommodate the temporary use. In the event a temporary structure is required for more than six (6) months for a construction-related project, the applicant shall apply for a new special building permit prior to the expiration of the original building permit.

**Sec. 6-113. - New permit required.**

If work has commenced and the permit is revoked, rescinded, becomes null and void, and/or expires because of lack of progress or abandonment, a new permit covering the proposed construction shall be obtained before work may lawfully proceed, which may require the payment of after-the-fact fees rather than regular permit fees. The ~~B~~uilding ~~O~~fficial may require an on-site inspection, plans, drawings, and other documentation. If the permit was issued under the permit allocation system in part II of this Code, the applicant shall not be issued a permit until awarded an allocation.

**Subdivision III. - Inspections and Certificate of Occupancy**

**Sec. 6-140. - Required inspections.**

The ~~B~~uilding ~~O~~fficial, upon notification from the permit holder or his or her agent, shall make inspections required by the *Florida Building Code* and this chapter and shall either release that portion of construction or shall notify the permit holder or his or her agent of any violations that must be corrected to comply with the *Florida Building Code* and this chapter. The ~~B~~uilding ~~O~~fficial shall determine the timing and sequencing of when inspections occur and what elements are inspected at each inspection.

**Sec. 6-141. - Inspection service.**

1 The Building Official or his or her authorized designee, may make, or cause to be made,  
 2 the inspections required by the *Florida Building Code* and this chapter. He or she may accept  
 3 reports of department inspectors, independent inspectors or of recognized inspection services,  
 4 provided that after investigation he or she is satisfied as to their licensing, qualifications and  
 5 reliability. A certificate required by any provision of this Code general law, or the *Florida Building*  
 6 *Code* shall not be based on such reports unless the same are recorded by the building code inspector  
 7 or the architect or engineer performing building code inspections in a manner specified by the  
 8 Building Official. The Building Official shall ensure that all persons making such inspections  
 9 shall be certified in accordance with F.S. ch. 468.

10  
 11 **Sec. 6-142. - Manufacturers and fabricators.**

12 When deemed necessary by the Building Official, he or she shall make, or cause to be made,  
 13 an inspection of materials or assemblies at the point of manufacture or fabrication. A record shall  
 14 be made of every such examination and inspection and of all violations of the technical codes.

15  
 16 **Sec. 6-143. - Work concealed prior to inspection.**

17 If any work is concealed before an inspection has been made and the work approved, no  
 18 further work shall occur on the site until the work is exposed, inspected and approved by a county  
 19 inspector or until certification is provided to the Building Official by an architect or engineer  
 20 that the concealed work is in conformance with the appropriate code.

21  
 22 **Sec. 6-144. - Inspections prior to issuance of certificate of occupancy.**

23 In addition to the inspection requirements of section 110 105, *Florida Building Code*, the  
 24 following inspections and inspection elements shall be required as deemed necessary by the  
 25 Building Official:

- 26 (1) — ~~*Slab inspection.* A slab inspection shall be made after the reinforcement is in place, all~~  
 27 ~~concealed conduit, piping, ducts and vents are installed and the electrical, plumbing and~~  
 28 ~~mechanical work is complete. Slab shall not be poured until all required inspections have~~  
 29 ~~been made and passed.~~
- 30 (2) — ~~*Foundation survey.* A foundation survey prepared and certified by a registered surveyor~~  
 31 ~~shall be required for all new construction prior to approval of the framing inspection. The~~  
 32 ~~survey shall certify placement of the building on the site, illustrate all surrounding setback~~  
 33 ~~dimensions and shall be available at the jobsite for review by the building inspector. In~~  
 34 ~~lieu of providing a survey, the contractor may elect to uncover all property line markers~~  
 35 ~~and string-up all property lines in preparation for inspection.~~
- 36 (3) — ~~*Framing inspection.* The framing inspection shall include all elements identified in~~  
 37 ~~section 105.6, Florida Building Code, and installation of window/door framing.~~
- 38 (4) — ~~*Insulation inspection.* An insulation inspection shall be made after the framing~~  
 39 ~~inspection is approved and the insulation is in place.~~
- 40 (5) — ~~*Sheathing inspection.* Sheathing fasteners installed and found to be missing the~~  
 41 ~~structural member (shiners) shall be removed and properly reinstalled prior to installation~~  
 42 ~~of the dry-in material.~~
- 43 (6) — ~~*Roofing inspection.* The roofing inspection shall be made as two inspections on tile,~~  
 44 ~~slate or similar roof coverings or as one inspection on all other roof coverings.~~
- 45 (27) *Final inspection requirements.*

- 1 a. After the building or work is completed, final inspections shall be made for every  
 2 permit for work requiring plan review and approval or related to public health, safety,  
 3 and welfare, as determined by the Bbuilding Oofficial or his or her authorized  
 4 designee. Any permit requiring a final inspection shall be so annotated on the issued  
 5 permit.
- 6 b. It is the responsibility of the permit holder to call for a final inspection. Failure to  
 7 obtain a final inspection shall render the permit null and void and/or expired, if it is  
 8 not done within the duration limits for the permit as specified in this chapter. The  
 9 permit holder is subject to code compliance proceedings, if construction is completed  
 10 and no required final inspection is made. If the permit becomes null and void and/or  
 11 expired, no further work is authorized without a new permit or approval by the  
 12 Bbuilding Oofficial.

13  
 14 **Sec. 6-145. - Certificate of occupancy.**

15 A building or structure shall not be used or occupied, and a change in the existing use or occupancy  
 16 classification of a building or structure or portion thereof shall not be made, until the Building  
 17 Official has issued a certificate of occupancy as set forth in Section 111, Florida Building Code.  
 18 In addition to the requirements of Section 111, Florida Building Code, the following is required:

- 19 ~~(a) *Required.* No new building shall be occupied or a change made in the occupancy of an~~  
 20 ~~existing building until after the building official has issued a certificate of occupancy.~~
- 21 (a**b**) *Issuance of certificate of occupancy.* Upon completion of construction of a building or  
 22 structure and installation of electrical, gas, mechanical, and plumbing systems and after final  
 23 inspections, the Bbuilding Oofficial shall issue a certificate of occupancy, provided he or she  
 24 does not find violations of the provisions of the Florida Building Code, this code or other  
 25 laws, including: issue a certificate of occupancy if he or she verifies that the completed  
 26 eonstruction under the applicable permit:
- 27 (1) Was found in compliance with the *Florida Building Code* and this chapter;  
 28 (2) Was found in compliance by the Pplanning Ddirector with part II of this Code and the  
 29 Floodplain Administrator with Chapter 122 of part II of the Code;  
 30 (3) Was found in compliance with fire prevention and life and safety codes by the fire  
 31 marshal, where applicable; and  
 32 (4) That any on-site sewage disposal and treatment received an approved final inspection,  
 33 where applicable.
- 34 (b**e**) *Debris removal.* No certificate of occupancy shall be issued unless all construction debris  
 35 is removed from the site.
- 36 (c**d**) *Revocation of certificate of occupancy.* The Bbuilding Oofficial may revoke any certificate  
 37 of occupancy, if a false statement is contained in the permit application upon which the  
 38 certificate is issued or if subsequent use does not conform with the land use (zoning) district  
 39 in which the structure is located, or as authorized by the Florida Building Code or pursuant  
 40 to this chapter.
- 41 (d**e**) *Temporary certificate of occupancy.* The Bbuilding Oofficial may issue a temporary  
 42 certificate of occupancy for no more than 12 months for portions of a building that, in his or  
 43 her determination, may be safely occupied prior to final completion of the building.

44  
 45 ~~Secs. 6-146 – 6-197. – Reserved.~~  
 46  
 47

**DIVISION 4. – FLORIDA BUILDING CODE AMENDMENTS**

The following local amendments to the Florida Building Code are hereby made and incorporated to the Monroe County Code.

**Sec. 6-146. – Florida Building Code, Building, Administrative Amendments.**

(a) Modify Section 107.3.5 as follows for additional flood requirements:

**107.3.5 Minimum plan review criteria for buildings.**

The examination of the documents by the building official shall include the following minimum criteria and documents: a floor plan; site plan; foundation plan; floor/roof framing plan or truss layout; all fenestration penetrations; flashing; and rough opening dimensions; and all exterior elevations:

\* \* \* \* \*

**Commercial Buildings: Building. [partial shown]**

8. Structural requirements shall include:

- Soil conditions/analysis
- Termite protection
- Design loads
- Wind requirements
- Building envelope
- Impact resistant coverings or systems
- Structural calculations (if required)
- Foundation
- Flood requirements in accordance with Section 1612, including lowest floor elevations, enclosures, nonconversion agreement, V-Zone and Coastal A Zone Construction Certification Form, flood damage resistant materials
- Wall systems
- Floor systems
- Roof systems
- Threshold inspection plan
- Stair systems

**107.3.5 Minimum plan review criteria for buildings.**

The examination of the documents by the building official shall include the following minimum criteria and documents: a floor plan; site plan; foundation plan; floor/roof framing plan or truss layout; all fenestration penetrations; flashing; and rough opening dimensions; and all exterior elevations:

\* \* \* \* \*

**Residential (one- and two-family). [partial shown]**

6. Structural requirements shall include:

- Wall section from foundation through roof, including assembly and materials connector tables wind requirements structural calculations (if required)
- Flood hazard areas, flood zones, design flood elevations, lowest floor elevations, enclosures, nonconversion agreement, V-Zone and Coastal A Zone Construction Certification Form, equipment, and flood damage-resistant materials.



1 (b) Modify Section 110.3 as follows:

2 **110.3 Required inspections.**

3 The building official upon notification from the permit holder or his or her agent shall make the  
4 following inspections, and shall either release that portion of the construction or shall notify the  
5 permit holder or his or her agent of any violations which must be corrected in order to comply  
6 with the technical codes. The building official shall determine the timing and sequencing of  
7 when inspections occur and what elements are inspected at each inspection.

8 **Building [partial shown]**

9 1. Foundation inspection. To be made after trenches are excavated and forms erected and shall at  
10 a minimum include the following building components:

- 11 • Stem-wall
- 12 • Monolithic slab-on-grade
- 13 • Piling/pile caps
- 14 • Footers/grade beams

15 1.1. In flood hazard areas, upon placement of the lowest floor, including basement, and  
16 prior to further vertical construction, the FEMA Elevation Certificate elevation  
17 certification shall be submitted to the authority having jurisdiction.

18 5. Final inspection. To be made after the building is completed and ready for occupancy.

19 5.1. In flood hazard areas, as part of the final inspection, final FEMA Elevation Certificate  
20 a final certification of the lowest floor elevation shall be submitted to the authority  
21 having jurisdiction.

22  
23 **Sec. 6-147. – Florida Building Code, Building, Technical Amendments.**

24  
25 (a) Add a new Sections 1612.4.3, 1612.4.3.1 and 1612.4.3.2 as follows:

26  
27 **1612.4.3 Minimum and Alternate Engineered Foundation Requirements.** Design and  
28 construction of foundations in Special Flood Hazard Areas shall be in accordance with the  
29 minimum requirements as set forth in 1612.4.3.1 or 1612.4.3.2.

30  
31 **1612.4.3.1 Minimum Foundation Requirements.** Design of the foundation system shall  
32 be provided by a Geotechnical Engineer registered in the State of Florida in a site-specific  
33 geotechnical report submitted per requirements of Section 1803.6. The foundation design  
34 shall be the more stringent of recommendations of the report and meet the following  
35 minimum requirements:

36 1. All structures or building foundations shall be anchored/socketed into natural rock. This  
37 includes, but is not limited to, auger cast concrete piles, precast concrete piles or wooden  
38 piles.

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

41 3. All piling shall be anchored to the natural rock with a 14 inch minimum diameter augured  
42 socket and a minimum embedment of 3 feet.

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

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

4  
 5 **1612.4.3.2 Alternate Engineered Foundation Requirements.** Acceptance of a designed  
 6 pile foundation system which deviates from the minimum requirements of Section  
 7 1612.4.3.1 will be considered, provided a site-specific geotechnical investigation is  
 8 performed, followed by a report certifying the designed foundation system is prepared and  
 9 submitted by a Geotechnical Engineer registered in the State of Florida, which includes an  
 10 engineering evaluation and recommendations for supporting the structure. The  
 11 geotechnical report shall include the following minimum information:

- 12 1. The requirements of Section 1803.6 shall be satisfied.
- 13 2. Resistance of the foundation system shall be no less than the governing structural  
 14 design loads. The design loading for the building or structure which is to be supported  
 15 by the foundation system, as provided by the engineer of record, shall be included as  
 16 an attachment.
- 17 3. A site-specific scour analysis using equations for contraction scour which considers  
 18 any proposed fill material and final ground elevation upon project completion. An  
 19 estimated depth of scour shall be provided for each isolated support. For a design  
 20 considering a full scour condition in the absence of the site-specific analysis, the  
 21 construction documents shall include a statement that the design has been completed  
 22 and certified for a full scour condition for lateral stability to the elevation of the  
 23 supporting rock and in accordance with ASCE 24.
- 24 4. A certified survey of the subject property which include, but not limited to, the  
 25 following information:
  - 26 a. Legal description of the property.
  - 27 b. The property owner's name.
  - 28 c. All vertical data specified on the survey shall be referenced to NAVD 88.
  - 29 d. The location of the property in relation to bordering roads and streets.
  - 30 e. Property boundaries and right-of-ways.
  - 31 f. The proposed location of the foundation elements.
- 32 5. A site plan, which includes a physical feature or reference survey marker indicated on  
 33 the certified survey, indicating the location, configurations, and minimum depths of  
 34 foundation elements, and proposed grades. Locations of fill material shall be clearly  
 35 delineated.

36 The geotechnical report shall be provided to the County for their records. A cover sheet  
 37 shall be provided, attached to the report submittal, which includes or explicitly references  
 38 the above items. This report shall consider local scour and all applicable design loads as  
 39 outlined in the *Florida Building Code*. Pile embedment shall include consideration of  
 40 decreased resistance capacity caused by scour of soil strata surrounding the piling and have  
 41 soil and/or rock anchored resistance to resist the design combined wave and wind loads  
 42 (lateral and uplift).

43  
 44  
 45 (b) Add a new Section 1612.4.4 as follows:

46  
 47 **1612.4.4 Additional requirements for enclosed areas.**

48  
 49 In addition to the requirements of ASCE 24 for new and substantially improved residential  
 50 buildings (limited to multi-family dwellings, apartment buildings, and condominiums) and lateral

1 additions to residential buildings (limited to multi-family dwellings, apartment buildings, and  
 2 condominiums), enclosed areas below the required elevation shall be not more than 299 square feet  
 3 in area per dwelling unit. Nonconforming enclosed areas of 299 square feet or more existing on  
 4 April 12, 2004, shall not be modified, improved, or expanded unless the enclosed areas are brought  
 5 into compliance.

6  
 7 **Sec. 6-148. – Florida Building Code, Residential Technical Amendments.**

8  
 9 (a) Modify Sections R322.2.1, 322.2.2 and 322.2.3 as follows:

10  
 11 **R322.2.1 Elevation requirements.**

- 12 1. Buildings and structures in flood hazard areas including flood hazard areas designated as  
 13 Coastal A Zones, shall have the lowest floors elevated to or above the base flood elevation plus  
 14 3 feet 1 foot (305 mm), or the design flood elevation, whichever is higher.  
 15 2. In areas of shallow flooding (AO Zones), buildings and structures shall have the lowest floor  
 16 (including basement) elevated to a height above the highest adjacent grade of not less than the  
 17 depth number specified in feet (mm) on the FIRM plus 3 feet 1 foot (305 mm), or not less than  
 18 63 feet (1829945 mm) if a depth number is not specified.  
 19 3. Basement floors that are below grade on all sides shall be elevated to or above base flood  
 20 elevation plus 3 feet 1 foot (305 mm), or the design flood elevation, whichever is higher.  
 21 Exception: Enclosed areas below the design flood elevation, including basements with floors  
 22 that are not below grade on all sides, shall meet the requirements of Section 322.2.2.

23  
 24 **R322.2.2 Enclosed area below design flood elevation.** Enclosed areas, below new and  
 25 substantially improved one- and two-family dwellings, and below lateral additions to one- and two-  
 26 family dwellings, including crawl spaces, that are below the design flood elevation shall:

- 27 1. Be used solely for parking of vehicles, building access or storage.  
 28 2. Be provided with flood openings that meet the following criteria and are installed in  
 29 accordance with Section R322.2.2.1:  
 30 2.1. The total net area of non-engineered openings shall be not less than 1 square inch (645  
 31 mm<sup>2</sup>) for each square foot (0.093 m<sup>2</sup>) of enclosed area where the enclosed area is measured  
 32 on the exterior of the enclosure walls, or the openings shall be designed as engineered  
 33 openings and the construction documents shall include a statement by a registered design  
 34 professional that the design of the openings will provide for equalization of hydrostatic  
 35 flood forces on exterior walls by allowing for the automatic entry and exit of floodwaters  
 36 as specified in Section 2.7.2.2 of ASCE 24.  
 37 2.2. Openings shall be not less than 3 inches (76 mm) in any direction in the plane of the  
 38 wall.  
 39 2.3 The presence of louvers, blades, screens and faceplates or other covers and devices  
 40 shall allow the automatic flow of floodwater into and out of the enclosed areas and shall  
 41 be accounted for in the determination of the net open area.  
 42 3. Shall not be more than 299 square feet except for perimeter wall foundations  
 43 (crawl/underfloor spaces) with wall heights less than 5 feet.  
 44 4. Nonconforming enclosed areas of 299 square feet or more below one- and two-family  
 45 dwellings existing on April 12, 2004, shall not be modified, improved, or expanded unless the  
 46 enclosed area are brought into compliance with this section.

47  
 48 **R322.2.3 Foundation design and construction**

49 Foundations walls for buildings and structures erected in flood hazard areas shall meet the  
 50 requirements of Chapter 4 and R322.2.3.1 or R322.2.3.2. The design and construction of

1 foundations located in flood hazard areas shall be in accordance with Chapter 5 of ASCE 7 and  
 2 with ASCE 24.

3 Exception: Unless designed in accordance with Section R404:

- 4 1. The unsupported height of 6-inch (152 mm) plain masonry walls shall be not more than  
 5 3 feet (914 mm).
- 6 2. The unsupported height of 8-inch (203 mm) plain masonry walls shall be not more than  
 7 4 feet (1219 mm).
- 8 3. The unsupported height of 8-inch (203 mm) reinforced masonry walls shall be not more  
 9 than 8 feet (2438 mm).

10 For the purpose of this exception, unsupported height is the distance from the finished  
 11 grade of the under floor space to the top of the wall.

12  
 13 (b) Add new sections 322.2.3.1 and 322.2.3.2 as follows:

14  
 15 **R322.2.3.1 Minimum Foundation Requirements.** Design of the foundation system shall be  
 16 provided by a Geotechnical Engineer registered in the State of Florida in a site-specific  
 17 geotechnical report submitted per requirements of Section 1803.6 (*Florida Building Code,*  
 18 *Building*). The foundation design shall be the more stringent of recommendations of the report and  
 19 meet the following minimum requirements:

- 20 1. All structures or building foundations shall be anchored/socketed into natural rock.  
 21 This includes, but is not limited to, auger cast concrete piles, precast concrete piles or  
 22 wooden piles.
- 23 2. All concrete piling shall have full depth reinforcing to effectively resist the internal  
 24 forces induced by the design loads, without failure.
- 25 3. All piling shall be anchored to the natural rock with a 14 inch minimum diameter  
 26 augured socket and a minimum embedment of 3 feet.
- 27 4. The pile foundation support system shall be designed to resist the required lateral  
 28 loading for an unsupported height defined by a full scour condition. The construction  
 29 documents shall include a statement that the design has been completed and certified  
 30 for a full scour condition for lateral stability to the elevation of the supporting rock and  
 31 in accordance with ASCE 24.
- 32 5. Pile embedment shall include consideration of decreased resistance capacity caused by  
 33 scour of soil strata surrounding the piling and have adequate rock penetration to resist  
 34 the combined wave and wind loads (lateral and uplift).

35  
 36 **R322.2.3.2 Alternate Engineered Foundation Requirements.** Acceptance of a designed pile  
 37 foundation system which deviates from the minimum requirements of Section R322.2.3.1 will be  
 38 considered, provided a site-specific geotechnical investigation is performed, followed by a report  
 39 certifying the designed foundation system is prepared and submitted to the County by a  
 40 Geotechnical Engineer registered in the State of Florida, which includes an engineering evaluation  
 41 and recommendations for supporting the structure. The geotechnical report shall include the  
 42 following minimum information:

- 43 1. The requirements of Section 1803.6 (*Florida Building Code, Building*) shall be  
 44 satisfied.
- 45 2. Resistance of the foundation system shall be no less than the governing structural  
 46 design loads. The design loading for the building or structure which is to be supported  
 47 by the foundation system, as provided by the engineer of record, shall be included as  
 48 an attachment.
- 49 3. A site-specific scour analysis using equations for contraction scour which considers  
 50 any proposed fill material and final ground elevation upon project completion. An  
 51 estimated depth of scour shall be provided for each isolated support. For a design

1 considering a full scour condition in the absence of the site-specific analysis, the  
 2 construction documents shall include a statement that the design has been completed  
 3 and certified for a full scour condition for lateral stability to the elevation of the  
 4 supporting rock and in accordance with ASCE 24.

- 5 4. A certified survey of the subject property which include, but not limited to, the  
 6 following information:  
 7 a. Legal description of the property.  
 8 b. The property owner's name.  
 9 c. All vertical data specified on the survey shall be referenced to NAVD 88  
 10 d. The location of the property in relation to bordering roads and streets.  
 11 e. Property boundaries and right-of-ways.  
 12 f. The proposed location of the foundation elements.  
 13 5. A site plan, which includes a physical feature or reference survey marker indicated on  
 14 the certified survey, indicating the location, configurations, and minimum depths of  
 15 foundation elements, and proposed grades. Locations of fill material shall be clearly  
 16 delineated.

17 The geotechnical report shall be provided to the County for their records. A cover sheet  
 18 shall be provided, attached to the report submittal, which includes or explicitly references  
 19 the above items. This report shall consider local scour and all applicable design loads as  
 20 outlined in the Florida Building Code. Pile embedment shall include consideration of  
 21 decreased resistance capacity caused by scour of soil strata surrounding the piling and have  
 22 soil and/or rock anchored resistance to resist the design combined wave and wind loads  
 23 (lateral and uplift).

24  
 25 (c) Modify Sections R322.3.2, 322.3.3 and 322.3.6 as follows:  
 26

27 **R322.3.2 Elevation requirements.**

- 28 1. Buildings and structures erected within coastal high-hazard areas and Coastal A Zones, shall  
 29 be elevated so that the bottom of the lowest horizontal structure members supporting the lowest  
 30 floor, with the exception of pilings, pile caps, columns, grade beams and bracing, is elevated  
 31 to or above the base flood elevation plus 3 feet 1 foot (305 mm), or the design flood elevation,  
 32 whichever is higher.  
 33 2. Basement floors that are below grade on all sides are prohibited.  
 34 3. The use of fill for structural support is prohibited.  
 35 4. Minor grading, and the placement of minor quantities of fill, shall be permitted for  
 36 landscaping and for drainage purposes under and around buildings and for support of parking  
 37 slabs, pool decks, patios and walkways.  
 38 5. Walls and partitions enclosing areas below the design flood elevation shall meet the  
 39 requirements of Sections R322.3.5 and R322.3.6.  
 40

41 **R322.3.3 Foundations.**

42 Buildings and structures erected in coastal high-hazard areas and Coastal A Zones shall be  
 43 supported on pilings or columns and shall be adequately anchored to such pilings or columns. The  
 44 space below the elevated building shall be either free of obstruction or, if enclosed with walls, the  
 45 walls shall meet the requirements of Section R322.3.5. Pilings shall have adequate soil penetrations  
 46 to resist the combined wave and wind loads (lateral and uplift). Water-loading values used shall be  
 47 those associated with the design flood. Wind-loading values shall be those required by this code.  
 48 Pile embedment shall include consideration of decreased resistance capacity caused by scour of  
 49 soil strata surrounding the piling. Pile systems design and installation shall be certified in  
 50 accordance with Section R322.3.9. ~~Spread footing, mat, raft or other foundations that support~~



1 columns shall not be permitted where soil investigations that are required in accordance with  
 2 Section R401.4 indicate that soil material under the spread footing, mat, raft or other foundation is  
 3 subject to scour or erosion from wave velocity flow conditions. If permitted, spread footing, mat,  
 4 raft or other foundations that support columns shall be designed in accordance with ASCE 24. A  
 5 foundation design shall be in accordance with Section R322.2.3.1 or R322.2.3.2. The design and  
 6 construction of foundations located in coastal high hazard areas, including Coastal A zones, shall  
 7 be in accordance with Chapter 5 of ASCE 7 and with ASCE 24.

8 ~~Exception: In Coastal A Zones, stem wall foundations supporting a floor system above and~~  
 9 ~~backfilled with soil or gravel to the underside of the floor system shall be permitted provided~~  
 10 ~~the foundations are designed to account for wave action, debris impact, erosion and local scour.~~  
 11 ~~Where soils are susceptible to erosion and local scour, stem wall foundations shall have deep~~  
 12 ~~footings to account for the loss of soil.~~

#### 14 **R322.3.6 Enclosed areas below design flood elevation.**

15 Enclosed areas below the design flood elevation shall not be more than 299 square feet and shall  
 16 be used solely for parking of vehicles, building access or storage.

### 18 **Sec. 6-149. – Florida Building Code, Existing Building Technical Amendments**

#### 19 **(a) Modify Section 503.2 as follows:**

##### 21 **[BS] 503.2 Flood hazard areas.**

22 For buildings and structures in flood hazard areas established in Section 1612.3 of the Florida  
 23 Building Code, Building, or Section R322 of the Florida Building Code, Residential, as applicable,  
 24 any alteration that constitutes substantial improvement of the existing structure shall comply with  
 25 the flood design requirements for new construction, and all aspects of the existing structure shall  
 26 be brought into compliance with the requirements for new construction for flood design.  
 27

28 For buildings and structures in flood hazard areas established in Section 1612.3 of the Florida  
 29 Building Code, Building, or Section R322 of the Florida Building Code, Residential, as applicable,  
 30 ~~any~~ alterations that do not constitute substantial improvement of the existing structure are not  
 31 required to comply with the flood design requirements for new construction, except any exterior  
 32 replacement mechanical, plumbing and electrical systems, equipment and components shall be  
 33 required to be located at or above the base flood elevation identified on the FIRM that was effective  
 34 when the building was originally permitted. If the lowest floor of an existing building is located  
 35 below the base flood elevation identified on the FIRM that was effective when the building  
 36 originally permitted, the replacement mechanical, plumbing and electrical systems, equipment and  
 37 components shall be located to or above the lowest floor elevation of the building.

#### 39 **(b) Modify Section 701.3 as follows:**

##### 41 **[BS] 701.3 Flood Hazard Areas**

42 In flood hazard areas, alterations that constitute substantial improvement shall require that the  
 43 building comply with Section 1612 of the Florida Building Code, Building, or Section R322 of the  
 44 Florida Building Code, Residential, as applicable. Alterations that do not constitute substantial  
 45 improvement shall be required to have any exterior replacement mechanical, plumbing and  
 46 electrical systems, equipment and components located at or above the base flood elevation  
 47 identified on the FIRM that was effective when the building was originally permitted. If the lowest  
 48 floor of an existing building is located below the base flood elevation identified on the FIRM that  
 49 was effective when the building originally permitted, the replacement mechanical, plumbing and

1        electrical systems, equipment and components shall be located to or above the lowest floor  
2        elevation of the building.

3  
4        **Section 3. Fiscal Impact Statement.** In terms of design, plan application review,  
5 construction and inspection of buildings and structures, the cost impact as an overall average is  
6 negligible in regard to the local technical amendments because all development has been subject  
7 to the requirements of the local floodplain management ordinance adopted for participation in the  
8 National Flood Insurance Program. In terms of lower potential for flood damage, there will be  
9 continued savings and benefits to consumers.

10  
11        **Section 4. Applicability.** For the purposes of jurisdictional applicability, this ordinance  
12 shall apply in all unincorporated areas of Monroe County. This ordinance shall apply to all  
13 applications for development, including building permit applications and subdivision proposals,  
14 submitted on or after the effective date of this ordinance.

15  
16        **Section. 5. Construction and Interpretation.** This Ordinance and its interpretation shall  
17 be liberally construed and enforced in favor of Monroe County to effectuate its public purpose(s)  
18 and policy(ies) of the County. The construction and interpretation of this Ordinance and all Monroe  
19 County Comprehensive Plan provision(s), *Florida Building Code*, Florida Statutes, and Monroe  
20 County Code(s) provision(s) whose interpretation arises out of, relates to, or is interpreted in  
21 connection with this Ordinance shall be liberally construed and enforced in favor of Monroe  
22 County to effectuate its public purpose(s), objective(s), and policy(ies) of the County, and shall be  
23 construed in favor of the Board of County Commissioners of Monroe County, Florida, and such  
24 construction and interpretation shall be entitled to great weight in adversarial administrative  
25 proceedings, at trial, bankruptcy, and on appeal.

26  
27        **Section 6. Inconsistency, Partial Invalidity, Severability, and Survival of Provisions.**  
28 If any provision of this Ordinance, or any portion thereof, is held to be invalid or unenforceable in  
29 or by any administrative hearing officer or court of competent jurisdiction, the invalidity or  
30 unenforceability of such provision, or any portion thereof, shall neither limit nor impair the  
31 operation, enforceability, or validity of any other provision of this Ordinance, or any remaining  
32 portion(s) thereof. All other provisions of this Ordinance, and remaining portion(s) thereof, shall  
33 continue unimpaired in full force and effect.

34  
35        **Section 7.** In recognition that where an extant legislatively approved law is repealed by a  
36 subsequent legislative act which substantially reenacts that repealed extant law, the prior  
37 legislatively approved law and the subsequent legislative act shall be regarded as one continuous  
38 law uninterrupted in its operation, *see McKibben v. Mallory*, 293 So. 2d 48, 52-53 (Fla. 1974), *see*  
39 *also Goldenberg v. Dome Condo. Ass'n*, 376 So. 2d 37, 38 (Fla. 3<sup>rd</sup> DCA 1979), it is the express  
40 legislative intent and purpose of the BOCC, in relation to or in connection with of subsequent  
41 administrative and judicial construction and review of this ordinance and Chapter 6, that all  
42 recodified or reenacted provisions of Monroe County Code of Ordinances Chapter 6, which  
43 includes those provisions of Chapter 6 unchanged or not substantially modified by this ordinance,  
44 shall be deemed to have been in operation continuously from their original enactment whereas the  
45 changes or substantial modifications are treated as amendments effective from the time they go  
46 into legal effect.

47

1 **Section 8. Conflicting Provisions.** Consonant with Section 7., all ordinances or parts of  
2 ordinances in conflict with this ordinance are hereby repealed to the extent of said conflict. The  
3 repeal of an ordinance herein shall not repeal the repealing clause of such ordinance or revive any  
4 ordinance which has been repealed thereby.  
5

6 **Section 9. Captions and Paragraph Headings.** Captions and paragraph headings, where  
7 used herein, are inserted for convenience only and are not intended to descriptively limit the scope  
8 and intent of the particular paragraph or text to which they refer.  
9

10 **Section 10. Inclusion in the Monroe County Code of Ordinances.** The provisions of this  
11 Ordinance shall be included and incorporated in the Code of Ordinances of the County of Monroe,  
12 Florida, as an addition to amendment thereto, and shall be appropriately renumbered to conform  
13 to the uniform marking system of the Code.  
14

15 **Section 11. Effective Date.** This ordinance shall filed with Department of State and shall  
16 be effective as provided by Section 125.66(2)(b), Florida Statutes.  
17

18 **PASSED AND ADOPTED** by the Board of County Commissioners of Monroe County,  
19 Florida, at a regular meeting held on \_\_\_\_\_, 2022.  
20

21 Mayor \_\_\_\_\_  
22 Mayor Pro Tem \_\_\_\_\_  
23 Commissioner \_\_\_\_\_  
24 Commissioner \_\_\_\_\_  
25 Commissioner \_\_\_\_\_  
26

27 BOARD OF COUNTY COMMISSIONERS  
28 OF MONROE COUNTY, FLORIDA  
29

30 BY \_\_\_\_\_  
31 MAYOR  
32

33  
34 (SEAL)  
35

36 ATTEST: KEVIN MADOK, CLERK  
37 \_\_\_\_\_  
38 AS DEPUTY CLERK  
39