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MEMORANDUM
MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

To: Monroe County Planning Commission

Through: Emily Schemper, AICP, CFM, Senior Director of Planning & Environmental Resources

From: Michael Roberts, CEP; PWS; Assistant Director – Environmental Resources

Date: December 23, 2021

Subject: **AN ORDINANCE BY MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING POLICY 212.2.4 OF THE MONROE COUNTY 2030 COMPREHENSIVE PLAN TO ALLOW CERTAIN ACCESSORY STRUCTURES WITHIN THE SHORELINE SETBACK; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR AMENDMENT TO AND INCORPORATION IN THE MONROE COUNTY COMPREHENSIVE PLAN; PROVIDING FOR AN EFFECTIVE DATE. (FILE 2021-067)**

Meeting: **January 26, 2022**

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I. REQUEST

31 The Monroe County Planning & Environmental Resources Department is proposing an amendment to the
32 2030 Comprehensive Plan to amend Policy 212.2.4 to allow the following within the shoreline setbacks,
33 with certain conditions:

- 34 • certain accessory structures not exceeding 18 inches in height
 - 35 • at grade decks not exceeding 6 inches in height
 - 36 • four-foot wide walkway to the shoreline or docking facility
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II. BACKGROUND INFORMATION

40 On April 13, 2016, at a special public meeting, the BOCC adopted the 2030 Comprehensive Plan and
41 associated updates to the Land Development Code (LDC). The amendments to the LDC ultimately
42 became effective in February 2017. Upon implementation of the updated Comprehensive Plan and LDC,
43 the Planning and Environmental Resources Department identified certain regulations that required
44 revision, including those related to shoreline setbacks. The updated Comprehensive Plan and LDC, for
45 example, unintentionally restricted the ability to develop a paved or decked walkway from a house to a
46 docking facility, fishing, swimming, and other piers, and observation decks. Staff is proposing

1 amendments to provide reasonable access by allowing certain accessory structures within the shoreline
2 setback.

3
4 Staff is proposing a corresponding amendment to LDC Section 118-12. The subject of this staff report is
5 the proposed amendment to Policy 212.2.4 of the Comprehensive Plan.
6

7
8 **Community Meeting and Public Participation**

9 In accordance with LDC Section 102-159(b)(3), a Community Meeting was held virtually on October 21,
10 2021 to provide for public input. There were no attendees from the public and three County staff members.
11

12 **Development Review Committee and Public Input**

13 The proposed amendments were reviewed by the Development Review Committee at a regular meeting
14 on October 26, 2021. No members of the public were in attendance, and no further comments or
15 recommendations were made by staff.
16

17 **Planning Commission and Public Input**

18 The proposed amendments are scheduled for the Planning Commission meeting on January 26, 2022.
19

20 **Previous County Action**

21 On January 14, 2015, the BOCC held an advertised special public hearing and provided for public
22 comment and public participation and approved transmittal of EAR related comprehensive plan
23 amendments (the Monroe County Year 2030 Comprehensive Plan) to the State Land Planning Agency
24 and Reviewing Agencies for review and comment.
25

26 On September 2, 2015, the BOCC held public hearings to review and discuss proposed amendments to
27 the Land Development Code to be consistent with the transmitted Monroe County Year 2030
28 Comprehensive Plan, the results of the Comprehensive Plan Technical Document update, the adopted
29 2012 Evaluation and Appraisal Report and the 2014 Evaluation and Appraisal Notification Letter.
30 Chapters reviewed at the September hearing included, among others, Chapter 118 - Environmental
31 Protection.
32

33 On April 13, 2016, at a special public meeting, the Monroe County Board of County Commissioners
34 adopted the Monroe County Year 2030 Comprehensive Plan, via Ordinance No. 005-2016; and associated
35 Land Development Code amendments via Ordinance 006-2016.
36
37

38 **III. PROPOSED 2030 COMPREHENSIVE PLAN TEXT AMENDMENTS**

39
40 Proposed Amendment (deletions are ~~stricken through~~; additions are shown in underlined):
41

42 **Policy 212.2.4**

43 Permitted uses and performance standards within the shoreline setback shall be as follows:

44 Except as provided herein, principal structures shall be set back as follows:

- 45 1. Along lawfully altered shorelines including manmade canals, channels, and basins, principal
46 structures shall be set back at least twenty (20) feet as measured from the mean high water (MHW)
47 line;

- 1 2. Along lawfully altered shorelines including manmade canals, channels, and basins, for parcels less
2 than 4,000 square feet that are developed with a lawfully established principal use, the required
3 setback may be reduced to a minimum of ten (10) feet provided that the structure is sited so as to
4 protect community character and minimize environmental impacts by maintaining open space and
5 protecting shoreline vegetation.
- 6 3. Along open water shorelines not adjacent to manmade canals, channels, or basins, and which have
7 been altered by the legal placement of fill:
 - 8 a. Where a mangrove fringe of at least ten (10) feet in width occurs across the entire shoreline of
9 the property, principal structures shall be set back at least thirty (30) feet as measured from the
10 mean high water (MHW) line or the landward extent of the mangroves, whichever is further
11 inland.
 - 12 b. Where no mangrove fringe exists, principal structures shall be set back at least thirty (30) feet
13 from the mean high water (MHW) line, provided that native vegetation exists or is planted and
14 maintained in a ten (10) foot width across the entire shoreline as approved by the County
15 Biologist, and is placed under conservation easement; otherwise the setback shall be fifty (50)
16 feet as measured from the mean high water (MHW) line.
 - 17 c. On infill lots surrounded by significant development where principal structures are set back
18 less than fifty (50) feet from mean high water (MHW) or the landward extent of mangroves,
19 the Director of Planning and Environmental Resources may evaluate the community character,
20 the presence or absence of environmental features, and the setbacks on adjacent developed
21 properties within two parcels on either side of proposed development, and may allow principal
22 structures to be set back as far as practicable or in line with adjacent principal structures. In
23 no event shall the setback be less than twenty (20) feet. On shorelines where the existing
24 pattern of setback is greater than thirty (30) feet, the greater setback shall apply.
- 25 4. Along unaltered and unlawfully altered shorelines, principal structures shall be set back fifty (50)
26 feet as measured from the mean high water (MHW) line or the landward extent of the mangroves,
27 whichever is further landward;

28
29 Accessory structures within the shoreline setback shall be designed to meet the following criteria:

- 30 1. Along altered shorelines, including manmade canals, channels, and basins:
 - 31 a. In no event shall the total, combined area of all structures occupy more than sixty (60) percent
32 of the upland area of the shoreline setback;
 - 33 b. Accessory structures, including, pools and spas shall be set back a minimum of ten (10) feet,
34 as measured from the mean high water (MHW) line. [With the exception of docks and erosion
35 control structures, an accessory structure other than those listed above not exceeding 18 inches
36 in height as measured from grade may be permitted within the 20-foot shoreline setback if the
37 structure is situated at least one \(1\) foot from the MHW line and constructed to avoid any off-
38 site discharge of stormwater from the subject parcel in accordance with Land Development
39 Code Section 114-3.](#)
 - 40 c. [At grade decks not exceeding 6 inches in height as measured from grade may be permitted
41 within the shoreline setback if the structure is situated at least one \(1\) foot from the MHW line
42 and constructed to avoid any off-site discharge of stormwater from the subject parcel in
43 accordance with Land Development Code Section 114-3.](#)

1 2. Along open water shorelines which have been altered by the legal placement of fill, and where a
2 mangrove fringe of at least ten (10) feet in width occurs across the entire shoreline of the property,
3 or native vegetation exists or is planted and maintained in a ten-foot (10) width across the entire
4 shoreline of the property and is placed under a grant of conservation easement running in favor of
5 the County:

- 6
7 a. In no event shall the total, combined area of all structures occupy more than thirty (30) percent
8 of the upland area of the shoreline setback;
9 b. Accessory structures other than docks and erosion control structures shall be set back a
10 minimum of fifteen (15) feet, as measured from the mean high water (MHW) line or the
11 landward extent of the mangroves, whichever is further landward; An exception shall be made
12 for a maximum four-foot wide walkway to the shoreline or docking facility constructed in
13 accordance with Land Development Code Section 118-12(m)(6). One walkway shall be
14 permitted per 100 linear feet of shoreline.

15
16 3. Along open water shorelines not adjacent to manmade canals, channels, or basins, and which have
17 been altered by the legal placement of fill, and where no mangrove fringe exists, and no
18 conservation easement of native shoreline vegetation exists pursuant to Land Development Code
19 Section 118-12(b)(4)b:

- 20 a. In no event shall the total combined area of all structures occupy more than 30 percent (30%)
21 of the shoreline setback required for the principal structure.
22 b. Accessory structures, other than docks and erosion control structures, shall be set back at
23 least half the distance of the setback required for the principal structure, or 15 feet, whichever
24 is greater, as measured from the MHW line, and shall be located in upland areas. An
25 exception shall be made for a maximum four-foot wide walkway connecting the developed
26 area to a dock or water access structure constructed in accordance with Land Development
27 Code Section 118-12(m)(6).

28
29 ~~3.~~4. Along unaltered or unlawfully altered shorelines:

- 30
31 a. In no event shall the total, combined area of all structures occupy more than thirty (30) percent
32 of the upland area of the shoreline setback;
33 b. Accessory structures other than docks and erosion control structures shall be set back a
34 minimum of twenty-five (25) feet, as measured from the mean high water (MHW) line or the
35 landward extent of the mangroves, whichever is further landward; An exception shall be made
36 for a maximum four-foot wide walkway connecting the developed area to a dock or water
37 access structure constructed in accordance with Land Development Code Section 118-
38 12(m)(6).

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42 **IV. CONSISTENCY WITH THE MONROE COUNTY COMPREHENSIVE PLAN, THE**
43 **PRINCIPLES FOR GUIDING DEVELOPMENT, AND FLORIDA STATUTES.**

44
45 **A. The proposed amendment is consistent with the Goals, Objectives and Policies of the Monroe**
46 **County 2030 Comprehensive Plan. Specifically, it furthers:**
47

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

3
4 **GOAL 212:** Monroe County shall prioritize shoreline land uses and establish criteria for shoreline development
5 in order to preserve and enhance coastal resources and to ensure the continued economic viability of the County.
6

7 **Objective 212.2**

8 Monroe County shall adopt minimum performance standards designed to reduce the stormwater runoff impacts,
9 aesthetic impacts, and hydrologic impacts of shoreline development.

10
11 **GOAL 213:** Monroe County shall ensure adequate public access to the beach or shoreline.
12

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

15
16 For the purposes of reviewing consistency of the adopted plan or any amendments to that plan with the
17 principles for guiding development and any amendments to the principles, the principles shall be construed as
18 a whole and no specific provision shall be construed or applied in isolation from the other provisions.
19

- 20 (a) Strengthening local government capabilities for managing land use and development so that local
21 government is able to achieve these objectives without continuing the area of critical state concern
22 designation.
- 23 (b) Protecting shoreline and benthic resources, including mangroves, coral reef formations, seagrass beds,
24 wetlands, fish and wildlife, and their habitat.
- 25 (c) Protecting upland resources, tropical biological communities, freshwater wetlands, native tropical
26 vegetation (for example, hardwood hammocks and pinelands), dune ridges and beaches, wildlife, and their
27 habitat.
- 28 (d) Ensuring the maximum well-being of the Florida Keys and its citizens through sound economic
29 development.
- 30 (e) Limiting the adverse impacts of development on the quality of water throughout the Florida Keys.
- 31 (f) Enhancing natural scenic resources, promoting the aesthetic benefits of the natural environment, and
32 ensuring that development is compatible with the unique historic character of the Florida Keys.
- 33 (g) Protecting the historical heritage of the Florida Keys.
- 34 (h) Protecting the value, efficiency, cost-effectiveness, and amortized life of existing and proposed major
35 public investments, including:

- 36
37 1. The Florida Keys Aqueduct and water supply facilities;
38 2. Sewage collection, treatment, and disposal facilities;
39 3. Solid waste treatment, collection, and disposal facilities;
40 4. Key West Naval Air Station and other military facilities;
41 5. Transportation facilities;
42 6. Federal parks, wildlife refuges, and marine sanctuaries;
43 7. State parks, recreation facilities, aquatic preserves, and other publicly owned properties;
44 8. City electric service and the Florida Keys Electric Co-op; and
45 9. Other utilities, as appropriate.

- 46 (i) Protecting and improving water quality by providing for the construction, operation, maintenance, and
47 replacement of stormwater management facilities; central sewage collection; treatment and disposal
48 facilities; and the installation and proper operation and maintenance of onsite sewage treatment and disposal
49 systems.

- 50 (j) Ensuring the improvement of nearshore water quality by requiring the construction and operation of
51 wastewater management facilities that meet the requirements of ss. 381.0065(4)(l) and 403.086(10), as

1 applicable, and by directing growth to areas served by central wastewater treatment facilities through permit
2 allocation systems.

- 3 (k) Limiting the adverse impacts of public investments on the environmental resources of the Florida Keys.
- 4 (l) Making available adequate affordable housing for all sectors of the population of the Florida Keys.
- 5 (m) Providing adequate alternatives for the protection of public safety and welfare in the event of a natural or
6 manmade disaster and for a postdisaster reconstruction plan.
- 7 (n) Protecting the public health, safety, and welfare of the citizens of the Florida Keys and maintaining the
8 Florida Keys as a unique Florida resource.

9
10 Pursuant to Section 380.0552(7) Florida Statutes, the proposed amendment is not inconsistent with the
11 Principles for Guiding Development as a whole and is not inconsistent with any Principle.

12
13 **C. The proposed amendment is consistent with the Part II of Chapter 163, Florida Statute (F.S.).**
14 **Specifically, the amendment furthers:**

15
16 163.3161(4), F.S. – It is the intent of this act that local governments have the ability to preserve and enhance
17 present advantages; encourage the most appropriate use of land, water, and resources, consistent with the
18 public interest; overcome present handicaps; and deal effectively with future problems that may result from
19 the use and development of land within their jurisdictions. Through the process of comprehensive planning,
20 it is intended that units of local government can preserve, promote, protect, and improve the public health,
21 safety, comfort, good order, appearance, convenience, law enforcement and fire prevention, and general
22 welfare; facilitate the adequate and efficient provision of transportation, water, sewerage, schools, parks,
23 recreational facilities, housing, and other requirements and services; and conserve, develop, utilize, and
24 protect natural resources within their jurisdictions.

25
26 163.3161(6), F.S. – It is the intent of this act that adopted comprehensive plans shall have the legal status set
27 out in this act and that no public or private development shall be permitted except in conformity with
28 comprehensive plans, or elements or portions thereof, prepared and adopted in conformity with this act.

29
30 163.3177(1), F.S. – The comprehensive plan shall provide the principles, guidelines, standards, and strategies
31 for the orderly and balanced future economic, social, physical, environmental, and fiscal development of
32 the area that reflects community commitments to implement the plan and its elements. These principles and
33 strategies shall guide future decisions in a consistent manner and shall contain programs and activities to
34 ensure comprehensive plans are implemented. The sections of the comprehensive plan containing the
35 principles and strategies, generally provided as goals, objectives, and policies, shall describe how the local
36 government’s programs, activities, and land development regulations will be initiated, modified, or
37 continued to implement the comprehensive plan in a consistent manner. It is not the intent of this part to
38 require the inclusion of implementing regulations in the comprehensive plan but rather to require
39 identification of those programs, activities, and land development regulations that will be part of the strategy
40 for implementing the comprehensive plan and the principles that describe how the programs, activities, and
41 land development regulations will be carried out. The plan shall establish meaningful and predictable
42 standards for the use and development of land and provide meaningful guidelines for the content of more
43 detailed land development and use regulations.

44
45 163.3201, F.S. – Relationship of comprehensive plan to exercise of land development regulatory authority.—It
46 is the intent of this act that adopted comprehensive plans or elements thereof shall be implemented, in part,
47 by the adoption and enforcement of appropriate local regulations on the development of lands and waters
48 within an area. It is the intent of this act that the adoption and enforcement by a governing body of
49 regulations for the development of land or the adoption and enforcement by a governing body of a land
50 development code for an area shall be based on, be related to, and be a means of implementation for an
51 adopted comprehensive plan as required by this act.

1 163.3202(1), F.S. – Land development regulations. Within 1 year after submission of its comprehensive plan
2 or revised comprehensive plan for review pursuant to s. 163.3191, each county and each municipality shall
3 adopt or amend and enforce land development regulations that are consistent with and implement their
4 adopted comprehensive plan.
5

6 **V. PROCESS**

7
8 Comprehensive Plan Amendments may be proposed by the Board of County Commissioners, the Planning
9 Commission, the Director of Planning, private application, or the owner or other person having a
10 contractual interest in property to be affected by a proposed amendment. The process for changing the
11 text of the Comprehensive Plan shall follow the process established Chapter 163, Part II, Florida Statutes
12 (163.3184 F.S.) The Director of Planning shall review and process applications as they are received and
13 pass them onto the Development Review Committee and the Planning Commission.
14

15 The Planning Commission shall hold at least one public hearing. The Planning Commission shall review
16 the application, the reports and recommendations of the Department of Planning & Environmental
17 Resources and the Development Review Committee and the testimony given at the public hearing. The
18 Planning Commission shall submit its recommendations and findings to the Board of County
19 Commissioners (BOCC). The BOCC holds a public hearing to consider the transmittal of the proposed
20 amendment to the State Land Planning Agency, and considers the staff report, staff recommendation,
21 Planning Commission recommendation and the testimony given at the public hearing. Upon transmittal
22 by the BOCC, the state land planning agency shall issue a report giving its objections, recommendations,
23 and comments (ORC report) regarding the proposed plan amendment within 60 days after receipt of the
24 proposed plan or plan amendment. Upon receipt of the ORC report, the County has 180 days to adopt the
25 amendments, adopt the amendments with changes or not adopt the amendment. The BOCC holds a public
26 hearing to consider the adoption of the proposed amendment, and considers the staff report, staff
27 recommendation, Planning Commission recommendation, the ORC report, and the testimony given at the
28 public hearing.
29

30 **VI. STAFF RECOMMENDATION**

31
32 Staff recommends approval of the proposed amendment.
33
34

35 **VIII. EXHIBITS**

- 36
37 1. Draft Ordinance



MONROE COUNTY, FLORIDA
MONROE COUNTY BOARD OF COUNTY COMMISSIONERS
ORDINANCE NO. ____ - 2022

AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADOPTING AMENDMENTS TO THE MONROE COUNTY 2030 COMPREHENSIVE PLAN TO AMEND POLICY 212.2.4 TO PROVIDE FOR CERTAIN ACCESSORY STRUCTURES IN THE SHORELINE SETBACK; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR AMENDMENT TO AND INCORPORATION IN THE MONROE COUNTY COMPREHENSIVE PLAN; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Monroe County, Florida, constitutes the local legislature of Monroe County, Florida; and

WHEREAS, at a special meeting of the Monroe County Board of County Commissioners (“BOCC”, “Monroe County”, or the “County”) held on April 16, 2016, the BOCC adopted Ordinance No. 005-2016 adopting the Monroe County 2030 Comprehensive Plan (“Comp Plan”, or “Plan”); and

WHEREAS, The requested amendment to the 2030 Comprehensive Plan is to provide for certain accessory structures in the shoreline setback which were not included in Ordinance 005-2016; and

WHEREAS, the Monroe County Planning and Environmental Resources Department (“Department”) conducted a Community meeting on October 21, 2021, to review the proposed amendment and to receive public comment; and

WHEREAS, the Monroe County Development Review Committee (“DRC”) held a duly advertised public meeting on October 26, 2021, to consider adoption of amendment to the Comprehensive Plan Policy 212.2.4 , and provided an additional opportunity for further public comment; and

WHEREAS, the Monroe County Planning Commission (“Planning Commission” or “PC”) held a duly noticed public hearing on _____, 2022, to review and consider the proposed amendment to Policy 212.2.4 and adopted Resolution No. P__-22, recommending approval to the Monroe County Board of County Commissioners; and

WHEREAS, at a duly noticed regular public meeting of the BOCC held on _____, 2022, the Monroe Board of County Commissioners held a public hearing, considered the Department’s agenda

1 item body, agenda item background, professional staff report, and provided an opportunity for members
2 of the public to offer public comment, participation, and/or input, in accordance with the requirements of
3 local, state, and federal law; and
4

5 **WHEREAS**, based upon the foregoing, the Board of County Commissioners of Monroe County,
6 Florida, hereby makes the following findings of fact and conclusions of law:
7

- 8 1. The proposed amendment(s) is/are consistent with the Goals, Objectives and Policies of the
9 Monroe County Year 2030 Comprehensive Plan; and
- 10 2. The proposed amendment(s) is/are consistent with the Principles for Guiding Development for
11 the Florida Keys Area of Critical State Concern, 380.0552(7), Florida Statutes; and
- 12 3. The proposed amendment(s) is/are consistent with Part II of Chapter 163, Florida Statutes; and
- 13 4. The proposed amendment(s) is/are necessary and in furtherance of the constitutional, statutory,
14 and local police power(s) of Monroe County, Florida;
15
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19 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**
20 **COMMISSIONERS OF MONROE COUNTY, FLORIDA, THAT:**
21

22 **Section 1. Recitals and Legislative Intent.** The foregoing prefatory recitals, including but
23 not limited this ordinance's title, are true and correct, and are hereby incorporated as if fully stated herein.
24

25 **Section 2. The Monroe County 2030 Comprehensive Plan is hereby amended as follows**
26 **(deletions are stricken through; additions are underlined):**
27

28 **Policy 212.2.4**

29 Permitted uses and performance standards within the shoreline setback shall be as follows:
30 Except as provided herein, principal structures shall be set back as follows:

- 31 1. Along lawfully altered shorelines including manmade canals, channels, and basins, principal structures
32 shall be set back at least twenty (20) feet as measured from the mean high water (MHW) line;
- 33 2. Along lawfully altered shorelines including manmade canals, channels, and basins, for parcels less
34 than 4,000 square feet that are developed with a lawfully established principal use, the required setback
35 may be reduced to a minimum of ten (10) feet provided that the structure is sited so as to protect
36 community character and minimize environmental impacts by maintaining open space and protecting
37 shoreline vegetation.
- 38 3. Along open water shorelines not adjacent to manmade canals, channels, or basins, and which have
39 been altered by the legal placement of fill:
 - 40 a. Where a mangrove fringe of at least ten (10) feet in width occurs across the entire shoreline of the
41 property, principal structures shall be set back at least thirty (30) feet as measured from the mean
42 high water (MHW) line or the landward extent of the mangroves, whichever is further inland.
 - 43 b. Where no mangrove fringe exists, principal structures shall be set back at least thirty (30) feet from
44 the mean high water (MHW) line, provided that native vegetation exists or is planted and
45 maintained in a ten (10) foot width across the entire shoreline as approved by the County Biologist,
46 and is placed under conservation easement; otherwise the setback shall be fifty (50) feet as

1 measured from the mean high water (MHW) line.

- 2 c. On infill lots surrounded by significant development where principal structures are set back less
3 than fifty (50) feet from mean high water (MHW) or the landward extent of mangroves, the
4 Director of Planning and Environmental Resources may evaluate the community character, the
5 presence or absence of environmental features, and the setbacks on adjacent developed properties
6 within two parcels on either side of proposed development, and may allow principal structures to
7 be set back as far as practicable or in line with adjacent principal structures. In no event shall the
8 setback be less than twenty (20) feet. On shorelines where the existing pattern of setback is greater
9 than thirty (30) feet, the greater setback shall apply.

- 10 4. Along unaltered and unlawfully altered shorelines, principal structures shall be set back fifty (50) feet
11 as measured from the mean high water (MHW) line or the landward extent of the mangroves,
12 whichever is further landward;

13
14 Accessory structures within the shoreline setback shall be designed to meet the following criteria:

- 15
16 1. Along altered shorelines, including manmade canals, channels, and basins:

- 17
18 a. In no event shall the total, combined area of all structures occupy more than sixty (60)
19 percent of the upland area of the shoreline setback;
- 20 b. Accessory structures, including, pools and spas shall be set back a minimum of ten (10)
21 feet, as measured from the mean high water (MHW) line. With the exception of docks
22 and erosion control structures, an accessory structure other than those listed above not
23 exceeding 18 inches in height as measured from grade may be permitted within the 20-
24 foot shoreline setback if the structure is situated at least one (1) foot from the MHW line
25 and constructed to avoid any off-site discharge of stormwater from the subject parcel in
26 accordance with Section 114-3.
- 27 c. At grade decks not exceeding 6 inches in height as measured from grade may be
28 permitted within the shoreline setback if the structure is situated at least one (1) foot
29 from the MHW line and constructed to avoid any off-site discharge of stormwater from
30 the subject parcel in accordance with Section 114-3.

- 31 2. Along open water shorelines which have been altered by the legal placement of fill, and where a
32 mangrove fringe of at least ten (10) feet in width occurs across the entire shoreline of the property:

- 33
34 1. In no event shall the total, combined area of all structures occupy more than thirty (30) percent of
35 the upland area of the shoreline setback;
- 36 2. Accessory structures other than docks and erosion control structures shall be set back a minimum
37 of fifteen (15) feet, as measured from the mean high water (MHW) line or the landward extent of
38 the mangroves, whichever is further landward. An exception shall be made for a maximum four
39 foot wide walkway to the shoreline or docking facility in accordance with Section 118-12(m)(6)..
40 One walkway shall be permitted per 100 linear feet of shoreline.
- 41
42 3. Along open water shorelines not adjacent to manmade canals, channels, or basins, and which
43 have been altered by the legal placement of fill, and where no mangrove fringe exists:
- 44 a. In no event shall the total combined area of all structures occupy more than 30 percent (30%)
45 of the shoreline setback required for the principal structure.

1 b. Accessory structures, other than docks and erosion control structures, shall be set back at least
2 half the distance of the setback required for the principal structure, or 15 feet, whichever is
3 greater, as measured from the MHW line, and shall be located in upland areas. An exception
4 shall be made for a maximum four foot wide walkway connecting the developed area to a dock
5 or water access structure constructed in accordance with Section 118-12(m)(6).
6

7 3. Along unaltered shorelines:
8

- 9 a. In no event shall the total, combined area of all structures occupy more than thirty (30) percent of
10 the upland area of the shoreline setback;
11 b. Accessory structures other than docks and erosion control structures shall be set back a minimum
12 of twenty-five (25) feet, as measured from the mean high water (MHW) line or the landward extent
13 of the mangroves, whichever is further landward; An exception shall be made for a maximum
14 four foot wide walkway connecting the developed area to a dock or water access structure
15 constructed in accordance with Section 118-12(m)(6).
16

17 * * *
18

19 **Section 3. Construction and Interpretation.** This ordinance and its interpretation shall be
20 liberally construed and enforced in favor of Monroe County to effectuate its public purpose(s) and
21 policy(ies) of the County. The construction and interpretation of this ordinance and all Monroe County
22 Comprehensive Plan provision(s), Florida Building Code, Florida Statutes, and Monroe County Code(s)
23 provision(s) whose interpretation arises out of, relates to, or is interpreted in connection with this
24 ordinance shall be liberally construed and enforced in favor of Monroe County to effectuate its public
25 purpose(s) and policy(ies) of the County, and shall be construed in favor of the BOCC and such
26 construction and interpretation shall be entitled to great weight in adversarial administrative proceedings,
27 at trial, bankruptcy, and on appeal.
28

29 **Section 4. No Liability.** Monroe County expressly reserves and in no way shall be deemed to
30 have waived, for itself or for its officer(s), employee(s), or agent(s), any sovereign, governmental, and any
31 other similar defense, immunity, exemption, or protection against any suit, cause-of-action, demand, or
32 liability.
33

34 **Section 5. Severability.** If any provision of this ordinance, or any part or portion thereof, is
35 held to be invalid or unenforceable by any administrative hearing officer or court of competent
36 jurisdiction, the invalidity or unenforceability of such provision, or any part or portion thereof, shall
37 neither limit nor impair the operation, enforceability, or validity of any other provision of this ordinance,
38 or any remaining part(s) or portion(s) thereof. All other provisions of this ordinance, and remaining part(s)
39 or portion(s) thereof, shall continue unimpaired in full force and effect.

40 **Section 6. Repeal of Inconsistent Provisions.** All ordinances in conflict with this ordinance
41 are hereby repealed to the extent of said conflict. The repeal of an ordinance herein shall not repeal the
42 repealing clause of such ordinance or revive any ordinance which has been repealed thereby.
43

