



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 SECTION 118-12 OF THE MONROE COUNTY LAND DEVELOPMENT CODE 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 LAND DEVELOPMENT CODE; PROVIDING FOR AN EFFECTIVE DATE. (FILE 2021-068)

Meeting: January 26, 2022

I. REQUEST

The Monroe County Planning & Environmental Resources Department is proposing an amendment to the Land Development Code to amend Section 118-12 (c) to allow the following within the shoreline setbacks, with certain conditions:

- certain accessory structures not exceeding 18 inches in height
- at grade decks not exceeding 6 inches in height
- four-foot wide walkway to the shoreline or docking facility

II. BACKGROUND INFORMATION

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

1 Staff is proposing a corresponding amendment to Comprehensive Plan Policy 212.2.4 as well. The
2 subject of this staff report is the proposed amendment to Section 118-12 of the Land Development Code.
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6 **Community Meeting and Public Participation**

7 In accordance with LDC Section 102-159(b)(3), a Community Meeting was held virtually on October
8 21, 2021 to provide for public input. There were no attendees from the public and three County staff
9 members.
10

11 **Development Review Committee and Public Input**

12 The proposed amendments were reviewed by the Development Review Committee at a regular meeting
13 on October 26, 2021. There were no members of the public attending, and no additional staff comments
14 or recommendations were made.
15

16 **Planning Commission and Public Input**

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

19 **Previous County Action**

20 On September 2, 2015, the BOCC held public hearings to review and discuss proposed amendments to
21 the Land Development Code to be consistent with the transmitted Monroe County Year 2030
22 Comprehensive Plan, the results of the Comprehensive Plan Technical Document update, the adopted
23 2012 Evaluation and Appraisal Report and the 2014 Evaluation and Appraisal Notification Letter.
24 Chapters reviewed at the September hearing included, among others, Chapter 118 - Environmental
25 Protection.
26

27 On April 13, 2016, at a special public meeting, the Monroe County Board of County Commissioners
28 adopted Ordinance No. 006-2016, amending the Land Development Code to be consistent with the
29 transmitted Monroe County Year 2030 Comprehensive Plan, the results of the Comprehensive Plan
30 Technical Document update, the adopted 2012 Evaluation and Appraisal Report and the 2014 Evaluation
31 and Appraisal Notification Letter.
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
35 associated Land Development Code amendments via Ordinance 006-2016.
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37

38 **III. PROPOSED LAND DEVELOPMENT CODE TEXT AMENDMENTS**

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

42 **Section 118-12 Shoreline Setback.**

43 * * * *

44 (c) **Accessory structures.** Accessory structures, as defined in Section 101-1, within the shoreline
45 setback shall be constructed at a foundation height not to exceed 18 inches above existing grade
46 and shall meet the following design criteria:

- 47 (1) Along lawfully altered shorelines adjacent to manmade canals, channels, and basins:

- 1 a. In no event shall the total, combined area of all structures occupy more than 60 percent
2 (60%) of the upland area of the required 20-foot shoreline setback.
- 3 b. Accessory structures, including, but not limited to, pools, spas, and any screen enclosure
4 over pools or spas shall be set back a minimum of ten (10) feet, as measured from the MHW
5 line. With the exception of docks and erosion control structures, an accessory structure
6 other than those listed above not exceeding 18 inches in height as measured from grade
7 may be permitted within the 20-foot shoreline setback if the structure is situated at least one
8 (1) foot from the MHW line and constructed to avoid any off-site discharge of stormwater
9 from the subject parcel in accordance with Section 114-3.
- 10 c. At grade decks not exceeding 6 inches in height as measured from grade may be permitted
11 within the shoreline setback if the structure is situated at least one (1) foot from the MHW
12 line and constructed to avoid any off-site discharge of stormwater from the subject parcel
13 in accordance with Section 114-3.
- 14 (2) Along open water shorelines not adjacent to manmade canals, channels, or basins, and which
15 have been altered by the legal placement of fill, and where a mangrove fringe of at least ten
16 (10) feet in width exists, or native vegetation exists or is planted and maintained in a ten-foot
17 (10) width across the entire shoreline of the property and is placed under a grant of
18 conservation easement running in favor of the County.
- 19 a. In no event shall the total combined area of all structures occupy more than 30 percent
20 (30%) of the shoreline setback required for the principal structure.
- 21 b. Accessory structures, ~~including, but not limited to, pools, spas and any screen enclosure~~
22 ~~over pools or spas~~ other than docks and erosion control structures shall be set back a
23 minimum of 15 feet as measured from the MHW line or the landward extent of the
24 mangroves, whichever is farther landward, and shall be located in upland areas. An
25 exception shall be made for a maximum four-foot wide walkway to the shoreline or docking
26 facility constructed in accordance with Section 118-12(m)(6). One walkway shall be
27 permitted per 100 linear feet of shoreline.
- 28 (3) Along open water shorelines not adjacent to manmade canals, channels, or basins, and which
29 have been altered by the legal placement of fill, and where no mangrove fringe exists, and no
30 conservation easement of native shoreline vegetation exists pursuant to Section 118-
31 12(b)(4)b:
- 32 a. In no event shall the total combined area of all structures occupy more than 30 percent
33 (30%) of the shoreline setback required for the principal structure.
- 34 b. Accessory structures, ~~including, but not limited to, pools, spas, and any screen enclosure~~
35 ~~over pools or spas~~, other than docks and erosion control structures, shall be set back at least
36 half the distance of the setback required for the principal structure, or 15 feet, whichever is
37 greater, as measured from the MHW line, and shall be located in upland areas. An
38 exception shall be made for a maximum four-foot wide walkway connecting the developed
39 area to a dock or water access structure constructed in accordance with Section 118-
40 12(m)(6).
- 41 (4) Along unaltered or unlawfully altered shorelines:
- 42 a. In no event shall the total combined area of all structures occupy more than 30 percent
43 (30%) of the shoreline setback required for the principal structure.
- 44 b. Accessory structures, ~~including, but not limited to, pools, spas, and any screen enclosure~~
45 ~~over pools or spas~~, other than docks and erosion control structures, shall be set back a
46 minimum of 25 feet, as measured from the MHW line or the landward extent of the
47 mangroves, whichever is farther landward, and shall be located in upland areas. An
48 exception shall be made for a maximum four-foot wide walkway connecting the developed

area to a dock or water access structure constructed in accordance with Section 118-12(m)(6).

IV. CONSISTENCY WITH THE MONROE COUNTY LAND DEVELOPMENT CODE

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

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

N/A

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

N/A

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

N/A

4. New issues;

The County is proposing text amendments to the Monroe County 2030 Comprehensive Plan Policy 212.2.4 to provide reasonable access by allowing certain accessory structures within the shoreline setback. The proposed text amendments to Sections 118-12 are necessary to be consistent with the proposed comprehensive plan amendment. Note, Sections 163.3194 and 163.3201, F.S., require land development regulations to be consistent with and implement the Comprehensive Plan.

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

The proposed amendments address unintentional restrictions on accessory structures in the shoreline setback.

6. Data updates;

N/A

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

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

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

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

1
2 **Objective 212.2**

3 Monroe County shall adopt minimum performance standards designed to reduce the stormwater runoff
4 impacts, aesthetic impacts, and hydrologic impacts of shoreline development.
5

6 **Policy 212.2.2:** Within one (1) year after completion of the evaluation in Policy 212.2.1, the existing setbacks
7 in the Land Development Code may be revised as deemed appropriate based upon findings of this review.
8 The setbacks currently in use may be relaxed only through the Special Approval process in Policy 212.2.4.
9 Existing setbacks are as follows:

- 10 1. twenty (20) feet from the mean high water (MHW) line of manmade water bodies and/or lawfully altered
11 shorelines of natural water bodies;
12 2. fifty (50) feet from natural water bodies with unaltered shorelines or unlawfully altered shorelines,
13 measured from the landward limit of mangroves, if any, and where mangroves do not exist, from the mean
14 high water (MHW) line; and
15 3. fifty (50) feet from any shoreline area which is known to serve as an active nesting or resting area for
16 marine turtles, crocodiles, terns, gulls and other birds. [§163.3178(2)(g), F.S.]
17

18 **Policy 212.2.3:**The definitions for the terms "altered shoreline" and "unaltered shoreline" are as follows:

- 19 1. altered shorelines are generally located directly along dredged canals, basins and channels and/or have
20 been filled or vertically bulkheaded to such a degree that the original natural slope landward of the water
21 is no longer present.
22 2. unaltered shorelines are generally located along natural non-dredged waterways and open water and have
23 a sloping profile typical of the original natural conditions of the shoreline even though fill or riprap may
24 be present.
25

26 **Policy 212.2.4:**Permitted uses and performance standards within the shoreline setback shall be as follows:

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

- 28 1. Along lawfully altered shorelines including manmade canals, channels, and basins, principal structures
29 shall be set back at least twenty (20) feet as measured from the mean high water (MHW) line;
30 2. Along lawfully altered shorelines including manmade canals, channels, and basins, for parcels less than
31 4,000 square feet that are developed with a lawfully established principal use, the required setback may
32 be reduced to a minimum of ten (10) feet provided that the structure is sited so as to protect community
33 character and minimize environmental impacts by maintaining open space and protecting shoreline
34 vegetation.
35 3. Along open water shorelines not adjacent to manmade canals, channels, or basins, and which have been
36 altered by the legal placement of fill:
37 a. Where a mangrove fringe of at least ten (10) feet in width occurs across the entire shoreline of the
38 property, principal structures shall be set back at least thirty (30) feet as measured from the mean high
39 water (MHW) line or the landward extent of the mangroves, whichever is further inland.
40 b. Where no mangrove fringe exists, principal structures shall be set back at least thirty (30) feet from
41 the mean high water (MHW) line, provided that native vegetation exists or is planted and maintained
42 in a ten (10) foot width across the entire shoreline as approved by the County Biologist, and is placed
43 under conservation easement; otherwise the setback shall be fifty (50) feet as measured from the mean
44 high water (MHW) line.
45 c. On infill lots surrounded by significant development where principal structures are set back less than
46 fifty (50) feet from mean high water (MHW) or the landward extent of mangroves, the Director of
47 Planning and Environmental Resources may evaluate the community character, the presence or
48 absence of environmental features, and the setbacks on adjacent developed properties within two
49 parcels on either side of proposed development, and may allow principal structures to be set back as
50 far as practicable or in line with adjacent principal structures. In no event shall the setback be less
51 than twenty (20) feet. On shorelines where the existing pattern of setback is greater than thirty (30)
52 feet, the greater setback shall apply.

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

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

- 6 1. Along altered shorelines, including manmade canals, channels, and basins:
7 a. In no event shall the total, combined area of all structures occupy more than sixty (60) percent of the
8 upland area of the shoreline setback;
9 b. Accessory structures, including, pools and spas shall be set back a minimum of ten (10) feet, as
10 measured from the mean high water (MHW) line;
11 2. Along open water shorelines which have been altered by the legal placement of fill, and where a mangrove
12 fringe of at least ten (10) feet in width occurs across the entire shoreline of the property:
13 a. In no event shall the total, combined area of all structures occupy more than thirty (30) percent of the
14 upland area of the shoreline setback;
15 b. Accessory structures other than docks and erosion control structures shall be set back a minimum of
16 fifteen (15) feet, as measured from the mean high water (MHW) line or the landward extent of the
17 mangroves, whichever is further landward;
18 3. Along unaltered shorelines:
19 a. In no event shall the total, combined area of all structures occupy more than thirty (30) percent of the
20 upland area of the shoreline setback;
21 b. Accessory structures other than docks and erosion control structures shall be set back a minimum of
22 twenty-five (25) feet, as measured from the mean high water (MHW) line or the landward extent of
23 the mangroves, whichever is further landward;
24

25 **B. The amendment is consistent with the Principles for Guiding Development for the Florida Keys**
26 **Area, Section 380.0552(7), Florida Statutes.**
27

28 For the purposes of reviewing consistency of the adopted plan or any amendments to that plan with the
29 principles for guiding development and any amendments to the principles, the principles shall be construed
30 as a whole and no specific provision shall be construed or applied in isolation from the other provisions.
31

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

- 1 5. Transportation facilities;
- 2 6. Federal parks, wildlife refuges, and marine sanctuaries;
- 3 7. State parks, recreation facilities, aquatic preserves, and other publicly owned properties;
- 4 8. City electric service and the Florida Keys Electric Co-op; and
- 5 9. Other utilities, as appropriate.

- 6
- 7 (i) Protecting and improving water quality by providing for the construction, operation, maintenance, and
- 8 replacement of stormwater management facilities; central sewage collection; treatment and disposal
- 9 facilities; and the installation and proper operation and maintenance of onsite sewage treatment and
- 10 disposal systems.
- 11 (j) Ensuring the improvement of nearshore water quality by requiring the construction and operation of
- 12 wastewater management facilities that meet the requirements of ss. 381.0065(4)(l) and 403.086(10), as
- 13 applicable, and by directing growth to areas served by central wastewater treatment facilities through
- 14 permit allocation systems.
- 15 (k) Limiting the adverse impacts of public investments on the environmental resources of the Florida Keys.
- 16 (l) Making available adequate affordable housing for all sectors of the population of the Florida Keys.
- 17 (m) Providing adequate alternatives for the protection of public safety and welfare in the event of a natural or
- 18 manmade disaster and for a postdisaster reconstruction plan.
- 19 (n) Protecting the public health, safety, and welfare of the citizens of the Florida Keys and maintaining the
- 20 Florida Keys as a unique Florida resource.

21
22 Pursuant to Section 380.0552(7) Florida Statutes, the proposed amendment is not inconsistent with the
23 Principles for Guiding Development as a whole and is not inconsistent with any Principle.

24
25 **C. The proposed amendment is consistent with the Part II of Chapter 163, Florida Statute (F.S.).**
26 **Specifically, the amendment furthers:**

27
28 163.3194(1)(b), F.S. – All land development regulations enacted or amended shall be consistent with the
29 adopted comprehensive plan, or element or portion thereof, and any land development regulations
30 existing at the time of adoption which are not consistent with the adopted comprehensive plan, or element
31 or portion thereof, shall be amended so as to be consistent. If a local government allows an existing land
32 development regulation which is inconsistent with the most recently adopted comprehensive plan, or
33 element or portion thereof, to remain in effect, the local government shall adopt a schedule for bringing
34 the land development regulation into conformity with the provisions of the most recently adopted
35 comprehensive plan, or element or portion thereof. During the interim period when the provisions of the
36 most recently adopted comprehensive plan, or element or portion thereof, and the land development
37 regulations are inconsistent, the provisions of the most recently adopted comprehensive plan, or element
38 or portion thereof, shall govern any action taken in regard to an application for a development order.

39
40 163.3201, F.S. – Relationship of comprehensive plan to exercise of land development regulatory authority.—
41 It is the intent of this act that adopted comprehensive plans or elements thereof shall be implemented, in
42 part, by the adoption and enforcement of appropriate local regulations on the development of lands and
43 waters within an area. It is the intent of this act that the adoption and enforcement by a governing body of
44 regulations for the development of land or the adoption and enforcement by a governing body of a land
45 development code for an area shall be based on, be related to, and be a means of implementation for an
46 adopted comprehensive plan as required by this act.

47
48 163.3202(1), F.S. – Land development regulations. Within 1 year after submission of its comprehensive plan
49 or revised comprehensive plan for review pursuant to s. 163.3191, each county and each municipality
50 shall adopt or amend and enforce land development regulations that are consistent with and implement
51 their adopted comprehensive plan.

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VI. PROCESS

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

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

In cases in which the proposed ordinance changes the actual list of permitted, conditional, or prohibited uses within a zoning category, the board of county commissioners shall hold two (2) advertised public hearings on the proposed ordinance.

VII. STAFF RECOMMENDATION

Staff recommends approval of the proposed amendment.

VIII. EXHIBITS

- 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 AMENDING SECTION 118-12 OF THE MONROE COUNTY LAND DEVELOPMENT CODE 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 LAND DEVELOPMENT CODE; 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. 006-2016 amending the Monroe County Land Development Code (“Land Development Code”, “LDC” or “Code”); and

WHEREAS, this LDC amendment implements the Monroe County Comprehensive Plan’s Goals, Objectives and Policies, by, *inter alia*, removing eliminable redundant or obsolete Code text, and, separately, buttressing the clarity of the existing/pre-existing legislative and regulatory intent of the sections and subsections of this Land Development Code Chapter; and

WHEREAS, The BOCC adopted Ordinance 025-2021 amending Chapter 118 of the Land Development Code on September 15, 2021; and

WHEREAS, The requested amendment to the Land Development Code is to provide for certain accessory structures in the shoreline setback which were inadvertently prohibited with the adoption of Ordinance 006-2016; 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

1 **WHEREAS**, the Monroe County Development Review Committee (“DRC”) held a duly
2 advertised public meeting on October 26, 2021, to consider adoption of amendment to the LDC, and
3 provided an additional opportunity for further public comment; and
4

5 **WHEREAS**, the Monroe County Planning Commission (“Planning Commission” or “PC”) held
6 a duly noticed public hearing on January 26, 2022, to review and consider the proposed amendment and
7 adopted Resolution No. P__-22, recommending approval to the Monroe County Board of County
8 Commissioner; and
9

10 **WHEREAS**, at a duly noticed regular public meeting of the BOCC held on_____, 2022, the
11 Monroe Board of County Commissioners held a public hearing, considered the Department’s agenda
12 item body, agenda item background, professional staff report, and provided an opportunity for members
13 of the public to offer public comment, participation, and/or input, in accordance with the requirements of
14 local, state, and federal law; and
15

16 **WHEREAS**, based upon the foregoing, the Board of County Commissioners of Monroe County,
17 Florida, hereby makes the following findings of fact and conclusions of law:
18

- 19 1. The proposed amendment(s) is/are consistent with the Goals, Objectives and Policies of the
20 Monroe County Year 2030 Comprehensive Plan; and
21
- 22 2. The proposed amendment(s) is/are consistent with the Principles for Guiding Development for
23 the Florida Keys Area of Critical State Concern, 380.0552(7), Florida Statutes; and
24
- 25 3. The proposed amendment(s) is/are consistent with Part II of Chapter 163, Florida Statutes; and
26
- 27 4. The proposed amendment(s) is/are necessary and in furtherance of the constitutional, statutory,
28 and local police power(s) of Monroe County, Florida;
29

30 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**
31 **COMMISSIONERS OF MONROE COUNTY, FLORIDA, THAT:**
32

33 **Section 1. Recitals and Legislative Intent.** The foregoing prefatory recitals, including but
34 not limited this ordinance’s title, are true and correct, and are hereby incorporated as if fully stated herein.
35

36 **Section 2. The Monroe County Land Development Code is hereby amended as follows**
37 **(deletions are stricken through; additions are underlined):**

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

39 (c) *Accessory structures.* Accessory structures, as defined in Section 101-1, within the shoreline
40 setback shall be constructed at a foundation height not to exceed 18 inches above existing grade
41 and shall meet the following design criteria:

- 42 (1) Along lawfully altered shorelines adjacent to manmade canals, channels, and basins:

- 1 a. In no event shall the total, combined area of all structures occupy more than 60 percent
2 (60%) of the upland area of the required 20-foot shoreline setback.
- 3 b. Accessory structures, including, but not limited to, pools, spas, and any screen enclosure
4 over pools or spas shall be set back a minimum of ten (10) feet, as measured from the
5 MHW line. With the exception of docks and erosion control structures, an accessory
6 structure other than those listed above not exceeding 18 inches in height as measured
7 from grade may be permitted within the 20-foot shoreline setback if the structure is
8 situated at least one (1) foot from the MHW line and constructed to avoid any off-site
9 discharge of stormwater from the subject parcel in accordance with Section 114-3.
- 10 c. At grade decks not exceeding 6 inches in height as measured from grade may be
11 permitted within the shoreline setback if the structure is situated at least one (1) foot from
12 the MHW line and constructed to avoid any off-site discharge of stormwater from the
13 subject parcel in accordance with Section 114-3.
- 14 (2) Along open water shorelines not adjacent to manmade canals, channels, or basins, and which
15 have been altered by the legal placement of fill, and where a mangrove fringe of at least ten
16 (10) feet in width exists, or native vegetation exists or is planted and maintained in a ten-foot
17 (10) width across the entire shoreline of the property and is placed under a grant of conservation
18 easement running in favor of the County.
- 19 a. In no event shall the total combined area of all structures occupy more than 30 percent
20 (30%) of the shoreline setback required for the principal structure.
- 21 b. Accessory structures, ~~including, but not limited to, pools, spas and any screen enclosure~~
22 ~~over pools or spas~~ other than docks and erosion control structures shall be set back a
23 minimum of 15 feet as measured from the MHW line or the landward extent of the
24 mangroves, whichever is farther landward, and shall be located in upland areas. An
25 exception shall be made for a maximum four-foot wide walkway to the shoreline or
26 docking facility constructed in accordance with Section 118-12(m)(6). One walkway shall
27 be permitted per 100 linear feet of shoreline.
- 28 (3) Along open water shorelines not adjacent to manmade canals, channels, or basins, and which
29 have been altered by the legal placement of fill, and where no mangrove fringe exists, and no
30 conservation easement of native shoreline vegetation exists pursuant to Section 118-12(b)(4)b:
- 31 a. In no event shall the total combined area of all structures occupy more than 30 percent
32 (30%) of the shoreline setback required for the principal structure.
- 33 b. Accessory structures, ~~including, but not limited to, pools, spas, and any screen enclosure~~
34 ~~over pools or spas~~, other than docks and erosion control structures, shall be set back at
35 least half the distance of the setback required for the principal structure, or 15 feet,
36 whichever is greater, as measured from the MHW line, and shall be located in upland
37 areas. An exception shall be made for a maximum four-foot wide walkway connecting
38 the developed area to a dock or water access structure constructed in accordance with
39 Section 118-12(m)(6).
- 40 (4) Along unaltered or unlawfully altered shorelines:

1 a. In no event shall the total combined area of all structures occupy more than 30 percent
2 (30%) of the shoreline setback required for the principal structure.

3 b. Accessory structures, ~~including, but not limited to, pools, spas, and any~~
4 ~~screen enclosure over pools or spas,~~ other than docks and erosion control structures, shall
5 be set back a minimum of 25 feet, as measured from the MHW line or the landward extent
6 of the mangroves, whichever is farther landward, and shall be located in upland areas. [An](#)
7 [exception shall be made for a maximum four-foot wide walkway connecting the developed](#)
8 [area to a dock or water access structure constructed in accordance with Section 118-](#)
9 [12\(m\)\(6\).](#)

10 * * *

11
12 **Section 3. Construction and Interpretation.** This ordinance and its interpretation shall be
13 liberally construed and enforced in favor of Monroe County to effectuate its public purpose(s) and
14 policy(ies) of the County. The construction and interpretation of this ordinance and all Monroe County
15 Comprehensive Plan provision(s), Florida Building Code, Florida Statutes, and Monroe County Code(s)
16 provision(s) whose interpretation arises out of, relates to, or is interpreted in connection with this
17 ordinance shall be liberally construed and enforced in favor of Monroe County to effectuate its public
18 purpose(s) and policy(ies) of the County, and shall be construed in favor of the BOCC and such
19 construction and interpretation shall be entitled to great weight in adversarial administrative proceedings,
20 at trial, bankruptcy, and on appeal.

21
22 **Section 4. No Liability.** Monroe County expressly reserves and in no way shall be deemed to
23 have waived, for itself or for its officer(s), employee(s), or agent(s), any sovereign, governmental, and any
24 other similar defense, immunity, exemption, or protection against any suit, cause-of-action, demand, or
25 liability.

26
27 **Section 5. Severability.** If any provision of this ordinance, or any part or portion thereof, is
28 held to be invalid or unenforceable by any administrative hearing officer or court of competent
29 jurisdiction, the invalidity or unenforceability of such provision, or any part or portion thereof, shall
30 neither limit nor impair the operation, enforceability, or validity of any other provision of this ordinance,
31 or any remaining part(s) or portion(s) thereof. All other provisions of this ordinance, and remaining part(s)
32 or portion(s) thereof, shall continue unimpaired in full force and effect.

33
34 **Section 6. Repeal of Inconsistent Provisions.** All ordinances in conflict with this ordinance
35 are hereby repealed to the extent of said conflict. The repeal of an ordinance herein shall not repeal the
36 repealing clause of such ordinance or revive any ordinance which has been repealed thereby.

37
38 **Section 7. Transmittal.** This ordinance shall be transmitted to the Florida State Land
39 Planning Agency pursuant to Chapter 163 and 380, Florida Statutes.

40
41 **Section 8. Filing and Effective Date.** This ordinance shall be filed in the Office of the
42 Secretary of State of Florida, but shall not become effective until a notice is issued by the Florida State
43 Land Planning Agency or Administration Commission finding the amendment in compliance with
44 Chapter 163, F.S., and if challenged until such challenge is resolved.

1 **Section 9. Inclusion in the Land Development Code.** The amendment shall be
2 incorporated in the Monroe County Land Development Code. The numbering of the foregoing
3 amendment may be renumbered to conform to the numbering in the Monroe County Land Development
4 Code.

5
6 **PASSED AND ADOPTED** by the Board of County Commissioners of Monroe County, Florida,
7 at a regular meeting held on the _____ day of _____, 2022.

8
9 Mayor David Rice _____
10 Mayor Pro Tem Craig Cates _____
11 Michelle Coldiron, _____
12 VACANT, District 3 _____
13 Holly Merrill Raschein _____
14

15
16 BOARD OF COUNTY COMMISSIONERS
17 OF MONROE COUNTY, FLORIDA
18

19
20 By: _____
21 Mayor David Rice
22

23 (SEAL)

24
25 ATTEST: KEVIN MADOK, CLERK
26

27
28 _____
29 As Deputy Clerk
30