



MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

To: Monroe County Development Review Committee and
Emily Schemper, AICP, CFM, Senior Director of Planning & Environmental Resources

From: Mayté Santamaria, Senior Planning Policy Advisor

Date: December 20, 2021

Subject: AN ORDINANCE BY MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADOPTING AMENDMENTS TO MONROE COUNTY LAND DEVELOPMENT CODE SECTION 131-2, MAXIMUM HEIGHT, TO AMEND THE HEIGHT LIMIT TO 40FT, AFTER THE ADOPTION AND ON THE EFFECTIVE DATE OF UPDATED FEMA FLOOD INSURANCE RATE MAPS, FOR LAWFULLY ESTABLISHED EXISTING RESIDENTIAL BUILDINGS WHICH DO NOT EXCEED THE 35-FOOT HEIGHT LIMIT AND NEW RESIDENTIAL BUILDINGS (INCLUDES SUBSTANTIAL IMPROVEMENTS) IN ORDER FOR THESE BUILDINGS TO ELEVATE TO OR MAINTAIN THE REQUIRED ELEVATION BASED ON THE FLORIDA BUILDING CODE AND UPDATED FEMA FLOOD INSURANCE RATE MAPS; 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.

Meeting: February 22, 2022

I. REQUEST

The Monroe County Planning & Environmental Resources Department is proposing amendments to Section 131-2, Maximum Height, in order to further facilitate the protection of property from flooding and reduce flood insurance costs.

The proposed amendment is to *amend the height limit to 40ft* for lawfully established existing residential buildings which do not exceed the 35-foot height limit and new residential buildings (includes substantial improvements) in order for these buildings to elevate to or maintain the required elevation based on the *Florida Building Code* and updated FEMA Flood Insurance Rate Maps.

The height limit changes would be based on and triggered by the *adoption and effective date* of updated FEMA Flood Insurance Rate Maps. Updated FEMA Flood Insurance Rate Maps are the maps adopted

1 subsequent to FEMA Flood Insurance study and the accompanying Flood Insurance Rate Maps, dated
2 February 18, 2005 (current FIRMs).

3
4 The amendment is proposed to address:

- 5 1. The vertical datum conversions from the National Geodetic Vertical Datum of 1929 (NGVD29)
6 to the North American Vertical Datum of 1988 (NAVD88) with the updated FEMA Flood
7 Insurance Rate Maps. While there is no set conversion factor, as it varies throughout Monroe
8 County, on average there is -1.5 foot conversion.
- 9 2. The potential for flood zone changes and base flood elevation changes within the updated FEMA
10 Flood Insurance Rate Maps.

11 12 **II. BACKGROUND INFORMATION**

13
14 The National Flood Insurance Program (NFIP) is a federally-subsidized flood damage insurance
15 program administered by the Federal Emergency Management Agency (FEMA). Residents and business
16 owners are eligible to purchase NFIP flood insurance policies in communities that agree to regulate
17 development in special flood hazard areas. These special flood hazard areas are delineated by FEMA on
18 Flood Insurance Rate Maps.

19
20 The NFIP makes federally-backed flood insurance available in those states and communities that agree
21 to adopt and enforce floodplain management ordinances to reduce future flood damage. These
22 regulations must meet or exceed the minimum administrative and technical requirements in the NFIP
23 regulations (44 CFR Part 59 and Part 60). FEMA administers the NFIP and provides technical assistance
24 and training on NFIP requirements and mitigation measures. FEMA also has extensive publications on
25 the NFIP, including detailed guidance on mitigation measures that can minimize or eliminate future
26 flood damages.

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

32
33 Communities must incorporate NFIP requirements into their zoning codes, subdivision ordinances,
34 and/or building codes or adopt special purpose floodplain management ordinances. The NFIP
35 requirements apply to areas mapped as Special Flood Hazard Areas (SFHA) on Flood Insurance Rate
36 Maps (FIRMs) issued by FEMA. The SFHA is the area that would be flooded by the "base flood"
37 (defined as the flood that has a 1 percent chance of occurring in any given year; also known as the "100-
38 year flood").

39
40 The NFIP requirements include, but are not limited to:

- 41 • Elevation of new and substantially improved residential structures above the base flood level.
- 42 • Elevation or dry floodproofing (made watertight) of new or substantially improved non-
43 residential structures.
- 44 • Prohibition of development in floodways, the central portion of a riverine floodplain needed to
45 carry deeper and faster moving water.
- 46 • Additional requirements to protect buildings in coastal areas from the impacts of waves, high
47 velocity, and storm surge.

1
2 FIRMs inform communities about the local flood risk and set minimum floodplain standards for
3 communities to build with safety and resiliency in mind. FIRMs also currently determine the cost of
4 flood insurance and the mandatory purchase requirement. As risks change, insurance premiums also
5 change to reflect those risks, but property owners may be able to reduce premiums if they build their
6 home or business to be safer, higher, and stronger.

7
8 As a note, FEMA is updating the NFIP's risk rating methodology through the implementation of a new pricing
9 methodology called Risk Rating 2.0. FEMA's new methodology for determining NFIP policy premiums
10 incorporates variables to reflect a property's individual flood risk, including the frequency and types of flooding,
11 such as storm surge, coastal erosion, and heavy rainfall — and the distance to a water source along with property
12 characteristics, such as elevation and the cost to rebuild. Communities will continue to earn NFIP rate discounts
13 of 5% - 45% based on the Community Rating System classification, including Monroe County (35% discount);
14 however, since Risk Rating 2.0 does not use flood zones to determine flood risk, the discount will be uniformly
15 applied to all policies throughout the participating community, regardless of whether the structure is inside or
16 outside of the Special Flood Hazard Area.

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

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

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

- 33 • Map Modernization and FEMA Risk MAP priorities
- 34 • Integration of flood-resistant standards into the Florida Building Code
- 35 • Coordination with Federal flood mitigation grant programs
- 36 • Integration of floodplain management concepts and tasks into multi-jurisdictional local
37 mitigation strategies developed by counties and municipalities
- 38 • Participation in maintaining the State Enhanced Hazard Mitigation Plan and planning process
- 39 • Consultation with State agencies on state-owned facilities in special flood hazard areas
- 40 • Training of local floodplain managers and building officials, in partnership with the Florida
41 Floodplain Managers Association (FFMA)
- 42 • Coordination with the Florida Dam Safety Program
- 43 • Partnerships with federal, state and local organizations pertinent to floodplain management

44
45 In 2012, State Floodplain Management Office developed a **Model Floodplain Management Ordinance**
46 for communities, written explicitly to rely on the flood provisions in the *Florida Building Code*. FEMA
47 approved the **Model Floodplain Management Ordinance** in 2013.

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

5
6 Over the past 10 years, DEM has worked with nearly all of Florida’s 468 NFIP communities to transition
7 to the **Model Floodplain Management Ordinance**, providing assistance, to tailor the model as
8 appropriate for each community. At this time, 10 communities, including Monroe County, are still
9 preparing the required amendments to their existing regulations.

10
11 Amendments to the County’s Floodplain Management Ordinance (Ch. 122 of the Land Development
12 Code) are necessary to be consistent with FEMA provisions, incorporate DEM’s **Model Floodplain**
13 **Management Ordinance** and to continue to fulfill the NFIP requirements. Additionally, the update will
14 allow the County to continue to meet and improve the requirements and activities of the Community
15 Rating System.

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17
18 The Community Rating System (CRS) is a voluntary incentive program that recognizes and encourages
19 communities to establish sound programs that recognize and encourage floodplain management
20 activities that *exceed* the minimum NFIP requirements. By conducting mitigation and outreach activities
21 that increase safety and resilience, including CRS credits for regulating to higher standards, communities
22 can earn credits and discounts (up to 45 percent within the Special Flood Hazard Area) on flood insurance
23 premiums for property owners.

24
25 In CRS communities, flood insurance premium rates are discounted to reflect the reduced flood risk
26 resulting from the community’s efforts that address the three goals of the program:

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

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31 A community accrues points to improve its CRS Class rating and receive increasingly higher discounts.

32
33 The CRS uses a Class rating system that is similar to fire insurance rating to determine flood insurance
34 premium reductions for residents. CRS Classes are rated from 9 to 1. Today, most communities enter
35 the program at a CRS Class 9 or Class 8 rating, which entitles residents in Special Flood Hazard Areas
36 (SFHAs) to a 5% discount on their flood insurance premiums for a Class 9 or a 10% discount for Class
37 8. As a community engages in additional mitigation activities, its residents become eligible for increased
38 NFIP policy premium discounts. Each CRS Class improvement produces a 5% greater discount on flood
39 insurance premiums for properties in the SFHA. CRS Class changes occur on April 1 and October 1 of
40 each year.

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

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

*Increase due to increase cost of NFIP Policies.

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

FEMA Flood Maps

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

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

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

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

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

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

- 1) Storm Climatology and Selection for Florida Keys,
- 2) Statistical Analysis of Storm Sets, Low-Frequency Water Levels and Waves,

- 3) Wave Model Validation,
- 4) Hydrodynamic/Wave Model Mesh Resolution,
- 5) Hydrodynamic/Wave Model Parameterization of Reefs, and
- 6) Number and Location of Coastal Transects.

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

Information on the consultant’s review can accessed here: <https://www.monroecounty-fl.gov/1151/New-Preliminary-Coastal-Flood-Maps>.

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

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

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

APPEAL PROCESS TIMELINE (approximated)			MAP ADOPTION			
APPEAL	May 2021 (Starts)	April 2022 (Ends)	December 2022			
				COUNTY NOT SATISFIED WITH APPEAL RESULTS	SRP PROCESS TIMELINE (approximated)	MAP ADOPTION
	SRP	June 2022 (Starts)	May 2023 (Ends)		January 2024	

The County anticipates the Final FIRMs will most likely become effective sometime in 2022-2024. **When FEMA issues a Letter of Final Determination (LFD), which is a letter to the County that the updated FIRM will become effective in 6 months, the County must formally adopt the FIRMs and must adopt a compliant floodplain management ordinance by the map effective date to remain a participant in good standing in the NFIP.**

Along with the adoption of the Final FIRMs, the County will need make updates to both the Comprehensive Plan and Land Development Code and Code or Ordinances to adopt and implement the maps and ensure compliance with the DEM Model Floodplain Ordinance. **The County must begin processing County amendments to the Comprehensive Plan and Land Development Code in advance, due to the County’s public noticing and meeting requirements as well as the required State review and approval process for Areas of Critical State Concerns, to meet the 6-month deadline.**

1 Additionally, when the Final FIRMs are effective, the County will use the FIRMs to review building
2 permits; establish what a finished floor elevation needs to be and determine building and site design
3 requirements to reduce future risk of flooding. New lender requirements may go into effect along with
4 flood insurance requirements, as well as changes in flood insurance rates as a result of map changes.
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6 **It should be noted that the County's proposed amendments to Ch. 122 of the Land Development**
7 **Code (the County's Floodplain Management Ordinance) do not "automatically adopt" any revised**
8 **FIS and/or FIRMs when FEMA issues the Final effective products. The County will have to take**
9 **legislative action when the LFD is issued to formally adopt the FIRMs, FIS and any necessary**
10 **amendments to ensure a compliant floodplain management ordinance.**
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12 In summary, the County is proposing the following connected amendments:
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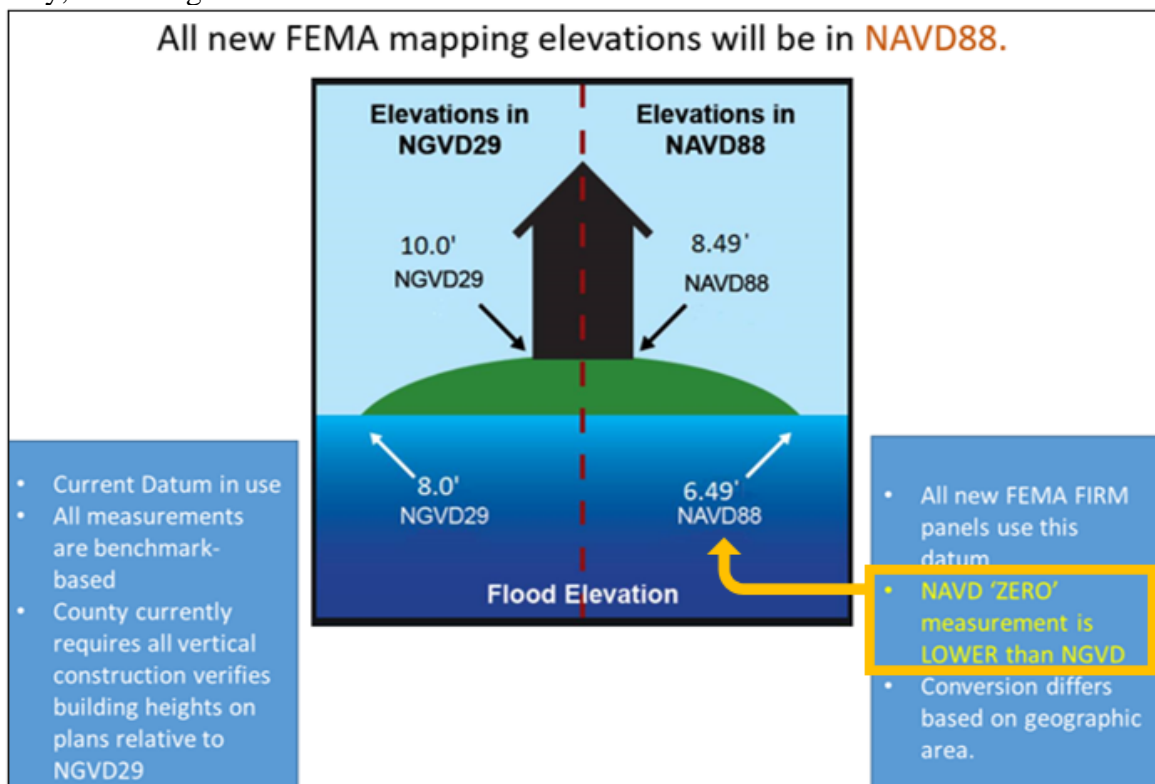
- 14 • Update Land Development Code Chapter 122 to be consistent with the State of Florida (DEM)
15 Model Floodplain Management Ordinance, include updated FEMA policies, explicitly to rely on
16 the flood provisions in the *Florida Building Code* and to eliminate obsolete or unnecessary
17 regulations.
 - 18 ○ Amendments does not include any updated FIRM maps. Maintains the 2005 FIRMs.
 - 19 ○ Amendments to Land Development Code Chapter 122 are critical for DEM to deem the
20 County's Floodplain Management Ordinance compliant with NFIP requirements and for
21 the County's next CRS verification.
- 22 • Update Code of Ordinances Chapter 6 to be consistent with the *Florida Building Code* and adopt
23 amendments for local higher floodplain standards, including:
 - 24 ○ Shifting local higher floodplain standards from Chapter 122 to Chapter 6 (for example:
25 299SF downstairs enclosure limitation and foundation requirements [anchoring to rock]).
 - 26 ○ Including technical amendments to the *Florida Building Code* for additional local higher
27 floodplain standards (for example: elevation certificate requirements).
 - 28 ○ Amendments to Code of Ordinances Chapter 6 are critical for DEM to deem the County's
29 Floodplain Management Ordinance compliant with NFIP requirement and for the
30 County's next CRS verification.
- 31 • Amend the Comprehensive Plan and Land Development Code to provide for an increase to the
32 maximum height of residential buildings, which would be available on the adoption and effective
33 date of updated FEMA Flood Insurance Rate Maps.
 - 34 ○ The County is considering a maximum height limit of 40 feet (exception of up to a
35 maximum of five (5) feet above the 35-foot height limit) in order to elevate to or maintain
36 the required elevation based on the *Florida Building Code*, (exception of up to a
37 maximum of five (5) feet above the 35-foot height limit). Exception shall not result in a
38 new building or a substantially improved building or a lawfully existing building to
39 exceed a maximum height of 40 feet.
 - 40 ○ Amendment intended to address additional difference in elevation due to a change in the
41 updated FIRMs requiring the use of North American Vertical Datum of 1988 or NAVD88
42 (on average there is -1.5 foot conversion), potential increased base flood elevation
43 requirements with the updated FIRM maps, and changes in construction requirements
44 based on revised base flood elevations.
- 45 • Amend Land Development Code Chapter 138 to require applicants to submit plan revisions to
46 prior to permit issuance, demonstrating full compliance with the current *Florida Building Code*
47 and the updated FIRM maps, for permits requiring an ROGO/NROGO allocation.

- 1 o Establishing that all applications in or entering into the ROGO system on or after the
2 effective date of the updated FIRMs, shall have the application scores reevaluated and
3 updated based on the updated FIRMs.
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6 **The subject of this staff report is the proposed amendment to Monroe County Land Development**
7 **Code Section 131-2, Maximum Height, to amend the height limit to 40ft for lawfully established**
8 **existing residential buildings which do not exceed the 35-foot height limit and new residential**
9 **buildings (includes substantial improvements) in order for these buildings to elevate to or maintain**
10 **the required elevation based on the Florida Building Code. The amendment is based on and will**
11 **be triggered by the adoption and effective date of updated FEMA Flood Insurance Rate Maps.**
12 **Updated FEMA Flood Insurance Rate Maps are the maps adopted subsequent to FEMA Flood**
13 **Insurance study and the accompanying Flood Insurance Rate Maps, dated February 18, 2005**
14 **(current FIRMs).**
15

16 The amendment is proposed to address:

- 17 1. The **vertical datum conversions** from the National Geodetic Vertical Datum of 1929 (NGVD29)
18 to the North American Vertical Datum of 1988 (NAVD88) with the updated FEMA Flood
19 Insurance Rate Maps. While there is no set conversion factor, as it varies throughout Monroe
20 County, on average there is -1.5 foot conversion.



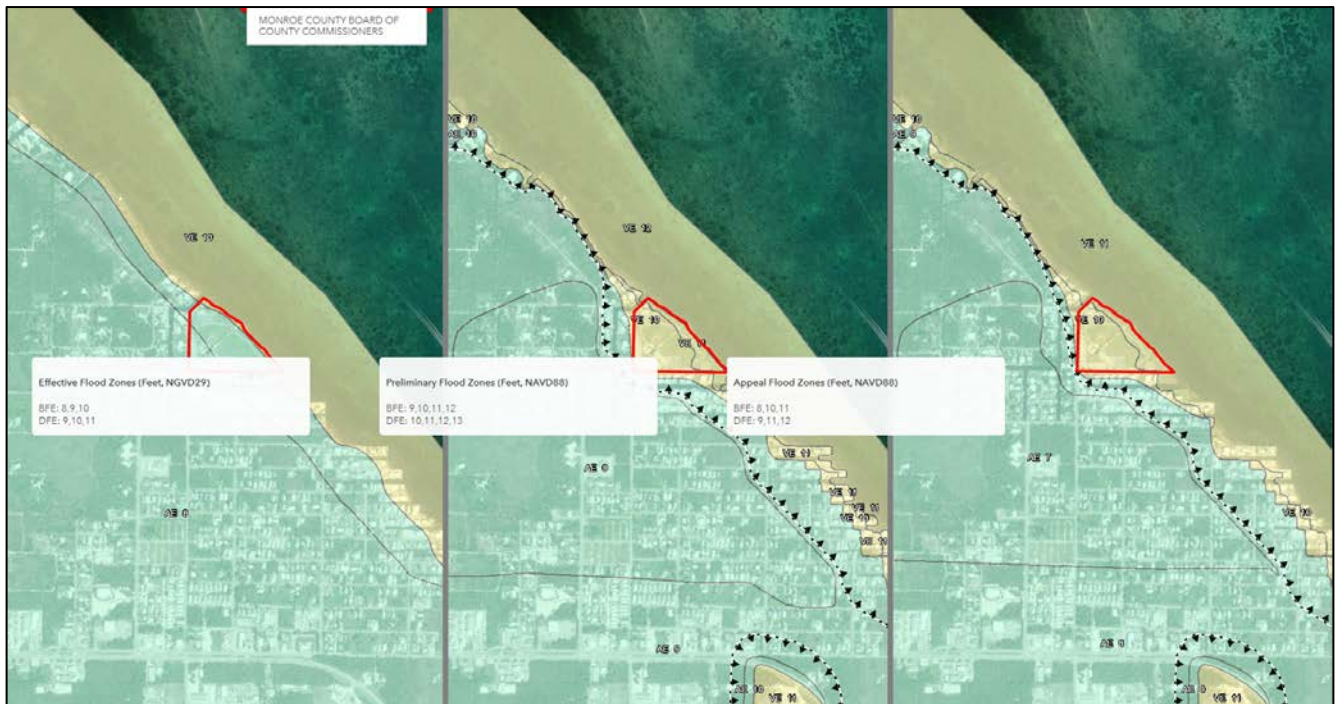
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23 2. The potential for **flood zone changes and base flood elevation changes** within the updated
24 FEMA Flood Insurance Rate Maps, including the new boundary for the *Limit of Moderate Wave*
25 *Action* (LiMWA) with the requirement that properties within the boundary be built to VE Zone
26 construction standards.
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Examples: Note, LIMWA = black-and-white hashed line with triangles



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

12
 13 To provide additional protection to residents that reside in mobile homes in flood hazard areas, reduce
 14 the repeated impacts by flooding, and enhance public health, safety and welfare, the County already

1 adopted an amendment to eliminate the ability for a mobile home to be placed at an elevation below base
2 flood elevation.

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

- 8 • FEMA Hazard Mitigation Grant Program (HMGP) for mitigation measures
- 9 • Flood Mitigation Assistance (FMA) Grant Program to reduce or eliminate the long-term risk of
10 flood damage
- 11 • Rebuild Florida Program to demo, repair, reconstruct and elevate primary homes

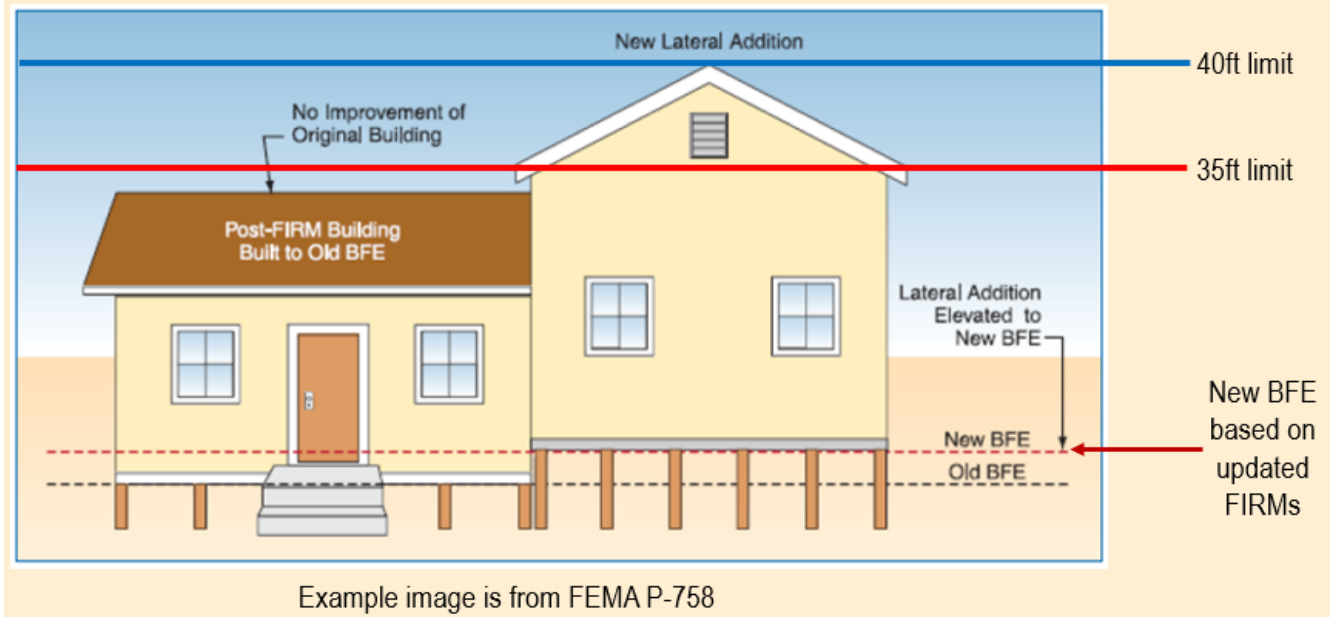
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13 When participating in some of these grant programs for elevation projects, the Florida Division of
14 Emergency Management (DEM) is encouraging at least three feet above Base Flood Elevation (a 3-foot
15 freeboard for residential buildings and structures).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

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21 **HEIGHT**: In unincorporated Monroe County, height and grade are defined as follows:

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23 **HEIGHT** means *the vertical distance between grade and the highest part of any structure,*
24 *including mechanical equipment, but excluding the following: chimneys; spires and/or steeples on*
25 *structures used for institutional and/or public uses only; radio and/or television antenna, flagpoles;*
26 *solar apparatus; utility poles and/or transmission towers; and certain antenna supporting structures*
27 *with attached antenna and/or collocations as permitted in Chapter 146. However, in no event shall*
28 *any of the exclusions enumerated in this definition be construed to permit any habitable or usable*
29 *space to exceed the applicable height limitations. In the case of airport districts, the height*
30 *limitations therein shall be absolute and the exclusions enumerated in this definition shall not apply.*

31
32 **GRADE** means *the highest natural elevation of the ground surface, prior to construction, next to*
33 *the proposed walls of a structure, or the crown or curb of the nearest road directly adjacent to the*
34 *structure, whichever is higher. To confirm the natural elevation of the ground surface, prior to*
35 *construction, the county shall utilize the Light Detection and Ranging (LiDAR) dataset for Monroe*
36 *County prepared in 2007 and other best available data, including, but not limited to, pre-*
37 *construction boundary surveys with elevations, pre-construction topographic surveys, elevation*
38 *certificates and/or other optical remote sensing data.*

Example scenario of amendment:



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Note, the Florida Legislature adopted Chapter 2021-201, Laws of Florida (HB 401), which became effective on July 1, 2021. This law amended Section 163.3202(5)(a), F.S., specifying that certain land development regulations relating to *building design elements* may not be applied to a single-family or two-family dwelling. “Building design elements” is defined as the external building color; the type or style of exterior cladding material; the style or material of roof structures or porches; the exterior nonstructural architectural ornamentation; the location or architectural styling of windows or doors; the location or orientation of the garage; *the number and type of rooms; and the interior layout of rooms.* The term does not include the **height**, bulk, orientation, or location of a dwelling on a zoning lot; or the use of buffering or screening to minimize potential adverse physical or visual impacts or to protect the privacy of neighbors.

Community Meeting and Public Participation

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

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

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

- 4 •
- 5 •
- 6 •

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

- 11 •
- 12 •
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15 **Development Review Committee and Public Input**

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

- 19 •
- 20 •
- 21 •
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24 **Planning Commission and Public Input**

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

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29 **Previous County Action**

30 On September 27, 2017, the Board of County Commissioners adopted Ordinance 016-2017, amending
31 Monroe County Comprehensive Plan Policy 101.5.30 to include the definition of height; and creating
32 Policies 101.5.32 and 101.5.33 to provide certain exceptions to the height limit in order to protect
33 property from flooding and reduce flood insurance costs by establishing standards when a structure can
34 elevate above FEMA base flood elevation (BFE) and including a maximum height limit (40ft for
35 lawfully existing buildings to voluntarily elevate up to three (3) feet above FEMA BFE and 38ft for new
36 (new construction or substantially improved) buildings to voluntarily elevate up to three (3) feet above
37 FEMA BFE).

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39 On September 27, 2017, the Board of County Commissioners adopted Ordinance 017-2017, amending
40 Monroe County Land Development Code Section 101-1 to create definitions related to flood protection
41 height exceptions; and amending Section 131-2 to provide certain exceptions to the height limit in order
42 to protect property from flooding and reduce flood insurance costs by establishing standards when a
43 structure can elevate above FEMA base flood elevation (BFE) and including a maximum height limit
44 (40ft for lawfully existing buildings to voluntarily elevate up to three (3) feet above FEMA BFE and
45 38ft for new (new construction or substantially improved) buildings to voluntarily elevate up to three (3)
46 feet above FEMA BFE).

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III. PROPOSED LAND DEVELOPMENT CODE AMENDMENTS

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

Sec. 131-2. Maximum Height.

No structure or building shall be developed that exceeds a maximum height of 35 feet. Exceptions will be allowed for chimneys; spires and/or steeples on structures used for institutional and/or public uses only; radio and/or television antenna; flagpoles; solar apparatus; utility poles and/or transmission towers; and certain antenna supporting structures with attached antenna and/or collocations as permitted in chapter 146. Exceptions will be allowed for flood protection as specifically permitted in Policies 101.5.32 and 101.5.33, and within Ocean Reef as provided in Comprehensive Plan Policy 101.5.31 and restated in subsection (a) below. However, in no event shall any of the exclusions enumerated in this section be construed to permit any habitable or usable space to exceed the maximum height limitation, except as specifically permitted in Policies 101.5.31, 101.5.32 and 101.5.33. In the case of airport districts, the height limitations there in shall be absolute and the exclusions enumerated in this section shall not apply.

- (a) Within the Ocean Reef master planned community which is gated, isolated and inaccessible to the surrounding community, and has a distinct community character, buildings may include non-habitable architectural decorative features (such as finials, railings, widow's walk, parapets) that exceed the 35-foot height limit in Policy 101.5.30, but such features shall not exceed 5 feet above the building's roof-line. This exception shall not result in a building together with any architectural decorative feature with a height that would exceed 40 feet. In addition, within the Ocean Reef gated master planned community, upon evidence submitted that the proposed building height has been approved by the master association, Ocean Reef Community Association Inc., pursuant to its building regulations and restrictions, buildings containing multifamily residential, transient, and/or nonresidential uses may be developed or redeveloped to a total maximum building height of 60 feet, provided the buildings are limited to four habitable floors. Such development on property owned by Ocean Reef Club, Inc. shall not be required to provide evidence it has been approved by the master association, based on its exemption from master association review under the Ocean Reef gated master planned community's governing documents.
- (b) As provided in Policy 101.5.32, buildings voluntarily elevated to meet or exceed the FEMA Base Flood Elevation (BFE) may exceed the 35-foot height limit as follows:
 - (1) For NEW single family (detached dwelling unit) and multi-family (attached dwelling unit) buildings which are voluntarily elevated to exceed the building's minimum required BFE, an exception of a maximum of three (3) feet above the 35-foot height limit may be permitted. The amount of the height exception shall be no greater than the amount of voluntary elevation above BFE. In no event shall a new building exceed 38 feet in height or two (2) habitable floors. The space below the lowest habitable floor of an elevated structure shall be limited to a maximum of 299 square feet of enclosed floor area and shall be used exclusively for parking of vehicles, elevators, limited storage and/or building access purposes. This exception shall apply to the substantial improvement of buildings, whether voluntary or not.
 - (2) For lawfully established EXISTING (detached and attached dwelling unit) buildings which do not exceed the 35-foot height limit and are voluntarily retrofitted to meet and/or exceed the building's minimum required BFE, an exception of a maximum of five (5) feet above the 35-foot height limit may be permitted. The amount of the height exception shall

1 be no greater than the distance necessary to elevate the building to meet BFE plus up to
2 three (3) feet of voluntary elevation above BFE. In no event shall an existing building be
3 elevated to exceed a total building height of 40 feet.

- 4 (3) No exception shall result in a total building height that exceeds 40 feet.
- 5 (4) Buildings not being elevated to at least meet the required FEMA BFE are not eligible for
6 this exception.

7 (c) As provided in Policy 101.5.32, after the adoption and on the effective date of updated FEMA
8 Flood Insurance Rate Maps (FIRMs), residential buildings elevated to meet or exceed the
9 FEMA Base Flood Elevation (BFE) may exceed the 35-foot height limit as follows:

10 (1) Lawfully established existing residential buildings which do not exceed the 35-foot height
11 limit and new residential buildings (includes substantial improvements) located within
12 the Special Flood Hazard Area, shall have a maximum height limit of 40 feet in order to
13 elevate to or maintain the required elevation based on the *Florida Building Code*, as
14 specified in R322.2.1 and R322.3.2 (elevation requirements).

15 a. In no event shall a new residential building exceed 40 feet in height.

16 b. Additions to lawfully established existing residential buildings that are substantial
17 improvements shall have a maximum height limit of 40 feet in order to elevate the
18 addition to the *Florida Building Code* required flood elevation.

19 c. Additions to lawfully established existing residential buildings that are not substantial
20 improvements shall have a maximum height limit of 40 feet, if the addition meets the
21 *Florida Building Code* flood elevation requirements in R322.2.1 and R322.3.2, the
22 remaining lawfully established existing building shall not receive the flood height
23 exception of 40 feet.

24 d. Any portion of the building that meets the required flood elevation of the updated
25 FEMA FIRMs shall be given a height limit of 40 feet.

26 (2) The updated FEMA Flood Insurance Rate Maps are the maps adopted subsequent to FEMA
27 Flood Insurance study and the accompanying Flood Insurance Rate Maps, dated February
28 18, 2005.

29 (3) The total building height shall not exceed 40 feet. Buildings not elevated to or maintaining
30 the required elevation based on the *Florida Building Code*, are not eligible to use the
31 height limit within this subsection.

32 (de) As provided in Policy 101.5.33, lawfully established EXISTING multi-family (attached
33 dwelling unit) buildings which exceed the 35-foot height limit may be repaired, improved,
34 redeveloped and/or elevated to meet the required FEMA BFE provided the building does not
35 exceed a total maximum building height of 40 feet, and the building is limited to the existing
36 lawfully established intensity, floor area, building envelope (floor to floor height), density and
37 type of use. A Flood Protection Height Exception of a maximum of five (5) feet may be
38 permitted to meet the building's minimum required FEMA BFE. The amount of the exception
39 shall be no greater than the amount of elevation necessary to meet BFE. Buildings not being
40 elevated to at least meet the required FEMA BFE are not eligible for this exception.

41 (ed) As provided in Policy 101.5.33, for lawfully established EXISTING multi-family (attached
42 dwelling unit) buildings which exceed the 35-foot height limit that are proposed to exceed a
43 total height of 40 feet, a public hearing before the Planning Commission and Board of County
44 Commissioners to review and specify the maximum approved height shall be required prior to
45 issuance of any county permit or development approval. The Planning Commission shall
46 provide a recommendation to the BOCC on the maximum height of a building. The BOCC
47 shall adopt a resolution specifying the maximum approved height.

- (1) For lawfully established EXISTING multi-family (attached dwelling unit) buildings that are voluntarily repaired, improved, redeveloped and/or elevated to meet the building's minimum required FEMA BFE, but will require a height exception of more than five (5) feet, a Flood Protection Height Exception exceeding the 35-foot height limit may be provided by the BOCC based on the following criteria:
 - a. The flood zone of the parcel;
 - b. The number of dwelling units lawfully established and an analysis of the number of dwelling units which may not be able to redevelop on the subject parcel without a height exception;
 - c. The physical characteristics of the existing building and parcel;
 - d. The susceptibility of the existing building and its contents to flood damage and the effects of such damage on the property owner;
 - e. The possibility that materials from the existing building may be swept onto other lands to the injury of others;
 - f. The availability of alternate solutions;
 - g. If the new proposed building height will result in increased flood risk; result in additional threats to public safety; result in extraordinary public expense; create nuisance; or cause fraud on or victimization of the public; and
 - h. Community character.
 - i. Buildings not being elevated to at least meet the required FEMA BFE are not eligible for this exception.
- (2) A BOCC resolution shall specify the findings of criteria of (d)(1) a. through i. (above) and specify the approved maximum total height for the proposed building.

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;

On December 27, 2019, FEMA issued Preliminary Flood Insurance Rate Maps (FIRMs) and a Flood Insurance Study (FIS) report for Monroe County, Florida. FEMA issued the required notices in the Federal Register and local newspapers for the FIRMs and a Flood Insurance Study (FIS) report for Monroe County, Florida. The 90-day appeal period for Monroe County commenced on March 19, 2021 and ended on June 17, 2021. Monroe County submitted its appeal

1 of the preliminary FEMA Flood Insurance Rate Maps and Flood Insurance Study on June 11,
2 2021. The appeal is ongoing.

3
4 Once FEMA reviews and processes all appeals, the agency will issue a Letter of Final
5 Determination (LFD) and publish the final FIRMS. The County anticipates the Final FIRMS will
6 most likely become effective sometime in 2022-2024. When FEMA issues a Letter of Final
7 Determination (LFD), which is a letter to the County that the updated FIRM will become
8 effective in 6 months, the County must formally adopt the FIRMS and must adopt a compliant
9 floodplain management ordinance by the map effective date to remain a participant in good
10 standing in the NFIP.

11
12 Along with the adoption of the Final FIRMS, the County will need make updates to both the
13 Comprehensive Plan and Land Development Code and Code or Ordinances to provide
14 regulations to implement and conform to the updated FIRMS.

15
16 The proposed amendments to the maximum height limitations are proposed to address:

- 17 1. The vertical datum conversions from the National Geodetic Vertical Datum of 1929
18 (NGVD29) to the North American Vertical Datum of 1988 (NAVD88) with the updated
19 FEMA Flood Insurance Rate Maps. While there is no set conversion factor, as it varies
20 throughout Monroe County, on average there is -1.5 foot conversion.
- 21 2. The potential for flood zone changes and base flood elevation changes within the updated
22 FEMA Flood Insurance Rate Maps, including the new boundary for the Limit of
23 Moderate Wave Action (LiMWA) with the requirement that properties within the
24 boundary be built to VE Zone construction standards.
- 25 3. The proposed higher standard technical amendment to the Florida Building Code
26 included with Monroe County Code of Ordinances, Chapter 6 - Buildings and
27 Construction, to require the building elevation to be three (3ft) above the base flood
28 elevation (e.g. 3ft of freeboard).

- 29
30 5. Recognition of a need for additional detail or comprehensiveness; or

31
32 The County is proposing amendments to Monroe County 2030 Comprehensive Plan Policy
33 101.5.32 is to amend the height limit to 40ft for lawfully established existing residential buildings
34 which do not exceed the 35-foot height limit and new residential buildings (includes substantial
35 improvements) in order for these buildings to elevate to or maintain the required elevation based
36 on the Florida Building Code and updated FEMA Flood Insurance Rate Maps.

37
38 The proposed text amendments to Section 138-24 are necessary to be consistent with the
39 proposed comprehensive plan amendments. Sections 163.3194 and 163.3201, F.S., require land
40 development regulations to be consistent with and implement the Comprehensive Plan.

- 41
42 6. Data updates;
43 N/A

44
45 **In no event shall an amendment be approved which will result in an adverse community change**
46 **to the planning area in which the proposed development is located or to any area in accordance**
47 **with a livable communities master plan pursuant to findings of the board of county**
48 **commissioners.**

1
2 The proposed text amendment is not anticipated to have an adverse community change.
3

4 The amendment is intended to comply with FEMA requirements, maintain the County's
5 participation in the NFIP, maintain/achieve CRS ratings that continue to provide a discount on
6 flood insurance, provide property owners with a 5ft increase in the height limit to elevate a
7 building above base flood elevation and reduce or avoid future flood losses and reduce their flood
8 insurance premiums.
9

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

12
13 **A. The proposed amendment is consistent with the Goals, Objectives and Policies of the Monroe**
14 **County 2030 Comprehensive Plan. Specifically, it furthers:**
15

16 **GOAL 101:** Monroe County shall manage future growth to enhance the quality of life, ensure the safety of
17 County residents and visitors, and protect valuable natural resources.
18

19 **Policy 101.5.30:** In order to preserve the existing community character and natural environment, Monroe
20 County shall limit the height of structures including landfills to 35 feet. Height is defined as the vertical
21 distance between grade and the highest part of any structure, including mechanical equipment, but excluding
22 spires and/or steeples on structures used for institutional and/or public uses only; chimneys; radio and/or
23 television antennas; flagpoles; solar apparatus; utility poles and/or transmission towers; and certain antenna
24 supporting structures with attached antennas and/or collocations. However, in no event shall any of the
25 exclusions enumerated above be construed to permit any habitable or usable space to exceed the applicable
26 height limitations, except as specifically permitted in Policies 101.5.31, 101.5.32 and 101.5.33. In the case of
27 airport districts, there shall be no exceptions to the 35-foot height limitation.
28

29 **Policy 101.5.32:** Within 1 year of the effective date of this policy, Monroe County shall adopt Land
30 Development Regulations which provide a Flood Protection Height Exception to Policy 101.5.30 to promote
31 public health, safety and general welfare; allow adaptation to coastal flooding, storm surge and other hazards;
32 protect property from flooding and minimize damages; minimize public and private losses due to flooding;
33 minimize future expenditures of public funds for flood control projects and for recovery from flood events;
34 and mitigate rising flood insurance premiums. A Flood Protection Height Exception of up to a maximum of
35 five (5) feet above the 35-foot height limit shall be provided to allow lawfully existing buildings to be
36 voluntarily elevated up to three (3) feet above FEMA base flood elevation; and a flood protection height
37 exception of a maximum of three (3) feet above the 35-foot height limit shall be provided to allow new (new
38 construction or substantially improved) buildings to voluntarily elevate up to three (3) feet above FEMA base
39 flood elevation. These exceptions are in order to promote flood protection, minimize flood damage, reduce
40 flood insurance premiums and minimize future expenditures of public funds for recovery from flood events.
41 In no case shall a Flood Protection Height Exception result in a new building exceeding a maximum height
42 of 38 feet or a lawfully existing building exceeding a maximum height of 40 feet.
43

44 **Policy 101.5.33:** Within 1 year of the effective date of this policy, Monroe County shall adopt Land
45 Development Regulations which provide a Flood Protection Height Exception for lawfully established
46 existing buildings which exceed the 35-foot height limit, to promote public health, safety and general welfare;
47 allow adaptation to coastal flooding, storm surge and other hazards; protect property from flooding and
48 minimize damages; minimize public and private losses due to flooding; minimize future expenditures of
49 public funds for flood control projects and for recovery from flood events; and mitigate rising flood insurance
50 premiums. A lawfully established existing building may be repaired, improved, redeveloped and/or elevated

1 to meet required FEMA base flood elevation (BFE) provided the building does not exceed a total maximum
2 building height of 40 feet, and the building is limited to the existing lawfully established intensity, floor area,
3 building envelope (floor to floor height), density and type of use. For lawfully established existing buildings
4 that are proposed to exceed a total height of 40 feet, a public hearing before the Planning Commission and the
5 Board of County Commissioners shall be required to review and specify the maximum approved height prior
6 to issuance of any county permit or development approval. The Planning Commission shall provide a
7 recommendation to the BOCC on the maximum height of a building. The BOCC shall adopt a resolution
8 specifying the maximum approved height.
9

10 **Policy 101.9.5:** Existing manufactured homes which are damaged or destroyed so as to require substantial
11 improvement shall be required to meet the most recent HUD standards, and the floodplain management
12 standards set forth by FEMA.
13

14 **Objective 101.10:** Monroe County shall provide for drainage and stormwater management so as to protect
15 real and personal property and to protect and improve water quality.
16

17 **Policy 101.12.3:** Monroe County shall coordinate the siting of new public facilities with the appropriate local,
18 state and federal agencies to resolve potential regulatory conflicts and ensure compliance with all applicable
19 state and federal regulations.
20

21 **Objective 101.14:** Monroe County shall maintain land development regulations which direct future growth
22 away from areas within the Coastal High Hazard Area (CHHA).
23

24 **GOAL 102:** Monroe County shall direct future growth to lands which are most suitable for development and
25 shall encourage conservation and protection of environmentally sensitive lands (wetlands, beach berm and
26 tropical hardwood hammock).
27

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

- 30 1. submerged lands
- 31 2. mangroves
- 32 3. salt ponds
- 33 4. fresh water wetlands
- 34 5. fresh water ponds
- 35 6. undisturbed salt marsh and buttonwood wetlands

36 Allocated density (dwelling units per acre) shall be assigned to freshwater wetlands and undisturbed salt marsh
37 and buttonwood wetlands only for use as transferable development rights (TDRs) away from these habitats.
38 Submerged lands, salt ponds, freshwater ponds, and mangroves shall not be assigned any density or intensity.
39

40 **Objective 102.3:** Monroe County shall maintain land development regulations which will direct new
41 development to areas having appropriate topography and soil conditions and to where site disturbance and
42 man's activities will have fewer adverse effects on natural vegetation, terrestrial wildlife, natural landforms
43 and marine resources.
44

45 **Objective 102.7:** Monroe County shall take actions to discourage new private development in areas
46 designated as units of the Coastal Barrier Resources System (CBRS).
47

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

1
2 **GOAL 202:** The environmental quality of Monroe County's estuaries, nearshore waters (canals, harbors, bays,
3 lakes and tidal streams,) and associated marine resources shall be maintained and, where possible, improved
4 or restored.
5

6 **Policy 202.4.1:** Monroe County shall support state and federal policies and regulations concerning the
7 permitting of dredge and fill activity, except in those instances where more stringent regulations adopted by
8 Monroe County shall be maintained.
9

10 **GOAL 203:** The health and integrity of living marine resources and marine habitat, including mangroves,
11 seagrasses, coral reefs, other hard bottom communities and fisheries, shall be protected and, where possible,
12 restored and enhanced.
13

14 **Objective 203.1:** Monroe County shall protect its mangrove wetlands by continuing to implement regulations
15 which will further reduce disturbances to mangroves and which will mitigate the direct and indirect impacts
16 of development upon mangroves.
17

18 **GOAL 204:** The health and integrity of Monroe County's marine and freshwater wetlands shall be protected
19 and, where possible, restored and enhanced.
20

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

- 23 1. submerged lands;
- 24 2. mangroves;
- 25 3. salt ponds;
- 26 4. fresh water wetlands;
- 27 5. fresh water ponds; and
- 28 6. undisturbed salt marsh and buttonwood wetlands.

29 Allocated density (dwelling units per acre) shall be assigned to freshwater wetlands and undisturbed salt marsh
30 and buttonwood wetland only for use as transferable development rights away from these habitats. Submerged
31 lands, salt ponds, freshwater ponds and mangroves shall not be assigned any density or intensity. Within one
32 (1) year after the adoption of the 2030 Comprehensive Plan, the County shall revise the LDC to include a
33 prohibition of development in salt ponds.
34

35 **GOAL 205:** The health and integrity of Monroe County's native upland vegetation shall be protected and,
36 where possible, enhanced.
37

38 **GOAL 206:** Monroe County shall protect and conserve existing wildlife and wildlife habitats.
39

40 **Policy 206.1.4:** Monroe County shall implement a "Permit Referral Process" for review of all development
41 that occurs within areas designated as "Species Focus Areas (SFAs)" or "Species Buffer Areas (SBAs)". The
42 SFAs or SBAs are areas identified by the U.S. Fish and Wildlife Service (USFWS) which contain potentially
43 suitable habitat for nine federally protected species including: Eastern Indigo Snake, Key Deer, Key Largo
44 Cotton Mouse, Key Largo Woodrat, Key Tree-Cactus, Lower Keys Marsh Rabbit, Schaus Swallowtail
45 Butterfly, Silver Rice Rat, and Stock Island Tree Snail.
46

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

1
2 **Policy 206.1.5:** Monroe County shall work cooperatively with USFWS in requiring any development permit
3 application within Critical Habitat or designated potentially suitable habitat for federally listed threatened and
4 endangered species that are not included in the USFWS April 30, 2010 Biological Opinion, and/or are not
5 included in the species addressed under the "Permit Referral Process" in Policy 206.1.4 above, to consult
6 directly with USFWS and provide authorization from USFWS to Monroe County before commencement of
7 development.
8

9 **Objective 206.2:** Monroe County shall provide guidance to private landowners to reduce disturbances to
10 wildlife species designated by the FWS as threatened or endangered.
11

12 **GOAL 208:** Monroe County shall discourage private land uses on its mainland, offshore islands and
13 undeveloped coastal barriers, and shall protect existing conservation lands from adverse impacts associated
14 with private land uses on adjoining lands.
15

16 **GOAL 210:** The health and integrity of Monroe County's beach/berm resources shall be protected and, when
17 possible, restored and enhanced.
18

19 **Objective 212.5:** Monroe County shall maintain land development regulations pertaining to shoreline
20 stabilization.
21

22 **GOAL 216:** Monroe County shall maintain a program of hazard mitigation and post-disaster redevelopment
23 to increase public safety and reduce damages and public expenditures.
24

25 **Objective 216.1:** Monroe County shall maintain a program of hazard mitigation in the Coastal High Hazard
26 Area (CHHA) which reduces floodplain alteration and damage or loss due to natural disasters.
27

28 **Policy 216.1.4:** Monroe County shall continue its policy of reviewing the current Building Code and, as
29 appropriate, adopting structural standards and site alteration restrictions that meet or exceed the minimum
30 FEMA requirements. The Building Code shall be reviewed and revised at least every five years. The
31 recommendations of the applicable interagency hazard mitigation report shall be considered in revisions to
32 the Code.
33

34 **Policy 216.1.5:** Monroe County shall continue to participate in the National Flood Insurance Program(NFIP)
35 Community Rating System (CRS) to the maximum extent possible and shall seek to improve its current CRS
36 Class rating.
37

38 **Policy 216.1.6:** Monroe County shall continue to enforce federal, state and local setback and elevation
39 requirements to promote the protection and safety of life and property. Revisions to the existing setback
40 requirements contained in the land development regulations shall be considered as a means of reducing
41 property damage caused by storms.
42

43 **Policy 216.1.7:** Monroe County shall consider floodplain management and CHHA issues in making public
44 acquisition decisions.
45

46 **Policy 216.1.8:** Monroe County shall require that, to the greatest extent practicable, development activity,
47 such as land clearing, grading and filling will not disturb natural drainage patterns.
48

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

1
2 **Policy 216.2.3:** The Post-Disaster Redevelopment Plan shall identify areas particularly susceptible to damage
3 within the CHHA such as the FEMA designated V-zones and repetitive loss areas as defined by FEMA and
4 shall specify procedures for relocating or replacing public infrastructure away from them, where feasible.
5

6 **Policy 216.2.4:** Monroe County shall update the Post-Disaster Redevelopment Plan and coordinate with
7 Emergency Management to include in the Local Mitigation Strategy considerations for repetitive loss and
8 severe repetitive loss structures and limits to redevelopment in areas within the CHHA particularly susceptible
9 to repeated damage.
10

11 **Objective 216.3:** Monroe County shall maintain land development regulations which directs future growth
12 away from the Coastal High Hazard Area (CHHA).
13

14 **Objective 601.3:** Monroe County shall continue implementation efforts to eliminate substandard housing and
15 to preserve, conserve and enhance the existing housing stock, including historic structures and sites.
16

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

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

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

24 Dilapidated (Substandard): A housing unit in this category indicates that the unit can no longer provide
25 safe and adequate shelter or is of inadequate original construction including being constructed below the
26 minimum required elevation by FEMA or the County's Floodplain Regulations.
27

28 **Policy 601.3.2:** The County Code Compliance Office and Building Department will enforce building code
29 regulations and County ordinances governing the structural condition of the housing stock, to ensure the
30 provision of safe, decent and sanitary housing and stabilization of residential neighborhoods.
31

32 **GOAL 1501:** Monroe County shall coordinate with the municipalities of Key West, Key Colony Beach,
33 Islamorada, Layton and Marathon; regional, State, and federal government agencies, nongovernmental
34 organizations and private organizations to exchange data and develop coordinated strategies to address energy
35 conservation and impacts from climate change.
36

37 **Objective 1501.1:** Monroe County shall coordinate and collaborate with municipalities and other public and
38 private entities to address energy conservation strategies and unique climate change impacts, including
39 adaptation and mitigation strategies.
40

41 **Policy 1501.1.4:** Monroe County shall seek the support of agencies, such as the National Oceanic and
42 Atmospheric Administration (NOAA), U.S. Geological Survey (USGS), Federal Emergency Management
43 Agency (FEMA), the U.S. Department of Interior, the U.S. Army Corps of Engineers (ACOE), as well as
44 universities and not-for-profit organizations to coordinate support for updating, exchanging and analyzing
45 data regarding potential changes in climate change vulnerability.
46

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

1
2 **Policy 1503.1.4:** Monroe County shall review the most updated FEMA maps within one (1) year of their
3 release and evaluate floor elevation requirements, as necessary, for all new construction in vulnerable areas.
4

5 **Policy 1503.4.1:** Within five (5) years after the adoption of the 2030 Comprehensive Plan, Monroe County
6 shall review its post-disaster redevelopment plan and land development regulations to include, as appropriate,
7 consideration of climate change impacts, repetitive loss structures and shoreline stabilization needs.
8

9 **Objective 1504.1:** Within five (5) years after the adoption of the 2030 Comprehensive Plan, the County shall
10 revise its land acquisition and preservation policies to consider the climate change-related values of natural
11 areas for sequestering carbon and providing climate adaptation and mitigation benefits such as the resource's
12 strategic capacity to absorb floodwaters and address coastal ecosystem migration.
13

14 **B. The amendment is consistent with the Principles for Guiding Development for the Florida Keys Area,**
15 **Section 380.0552(7), Florida Statutes.**
16

17 For the purposes of reviewing consistency of the adopted plan or any amendments to that plan with the
18 principles for guiding development and any amendments to the principles, the principles shall be construed
19 as a whole and no specific provision shall be construed or applied in isolation from the other provisions.
20

- 21 (a) Strengthening local government capabilities for managing land use and development so that local
22 government is able to achieve these objectives without continuing the area of critical state concern
23 designation.
- 24 (b) Protecting shoreline and benthic resources, including mangroves, coral reef formations, seagrass beds,
25 wetlands, fish and wildlife, and their habitat.
- 26 (c) Protecting upland resources, tropical biological communities, freshwater wetlands, native tropical
27 vegetation (for example, hardwood hammocks and pinelands), dune ridges and beaches, wildlife, and
28 their habitat.
- 29 (d) Ensuring the maximum well-being of the Florida Keys and its citizens through sound economic
30 development.
- 31 (e) Limiting the adverse impacts of development on the quality of water throughout the Florida Keys.
- 32 (f) Enhancing natural scenic resources, promoting the aesthetic benefits of the natural environment, and
33 ensuring that development is compatible with the unique historic character of the Florida Keys.
- 34 (g) Protecting the historical heritage of the Florida Keys.
- 35 (h) Protecting the value, efficiency, cost-effectiveness, and amortized life of existing and proposed major
36 public investments, including:
37

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

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

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

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

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

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

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

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

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

163.3177(6)(d), F.S. –A conservation element for the conservation, use, and protection of natural resources in the area, including air, water, water recharge areas, wetlands, waterwells, estuarine marshes, soils, beaches, shores, flood plains, rivers, bays, lakes, harbors, forests, fisheries and wildlife, marine habitat, minerals, and other natural and environmental resources, including factors that affect energy conservation.

1
2 163.3178(2)(a), F.S. – A land use and inventory map of existing coastal uses, wildlife habitat, wetland and
3 other vegetative communities, undeveloped areas, areas subject to coastal flooding, public access routes
4 to beach and shore resources, historic preservation areas, and other areas of special concern to local
5 government.
6

7 163.3178(2)(f), F.S. – A redevelopment component that outlines the principles that must be used to eliminate
8 inappropriate and unsafe development in the coastal areas when opportunities arise. The component must:
9 1. Include development and redevelopment principles, strategies, and engineering solutions that reduce
10 the flood risk in coastal areas which results from high-tide events, storm surge, flash floods, stormwater
11 runoff, and the related impacts of sea-level rise.
12 2. Encourage the use of best practices development and redevelopment principles, strategies, and
13 engineering solutions that will result in the removal of coastal real property from flood zone designations
14 established by the Federal Emergency Management Agency.
15 3. Identify site development techniques and best practices that may reduce losses due to flooding and
16 claims made under flood insurance policies issued in this state.
17 4. Be consistent with, or more stringent than, the flood-resistant construction requirements in the Florida
18 Building Code and applicable flood plain management regulations set forth in 44 C.F.R. part 60.
19 5. Require that any construction activities seaward of the coastal construction control lines established
20 pursuant to s. 161.053 be consistent with chapter 161.
21 6. Encourage local governments to participate in the National Flood Insurance Program Community
22 Rating System administered by the Federal Emergency Management Agency to achieve flood insurance
23 premium discounts for their residents.
24

25 163.3194(1)(a), F.S. – After a comprehensive plan, or element or portion thereof, has been adopted in
26 conformity with this act, all development undertaken by, and all actions taken in regard to development
27 orders by, governmental agencies in regard to land covered by such plan or element shall be consistent
28 with such plan or element as adopted.
29

30 163.3201, F.S. – Relationship of comprehensive plan to exercise of land development regulatory authority.—
31 It is the intent of this act that adopted comprehensive plans or elements thereof shall be implemented, in
32 part, by the adoption and enforcement of appropriate local regulations on the development of lands and
33 waters within an area. It is the intent of this act that the adoption and enforcement by a governing body of
34 regulations for the development of land or the adoption and enforcement by a governing body of a land
35 development code for an area shall be based on, be related to, and be a means of implementation for an
36 adopted comprehensive plan as required by this act.
37

38 163.3202(2), F.S. – Local land development regulations shall contain specific and detailed provisions
39 necessary or desirable to implement the adopted comprehensive plan and shall at a minimum:
40 (a) Regulate the subdivision of land.
41 (b) Regulate the use of land and water for those land use categories included in the land use element and
42 ensure the compatibility of adjacent uses and provide for open space.
43 (c) Provide for protection of potable water wellfields.
44 (d) Regulate areas subject to seasonal and periodic flooding and provide for drainage and stormwater
45 management.
46 (e) Ensure the protection of environmentally sensitive lands designated in the comprehensive plan.
47
48

49 **IV. PROCESS**
50

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

6
7 The Planning Commission shall hold at least one public hearing. The Planning Commission shall review
8 the application, the reports and recommendations of the Department of Planning & Environmental
9 Resources and the Development Review Committee and the testimony given at the public hearing. The
10 Planning Commission shall submit its recommendations and findings to the Board of County
11 Commissioners (BOCC). The BOCC holds a public hearing to consider the adoption of the proposed
12 amendment, and considers the staff report, staff recommendation, Planning Commission
13 recommendation and the testimony given at the public hearing. The BOCC may adopt the proposed
14 amendment based on one or more of the factors established in LDC Section 102-158(d)(7).
15

16 17 **V. STAFF RECOMMENDATION**

18 19 **Approval**

20 21 **VIII. EXHIBITS**

22
23 Exhibit 1 – Monroe County Ordinance 017-2017 – Flood height exceptions

24 Exhibit 2 – FEMA P-758 Substantial Improvement/Substantial Damage Desk Reference

25 Exhibit 3 – Chapter 2021-201, Laws of Florida (HB 401)

26 Exhibit 4 – Marathon Ordinance 2019-12 – Increasing The Maximum Building Height To Forty-Two
27 Feet (42) To Provide Compensation For Increases In Required Elevations For The New
28 FEMA Firm Maps

29 Exhibit 5 – Key West Section 122-1149 Height - Flood Protection Building Height Exception
30