

ORDINANCE NO. 037-2003

AN ORDINANCE AMENDING SECTIONS 9.5-316.1, 9.5-316.2, AND 9.5-317, AND CREATING SECTION 9.5-319, MONROE COUNTY CODE [FLOODPLAIN MANAGEMENT REGULATIONS]; PROVIDING FOR REORGANIZATION; PROVIDING FOR DEFINITIONS; PROVIDING FOR REVISIONS TO REGULATIONS REGARDING RESIDENTIAL NONCONFORMING STRUCTURES; PROVIDING FOR INSPECTIONS UPON TRANSFER OF RESIDENTIAL PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES INCONSISTENT HERewith; PROVIDING FOR INCORPORATION INTO THE MONROE COUNTY CODE; AND DIRECTING THE CLERK OF THE BOARD TO FORWARD A CERTIFIED COPY OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS AND PROVIDING AN EFFECTIVE DATE FOR ORDINANCE

WHEREAS, the Board of County Commissioners adopted Ordinance 2-1974 that established floodplain management regulations for Monroe County to allow the County to participate in the National Flood Insurance Program; and,

WHEREAS, the County's floodplain management regulations were last amended by Ordinance 39-2000; and,

WHEREAS, the Implementation Plan for the Monroe County Flood Insurance and Inspection and Compliance Program ("Implementation Plan"), approved by the Federal Emergency Management Agency ("FEMA") in April 2003, required further amendments to the County's floodplain management regulations; and,

WHEREAS, draft amendments to the floodplain management regulations proposed by staff for consideration by the Board of County Commissioners in response to the FEMA approved Implementation Plan, were tabled so that the County FEMA Liaison and staff could negotiate with FEMA staff, revisions to the Implementation Plan; and,

WHEREAS, these negotiations with FEMA staff resulted in the preparation of a revised Implementation Plan approved by the Board of County Commissioners in Resolution 152-2003 on April 16, 2003, and FEMA on May 22, 2003; and,

WHEREAS, the Growth Management Division with review and input from the County Attorney's office has prepared amendments to the existing floodplain regulations to implement the approved revised Implementation plan; and,

WHEREAS, the Monroe County Planning Commission sitting as the local planning agency, after due notice and public participation, has reviewed the proposed amendments and recommends approval with revisions; and

WHEREAS, the Board of County Commissioners has examined the proposed amendments to the floodplain management regulations; and

WHEREAS, the Monroe County Board of County Commissioners hereby supports the decision of the Planning Commission and recommendations of the Growth Management staff; and

WHEREAS, it is the desire of the Board that the following amendments to the land development regulations be approved, adopted and transmitted to the state land planning agency for approval;

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

Section 1. Sections 9.5-316.1 and 9.5-316.2, Monroe County Code, are amended to read as follows:

Sec. 9.5-316.1. General provisions.

(a) *Applicability:* Except as provided for the elevated portion of a nonconforming residential structure by sec. 9.5-317(a)(10), no structure or manufactured home hereafter shall be located, extended, converted or structurally altered without full compliance with the terms of this division in addition to other applicable regulations of this chapter.

(b) *Adoption of Maps:* The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study and Wave Height Analysis for Monroe County, Florida, Unincorporated Areas, dated October 17, 1989, or the most current official maps approved by FEMA, with accompanying maps and other supporting data, and any revisions thereof, are adopted by reference and declared to be a part of this division, and shall be kept on file, available to the public, in the offices of the county planning development.

(c) *Rules for Interpreting Flood Hazard Issues:* The boundaries of the flood hazard areas shown on the official flood insurance rate maps may be determined by scaling distances. Required interpretations of those maps for precise locations of such boundaries shall be made by the Floodplain Administrator, in consultation with the building official. In interpreting other provisions of this division, the building official shall be guided by the current edition of FEMA's 44 CFR, and FEMA's interpretive letters, policy statements and technical bulletins as adopted by resolution from time to time by the board of county commissioners. Additionally, the building official shall also obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, as criteria for requiring that new construction, substantial improvements, and other developments meet the criteria required in the appropriate flood zone.

Sec. 9.5-316.2. Permit requirements.

(a) Except for work specifically exempted under chapter 6.0, the building official shall require building permits for all proposed construction or other improvements within areas of special flood hazard. In addition to the standard requirements for a building permit, an application for a building permit for construction or improvements within areas of special flood hazard shall contain the information and certifications set forth in a form provided by the director of planning.

(b) All building foundations shall rest directly on natural rock, on concrete piling driven to rock or on friction piling (concrete or wood) and shall be anchored to such rock support by holes, sixteen (16) inches in minimum diameter, augured into said rock

a minimum depth of three (3) feet and reinforced by a minimum of four (4) number five (#5) vertical rods extending up into the piers above a minimum of eighteen (18) inches and tied to the vertical steel of the pier. Wooden pilings shall be locked into sixteen (16) inch auger foundations by at least a number five (#5) rebar extending through the piling and three (3) to five (5) inches beyond.

(c) The permit holder shall provide a floor elevation after the lowest floor is completed or, in instances where the structure is subject to the regulations applicable to coastal high-hazard areas, after placement of the lowest horizontal structural members of the lowest floor. Floodproofing certification shall be provided prior to a certificate of occupancy or prior to final inspection.

(d) Within twenty-one (21) calendar days of establishment of the lowest floor elevation, or upon placement of the lowest horizontal structural members of the lowest floor, whichever is applicable, it shall be the duty of the permit holder to submit to the building official a certification of the elevation of the lowest floor or the lowest portion of the lowest horizontal structural members of the lowest floor, whichever is applicable, as built in relation to mean sea level. Such certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized for a particular building, the certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work done within the twenty-one-day period and prior to submission of the certification shall be at the permit holder's risk. The building official shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make the corrections required hereby shall be cause to issue a stop-work order for the project.

(e) *Warning and Disclaimer of Liability:* The degree of flood protection required in this division is reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This division does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This division shall not create liability on the part of Monroe County or any officer or employee thereof for any flood damages that result from reliance on this division or any administrative decision lawfully made thereunder.

(f) *Definitions:* The words and phrases used in this division shall have the meanings prescribed in this chapter, except as otherwise indicated as follows:

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

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

Elevated Building means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

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

Existing Construction means structures for which the start of construction commenced before the effective date of the floodplain management regulations adopted by the community January 1, 1975. Existing construction is also known as pre-FIRM structures.

Existing Manufactured Home Park means a manufactured home park or subdivision for which the construction of facilities for servicing the lots, the construction of the streets, and either final site grading or the pouring of concrete pads is completed before the effective date of the floodplain management regulations adopted by the community January 1, 1975 and in which, at the time of application, there are no site built residences or the park or subdivision is limited to manufactured homes by this chapter.

Finishing Materials means anything beyond basic wall construction pursuant to FEMA Technical Bulletin 2-93, which is normally associated with habitable space. Finishing materials include but are not limited to ceiling mold, trim, baseboards, decorative finish work, wainscoting, and textured woods.

Limited Storage means the storage of items not subject to damage by water or exposure to the elements such as lawn mowers, rakes, wheelbarrows and similar outdoor equipment. Limited storage does not apply to household items, indoor furniture, personal property, tools or other equipment vulnerable to damage by floodwaters.

Manufactured Home means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for one hundred eighty (180) consecutive days or longer and intended to be improved property.

Market Value means the Monroe County Property Appraiser's depreciated value of the structure plus twenty (20) percent. A cost approach appraisal for determination of market value submitted by the applicant may be used if the County Building Official considers such cost approach appraisal consistent with local construction costs. Where a cost approach appraisal is not accepted by the staff because it appears to be inconsistent with local construction costs an applicant may request review by an independent third party appraiser duly authorized by the County. The cost of independent review shall be borne by the applicant. The reviewing appraiser shall determine if the appraisal value cost approach reasonably reflects an appropriate value of the structure. The independent appraiser's determination shall be in writing. Professionals preparing a cost approach appraisal shall be required to possess certifications as State Certified Residential Appraisers for appraising one to four family residential properties and State Certified General Appraisers for all other properties

including commercial and multi residential. Copies of all certified appraisals shall be forwarded to the office of the county property appraiser.

New Construction means those structures for which the "start of construction" commenced on or after the effective date of the floodplain management regulation adopted by the community which is January 1, 1975. New construction is also known as post-FIRM structures.

Nonconforming means a structure, improvement or other development, which is not fully compliant with the terms of this division.

Pure Manufactured Home Park means a Manufactured Home Park which at the time of application has no site-built residences or a park or subdivision which is limited to manufactured homes only by this chapter.

Recreational Vehicle means a vehicle which is: (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Start of Construction means (for other than new construction or substantial improvements under the Coastal Barrier Resources Act) the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. For substantial improvements the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building whether or not the alteration affects the external dimensions of the building.

Substantial Damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Damage of any origin includes but is not limited to demolition in preparation for improvements, deterioration due to lack of maintenance and repair and exposure to the elements and damage by acts of God.

Substantial Improvement means any repair, reconstruction, rehabilitation, addition, or other improvement the cost of which equals or exceeds 50 percent of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. This term includes structures that have incurred "substantial damage" regardless of the actual repair work performed. The term does not include either:

- (1) Any project for improvement to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by local code enforcement officials and which are the minimum necessary to assure safe conditions or;
- (2) Any alteration of a historic structure provided that the alteration will not preclude the structures continued designation as a historic structure.

Substantial improvements only apply to structures whose initial construction began prior to January 1, 1975 (pre-FIRM) or structures rendered noncompliant to the elevation requirements because of a change in Flood Insurance Rate Maps (FIRMs).

Section 2. Section 9.5-317, Monroe County Code, is amended to read as follows:

Sec. 9.5-317. Standards for issuance of building permits in areas of special flood hazards.

(a) *Generally:* No building permit for proposed construction within an area of special flood hazard shall be granted unless the proposed construction is in compliance with the standards set forth in this division. In all areas of special flood hazard, the following standards apply:

- (1) All new construction and substantial improvements shall be adequately anchored by pilings or columns to prevent flotation, collapse or lateral movement of the structure.
- (2) All applications deemed substantial or nonsubstantial must be approved by the floodplain administrator, director of growth management, or the building official/director.
- (3) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (4) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (5) All new or replacement water supply systems shall be designed and constructed by methods and practices that minimize flood damage.
- (6) All new or replacement sanitary sewage systems shall be designed and constructed to minimize or eliminate infiltration of floodwaters into the system and discharge from the system into floodwaters. Joints between sewer drain components shall be sealed with caulking, plastic or rubber gaskets, and all manhole covers shall be sealed in as similar manner.
- (7) On-site waste disposal systems shall be located and constructed to minimize or eliminate damage to them and contamination from them during flooding.
- (8) Any alteration, repair, reconstruction or improvement to a structure which already is in compliance with the provisions of this division shall meet the requirements of new construction as contained in this division.
- (9) Nonconforming uses and construction below elevated post-FIRM buildings may not be expanded or improved or repaired from damages of any origin_and no building permit shall be issued for any improvements to below base flood enclosures, other than for demolition or a permit to remedy a life safety hazard, unless the structure is brought into compliance with this division.

- (10) The elevated portion of any nonconforming structure may be extended, expanded, or structurally altered upon meeting the following conditions:
 - a. The improvement is not substantial as defined under in this division; and,
 - b. Prior to approval and issuance of the building permit for construction of the proposed improvement, the growth management division staff shall complete an inspection of the below base flood enclosed area to document the extent of any non-conformity; and,
 - c. If the structure is located within a V-zone, prior to the issuance of a building permit, the permit applicant shall submit a professional engineer's or registered architect's sealed certification that the improvements to the non-conforming structure do not subject the elevated portion of the structure to increased flood risk or structural damage.
- (11) No manmade alteration of sand dunes, dune ridge, mangrove stands or wetlands shall be allowed which would increase potential flood damage.
- (12) All new construction shall be located landward of the reach of mean high tides.
- (13) All agreements for deed, purchase agreements, leases, or other contracts for sale or exchange of lots within areas of special flood hazard shall carry the following flood hazard warning prominently displayed on the document:

FLOOD HAZARD WARNING

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

(b) *Additional Standards:* In all areas of special flood hazard where base flood elevation data has been provided the following provisions are required:

- (1) *Residential construction:*
 - a. New construction or substantial improvement of any residential structure shall have the lowest floor for zones A1-30, AE and AH or bottom of the lowest supporting member for zones V1-30, VE or V elevated at or above the base flood elevation level.
 - b. Electrical and mechanical equipment servicing an elevated structure must be elevated at or above the required base flood elevation. Elevators may be placed below the required base flood elevation, although the mechanical and electrical equipment serving the elevator must be elevated at or above the required base flood elevation.

- c. Sewer and storm drainage systems, which extend below the base flood elevation, shall be provided with automatic backflow prevention valves or devices installed at the point where the line passes an exterior wall or slab.
- d. Except as noted in paragraph 7 of this subsection (b), the space below the lowest floor of an elevated structure shall be used exclusively for parking of vehicles, elevators, limited storage or building access purposes. Such spaces may be enclosed under the following conditions:
 - (i) Only a maximum of 299 square feet of the space shall be enclosed with opaque materials. Any remaining portion of an enclosed area of more than 299 square feet shall only be enclosed with screen or lattice. Areas of 300 square feet or more, enclosed with opaque materials, existing on the effective date of this ordinance, shall be deemed conforming as to the provisions of this paragraph; however such enclosures shall not be expanded or substantially improved unless they are brought into compliance with this division.
 - (ii) Walls of any enclosed area must be designed and constructed in a manner to prevent flotation, collapse and lateral movement of the structure.
 - (iii) The walls of any enclosed area below the base flood elevation in zones A1-30, AH and AE on the community FIRM shall be provided with openings such as vents, louvers or automatic valves which permit the level of floodwaters within the enclosed area to match the rising and falling of floodwaters on the outside of the structure. A minimum of two (2) openings located on separate walls shall be provided having a minimum total net area of one (1) square inch for each square foot of enclosed area, where the enclosed area is calculated by outside dimensions. Openings shall be situated such that the bottom of each opening is no higher than one (1) foot above finished grade.
 - (iv) Interior walls, ceilings and floors in enclosures of 299 square feet or less may be finished with a class 4 or 5 exterior finish in accordance with FEMA Technical Bulletin 2-93. Technical Bulletin 2-93 limits the finish to basic wall ceiling and floor construction. This is meant to exclude the use of materials and finishes normally associated with living areas constructed above base flood elevation from those areas of the enclosure located below the base flood elevation.
 - (v) The interior portion of an enclosed area below an elevated building may not be partitioned except that garages may be separated from storage and entryway. In the event an existing enclosure is enlarged, the walls between the existing enclosure and the additional enclosure must be deleted. Enclosed areas below an elevated building and laterally attached enclosed areas below base flood elevation must be void of utilities that would service the enclosure and cannot be temperature controlled.

- (vi) Necessary electrical switches for required lighting circuits may be located below the base flood elevation provided they are of the outdoor water-resistant variety on a separate ground-fault protection circuit breaker and do not exceed the minimum number required by law. Except for one GFI, electrical receptacles shall not be located below the base flood elevation.
- (vii) Walls constructed entirely of wood lattice work or screen mesh shall be considered as satisfying the requirements of subsections (ii) and (iii) above and b.(5) i.
- (viii) The area enclosed below the base flood elevation shall not be used for human habitation.
- (ix) Except as noted in (b)(1) b. and d. (vi) of this subsection or required by an applicable code no electrical, mechanical or plumbing may be located below the base flood elevation.

(2) *Nonresidential construction:*

- a. New construction or substantial improvements of any commercial, industrial or other nonresidential structures within zones A1-30, AE and AH on the community's flood insurance rating map (FIRM) shall have the lowest floor (including basement) elevated to or above the base flood level or, together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is water-tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Where a nonresidential structure *is intended* to be made watertight below the base flood level, a registered professional engineer or architect shall develop and/or review structural design specifications and plans for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions contained herein. A record of such floodproofing certification which shall include the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be provided to the building department. Wet floodproofing is not acceptable. New construction or cumulative substantial improvements of any commercial, industrial or other nonresidential structures within zones VI-30, VE or V shall have the lowest floor, including the basement, elevated to or above the base flood elevation.
- b. Enclosed areas below an elevated structure at grade elevation for nonresidential, commercial or industrial uses shall be permitted for limited storage or parking purposes provided that they are anchored to prevent flotation, collapse or lateral movement of the structure and do not exceed three hundred (300) square feet of enclosed area and are in accordance with the requirements of subsection 9.5-317(b)(5)g. for V zones or subsection 9.5-317(b)(1)d.(i) through (ix) for A zones. Plans for such structure shall be submitted to the building official for approval prior to construction

(3) *Accessory structures:*

a. *Residential accessory structures:* Any prefabricated light metal structure, which meets the following criteria, may be permitted in A or V-zones if:

- (i) The enclosed area is one hundred and fifty (150) square feet or less;
- (ii) The fair market value is five hundred dollars (\$500.00) or less;
- (iii) The use is limited to storage accessory to a residence; and
- (iv) The structure is properly anchored.

Accessory light metal structures which exceed the one hundred and fifty (150) square feet of enclosed space threshold or concrete or wood accessory structures built on site regardless of size or value may be permitted if they meet all of the criteria outlined in subsection 9.5-317(b)(1)d. of this division or for V zones the criteria set forth in subsection 9.5-317(b)(5) g. of this division.

b. *Nonresidential accessory structures:* All nonresidential accessory structures, or enclosed areas, which meet the following criteria, may be permitted if:

- (i) The enclosed area is three hundred (300) square feet or less;
- (ii) The use is restricted to limited storage and parking only;
- (iii) They meet the breakaway wall standards outlined in subsection 9.5-317(b)(5) i. for V zones or the venting requirements outlined in 9.5-317(b)(1)d.(iii) for A zones;
- (iv) They meet the other requirements as outlined in subsection 9.5-317(b)(1) d; and
- (v) The structures are properly anchored.

Accessory structures in an A-zone which exceed the three hundred (300) square feet of enclosed space threshold may be permitted if they meet the flood-proofing criteria outlined in subsection 9.5-317(b)(2)a. of this division. Accessory structures in a V-zone which exceed the three hundred (300) square feet of enclosed space threshold, are strictly prohibited.

(4) *Manufactured homes:*

a. Effective June 1, 1977, no manufactured home not already in place shall be placed within areas of special flood hazard except in an existing manufactured home park or subdivision, as hereafter defined. In the event that the Federal Emergency Management Agency eliminates the existing manufactured home park or subdivision requirement of 44 C.F.R. 60.3(c)(12), then no manufactured home may be placed below the base flood elevation.

- b. A manufactured home that is to be placed on a qualified lot may be placed at an elevation below base flood elevation provided that:
 - (i) The lot on which the manufactured home is to be placed is located in an existing manufactured home park or subdivision and is contiguous to and surrounded by manufactured homes not at base flood elevation.
 - (ii) The manufactured homes that are placed or substantially improved (for other than substantial damage due to a flood) on sites in existing manufactured home parks or subdivision in flood hazard areas shall be elevated so that the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than thirty-six (36) inches in height above the grade at the site. A lower foundation system could be used if the top of the finished floor of the manufactured home or the bottom of the beam (for V zones) would be at or above the base flood elevation using such foundation.
 - (iii) All other foundations requiring elevation of the structure in order to meet the floodplain standards must comply with Section 9.5-316.2.(b), the provisions of subsection 9.5-317(b)(5) or Chapter 18 of the Florida Building Code whichever is applicable.
- c. No solid walled additions may be added to a manufactured home unless the addition is constructed under HUD (Department of Housing and Urban Development) standards and contains a HUD seal or the addition is elevated to or above the base flood elevation. Solid walled additions elevated to or above the base flood elevation must be constructed with fourth (4th) wall construction, or certified by an engineer or architect licensed by the State of Florida.
- d. Screen rooms, open decks and porches may be added to a manufactured home provided the addition is structurally independent and constructed with fourth (4th) wall construction.
- e. All manufactured homes and State approved manufactured offices or construction trailers for temporary use shall be anchored to resist flotation, collapse and lateral movement by providing over-the-top and frame ties to ground anchors as provided for in the most current edition of the Florida Administrative Code 15.C.
- f. An existing manufactured home which is damaged or otherwise in need of repair, reconstruction, improvement, or replacement the value of which meets or exceeds fifty (50) percent of the value of the manufactured home without the repair, reconstruction, improvement or replacement shall not be repaired, reconstructed, improved or replaced except by a manufactured home which meets the most recent standards promulgated by the Department of Housing and Urban Development in 24 C.F.R. 3280.308(C)(2) and, in addition, meets the standards set forth in subparagraphs b,c, and d of this subsection (b)(4), as applicable. For the purposes of determining the value of any replacement manufactured homes under this section, the purchase

price, as expressed in an invoice from an arms length transaction, in a form acceptable to the building official, or using market value, as determined in section 9.5-316.2.(f), whichever is greater, shall control.

- g. A manufactured home may be altered or modified by engineering standards more stringent than originally required if the manufactured home is elevated to or above the required base flood elevation.

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

- a. New construction or substantial improvements within zones V1-30, VE or V shall be elevated so that the bottom of the lowest horizontal supporting member (excluding pilings or columns) is located at or above the base flood elevation level, with the space below the lowest supporting member open or constructed with breakaway walls so as not to impede the flow of floodwaters. Breakaway walls may be permitted for aesthetic purposes only and must be designed to wash away in the event of abnormal wave action and in accordance with the provisions of subsection (b)(5) g., h. and i.
- b. New construction or substantial improvements shall be securely anchored on pilings, columns or shear walls.
- c. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values shall be those required by American Society of Civil Engineers (ASCE) Standard number 7. Where shear wall construction is used, the following conditions shall also apply:
 - (i) Shear walls shall be placed parallel to the predominant flow direction of floodwaters and spaced to provide adequate floodwater conveyance beneath the elevated floor;
 - (ii) Shear walls shall be constructed using reinforced concrete; and
 - (iii) Except for the placement of the parallel load-bearing walls, the space between the shear walls below the elevated floor shall remain free of obstruction or contain only breakaway wall construction.
- d. A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with the accepted standards of practice for meeting the provisions of paragraphs a, b and c of this subsection (b)(5).
- e. There shall be no fill used as structural support.

- f. Nonstructural fill shall not be placed in a V-zone except with an approved hydrological analysis.
 - g. If any space below the base flood elevation level is to be enclosed, such enclosed areas shall not be used for human habitation and must meet the provision of section 9.5-317(b)(1) d. (i) and (iv) through (ix) and 9.5-317 (b)(5) i.
 - h. Prior to construction, plans for any structure that will have enclosed space below the base flood elevation level shall be submitted to the building official or his designee for approval.
 - i. Walls and partitions other than parallel shear walls shall be allowed below the base flood elevation provided they are not part of the structural support of the building and are designed to break away under the impact of abnormally high tides or wind-driven water without damage to the structural integrity of the building on which they are to be used, and provided that A design load limit of not less than ten (10) and no more than twenty (20) pounds per square foot shall be used as the safe load range for breakaway walls.
 - j. Compliance with the provisions contained in subsection i. shall be certified by a registered professional engineer or architect.
 - k. Any alteration, repair, reconstruction or improvement to a structure shall not enclose the space below the base flood elevation level except as provided for in paragraphs g. and i. of this subsection (b)(5).
 - l. No manmade alteration of mangroves or beach berm system shall be permitted which will increase the potential for flood damage.
- (6) No basement shall be constructed in the county until such time as a variance is granted to the county under the terms of 44 C.F.R. 60.6(b).
- (7) No enclosure below the base flood elevation shall be constructed or equipped for such uses as a kitchen, dining room, family room, recreation room, office, bedroom, bathroom or workshop. This prohibition does not apply to new improvements which are not substantial to post FIRM structures rendered noncompliant by amendments to the flood insurance rate map as long as the improvement is at the same elevation the structure was originally built to; ground level structures whose initial construction began prior to January 1, 1975; and those structures which are listed on the National Register of Historic Places, the Florida Inventory of Historic Places or any inventory of local historic places.
- (8) In no event shall a below base flood elevation variance be necessary for improvements to an existing structure whose initial construction began prior to December 31, 1974, or to a legally placed manufactured home when the improvements are not substantial.
- (9) Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE, V-130 V and VE on the community's FIRM either:

- a. Be on the site for fewer than one hundred eighty (180) consecutive days and be fully licensed and ready for highway use; or
- b. Meet the permit requirements of subsection 9.5-317(b)(4).

A recreational vehicle is ready for highway use if it is on its wheels or internal jacking system, designed to be self propelled or permanently towable by a light duty truck, is attached to the site only by quick disconnect type utilities and security devices, and has no permanent attached additions.

Section 3. Section 9.5-319, Monroe County Code, is hereby created that reads as follows:

Sec. 9.5-319. Required inspections of residential structures.

(a) *Applicability:* Prior to the transfer of ownership of any property occupied by an elevated residential structure with a below base flood enclosed area defined as "new construction" (i.e., construction commenced on or after January 1, 1975) under this division, an county approved inspection of the below base flood enclosure shall be conducted. The required inspection shall be conducted no earlier than one hundred eighty (180) days prior to the transfer of the property. The intent of this inspection, which is strictly limited to the below base flood enclosure, is to identify for county records any non-conformities with this division and to disclose these non-conformities to the new property owner.

(b) *Inspections:* The inspection required under this section may be conducted either by an inspector from the growth management division or by an inspector approved by the growth management division. Fees for inspections conducted by the growth management division shall be in accordance with the schedule established by resolution of the board of county commissioners for inspections conducted under the county's Flood Insurance Inspection and Compliance Program.

(c) *Inspection Procedures and Forms:* All inspections required under this section shall be done in accordance with procedures and recorded on county forms approved by the growth management director.

(d) *Private Inspectors Approval:* Non-county inspectors from an approved list maintained by the growth management division may be retained by property owners to complete the inspections required by this section. These inspectors shall be approved by the growth management division director and shall be required to take an inspection training session conducted by the growth management division to ensure all inspectors fully understand county inspection and reporting requirements. All inspections conducted and inspection reports prepared by non-county inspectors are subject to review by the growth management division. Inspection reports that are found to be incomplete, inaccurate, or contain errors and omissions, may result in the inspector being removed from the approved list of inspectors by the growth management director.

(e) *Inspection Submittal Requirements:* The original of the inspection report, signed by the county inspector or county approved inspector, shall be included in all agreements for deed, purchase agreements, leases, or other contracts for sale or exchange of a property with an elevated residential structure subject to the inspection requirements of this section. A copy of this inspection report shall be filed with the growth management division within ten (10) days of the transfer of property.

(f) *Failure to Comply with Inspection Submittal Requirements:* Should the inspection report required by this section not be filed with the growth management division, no permit shall be issued for any improvements to the structure and the property it occupies until such an inspection report is submitted, unless the permit is required to remedy a life safety hazard. In addition, violations of this section may be addressed through code enforcement proceedings as provided for under chapter 6.3.

Section 4. Within sixty (60) days of the effective date of this ordinance, the Growth Management Division is directed to vacate all restrictive covenants placed on below base flood downstairs enclosures of elevated residential structures authorized under Ordinance 39-2000.

Section 5. The inspection requirements of Section 9.5-319 shall not be in effect until January 1, 2004.

Section 6. If any section, subsection, sentence, clause, item, change or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 7. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of said conflict.

Section 8. This ordinance shall be filed in the Office of the Secretary of State of the State of Florida, but shall not become effective until a notice is issued by the Department of Community Affairs or the Administration Commission approving this ordinance.

Section 9. This ordinance shall be transmitted by the Planning and Environmental Resources Department to the Department of Community Affairs to determine the consistency of this ordinance with the Florida Statutes.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida at a meeting of the Board held on the _____ day of _____, A.D., 2003.

Mayor Dixie Spehar _____
Mayor Pro Tem Murray Nelson _____
Commissioner Charles "Sonny" McCoy _____
Commissioner George Neugent _____
Commissioner David P. Rice _____

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

BY: _____
MAYOR/CHAIRPERSON

(SEAL)
ATTEST: DANNY L. KOLHAGE, CLERK

DEPUTY CLERK