ORDINANCE NO. _____ -2008

AN ORDINANCE AMENDING SEC. 9.5-258 OF THE MONROE COUNTY CODE TO ALLOW THE PROVISION OF WASTEWATER SERVICE TO PROPERTIES LOCATED WITHIN THE COASTAL BARRIER REOURCES SYSTEM; PROVIDING FOR SEVERIBILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES INCONSISTENT HEREWITH; PROVIDING FOR THE 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

WHEREAS, the Coastal Barrier Resources Act (CBRA) of 1982 established the Coastal Barrier Resources System (CBRS) to restrict the federally subsidized development of coastal barrier areas and specifically prohibited the "construction or purchase of any structure, appurtenance, facility, or related infrastructure" 16 U.S.C. 3504(a)(1) in said areas; and

WHEREAS, Monroe County has 15 designated units of the CBRS which can be found listed in Table 3.21 of the Monroe County Year 2010 Comprehensive Plan Technical Document and illustrated on the Existing Land Use Maps of the Comprehensive Plan Map Atlas; and

WHEREAS, Objective 102.8 of the Monroe County Year 2010 Comprehensive Plan states: "Monroe County shall take actions to discourage private development in areas designated as units of the Coastal Barrier Resources System [9J-5.006(3)(b)4]"; and

WHEREAS, Policy 102.8.5 of the Monroe County Year 2010 Comprehensive Plan states: "Upon adoption of the Comprehensive Plan, Monroe County shall initiate efforts to discourage the extension of facilities and services provided by the Florida Keys Aqueduct Authority and private providers of electricity and telephone services to CBRS units"; and

WHEREAS, Current Flood Insurance Rate Maps published for the National Flood Insurance Program by the Federal Emergency Management Agency, indicates there are five developed residential areas (with five structures or less per acre) and one commercial area that fall within the CBRS designation; and

WHEREAS, on December 18, 2001, the Board of County Commissioners adopted Ordinance No. 043-2001, creating Section 9.5-258 of the Monroe County Code which established a Coastal Barrier Resources System Overlay District, the purpose of which is to implement the policies of the comprehensive plan by prohibiting the extension and expansion of specific types of public utilities to or through lands designated as a unit of the Coaster Barrier Resources System; and

WHEREAS, pursuant to Chapter 99-395, Laws of Florida, Monroe County has been mandated by the State of Florida to provide a centralized sewer system by 2010 as a means of improving near shore water quality within the Florida Key; and

WHEREAS, on June 18, 2008, the Growth Management Staff was directed by the Board of County Commissioners to amend the comprehensive plan and land development regulations to reword the prohibition on utilities such that the focus and priority be placed on wastewater first and any discussion of electric or any other utility be deferred until the wastewater goal is accomplished; and

WHEREAS, during a regular meeting held on July 23, 2008, the Monroe County Planning Commission conducted a public hearing on the proposed text, and recommended approval of the proposed text; and

WHEREAS, the Monroe County Board of County Commissioners held a public hearing on the proposed amendments to the Monroe County Code submitted by the Monroe County Planning Department; and

WHEREAS, it is the desire of the Monroe County Board of County Commissioners that the following amendment to the Monroe County Code be approved, adopted and sent to the state land planning agency for approval;

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

Section 1. Chapter 9.5, Article VII Division 2 is hereby amended as follows:

Sec. 9.5-258. Coastal barrier resources system overlay district

* * * * *

(b) *Application:* The Coastal Barrier Resources System Overlay District shall be overlaid on all areas, except for Stock Island, within federally designated boundaries of a Coastal Barrier Resources System Unit on current Flood Insurance Rate Maps approved by the Federal Emergency Management Agency, which are hereby adopted by reference and declared part of this chapter. Within this overlay district, the transmission and/or collection lines of the following types of public utilities shall be prohibited from extension or expansion: ~~central wastewater treatment collection systems;~~ potable water; electricity; and telephone and cable. This prohibition shall not preclude the provision of sanitary wastewater service and those utilities required to provide sanitary wastewater collection and treatment nor the maintenance and upgrading of existing public utilities in place on the effective date of this ordinance. ~~and shall not apply to wastewater nutrient reduction cluster systems.~~

Section 2. 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 validity.

Section 3. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of said conflict.

Initials _____

Section 4. This ordinance shall be transmitted by the Planning Department to the Department of Community Affairs to determine the consistency of this ordinance with the Florida Statutes.

Section 5. This ordinance shall be filed in the Office of the Secretary of State of Florida, but shall not become effective until a notice is issued by the Department of Community Affairs or Administrative Commission approving the ordinance.

Section 6. The Director of Growth Management is hereby directed to forward a copy of this ordinance to the Municipal Code Corporation for the incorporation into the Monroe County Code of Ordinances once this ordinance is in effect.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida at a regular meeting held on the _____ day of _____, A.D., 2008.

Mayor Mario Di Gennaro _____
Mayor Pro Tem Charles "Sonny McCoy _____
Commissioner Sylvia Murphy _____
Commissioner George Neugent _____
Commissioner Dixie Spehar _____

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

BY _____
Mayor Mario Di Gennaro

(SEAL)

ATTEST: DANNY KOHLAGE, CLERK

_____
DEPUTY CLERK

Initials _____