T2. A Public Hearing to Consider Adoption of an Ordinance Approving Amendments to Section 101-1, Chapter 138, and Chapter 139, of the Monroe County Land Development Code to Establish a New ROGO Allocation Category for Market Rate Workforce Housing and Associated Definitions; Amending the Chapter, Articles, and Sections Related to the Redistribution Of ROGO Allocations as it Relates to Annual Rate and Percentages and Numbers Assigned to Designated Categories; and Acceptance and Distribution of the 657 ROGO Allocations as Provided in Section 22., Chapter 2025-190, Laws of Florida, and Modifying Purchase Offers Related to Administrative Relief.

MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

To: Monroe County Board of County Commissioners

Through: Devin Tolpin, A.I.C.P.,[1] C.F.M.,[2] Senior Director
Monroe County Planning and Environmental Resources Department

From: Cheryl Cioffari, A.I.C.P., Senior Administrator of Planning and Policy
Barbara Powell, Planning Policy Advisor
Monroe County Planning and Environmental Resources Department

Date: October 2, 2026

Subject: An Ordinance Amending Land Development Code (LDC) Chapter 101 (General Provisions), Section 101-1 (Definitions), Chapter 138 (Rate of Growth Restrictions / (ROGO / NROGO)), Article II. (Residential Rate of Growth Limitations (ROGO)), and Article III. (Nonresidential Rate of Growth Limitations (NROGO)), and Chapter 139 (Affordable and Employee Housing).[3]

Meeting: October 21, 2026

I. REQUEST

As directed by the Monroe County Board of County Commissioners ("BOCC", "Board", "Monroe County", or the "County"), originally at the BOCC's regular December 19, 2024, public meeting, and most recently discussed again at the BOCC's regular October 15, 2025, public meeting, Monroe County Planning and Environmental Resources Department ("Department") professional staff are presenting a proposed text amendment to the Land Development Code to establish a new ROGO allocation category for Market Rate Workforce Housing and associated definitions; amending the Chapter, Articles, and Sections related to the distribution of ROGO allocations as it relates to annual rate and percentages and numbers assigned to designated categories; and acceptance of ROGO allocations established through Section 22., Chapter 2025-190, Laws of Florida, and consistent with the direction of the Administration Commission given on December 17, 2025.

The amendment includes, but is not limited to, the following changes:

- Establishes and creates a new residential Rate of Growth Ordinance (ROGO) category for market rate workforce housing;
- Develops associated definitions;
- Redistributes residential ROGO allocations as it relates to both the annual rate, percentages and/or numbers assigned to the designated categories (market rate and market rate workforce housing);

[1] American Institute of Certified Planners (A.I.C.P.) – Certification.
[2] Association of State Floodplain Managers (A.S.F.P.M.) – Certified Floodplain Manager (C.F.M.).
[3] Monroe County Planning and Environmental Resources Department File No. 2025-018.

- Accepts ROGO allocations approved and established through legislative changes during the 2025 Florida Legislative Session and the and the December 17, 2025, Cabinet meeting; and
- Modifies purchase offers related to administrative relief.

Consistent with Section 22., Chapter 2025-190, Laws of Florida, Monroe County intends to prioritize allocations for owner-occupied and workforce housing through the creation of a new allocation category: Market Rate Workforce Housing.

Market rate workforce housing means dwelling units for those who derive at least 70 percent of their income as members of the workforce in Monroe County. Workforce means individuals or families who are gainfully employed supplying goods and/or services to Monroe County residents or visitors. Market rate workforce housing shall be interchangeable with the terms detached or attached dwellings, or commercial apartments included in the land use districts and shall be a permitted use in all land use districts where detached dwelling, attached dwellings, or commercial apartments currently are included as a permitted use. An applicant choosing to develop market rate workforce housing shall be subject to a deed restriction limiting occupancy to members of the workforce for a period of 99 years and shall comply with all other requirements included in the Land Development Code, including but not limited to, density, parking, bufferyards, and access.

It should be noted that the statutory definition of the term "workforce housing" found at Florida Statutes Section 420.5095(3) is limited to "this section"/Section 420.5095/the Community Workforce Housing Loan Program. It should further be noted that the statutory definition of the term "affordable workforce housing" found at Florida Statutes ("F.S.") Section 380.0651(1)(h) is limited in scope to utilization as a Statewide Guideline and Standard that exclusively applies to developments subject to the requirements of s. 380.06 (Developments of Regional Impact). Stated otherwise, these two existing statutory definitions are limited in their application to their individual respective programs/sections

F.S. 420.5095(3)(a):

(3) For purposes of this section, the term:

(a) "Workforce housing" means housing affordable to natural persons or families whose total annual household income does not exceed 140 percent of the area median income, adjusted for household size, or 150 percent of area median income, adjusted for household size, in areas of critical state concern designated under s. 380.05, for which the Legislature has declared its intent to provide affordable housing, and areas that were designated as areas of critical state concern for at least 20 consecutive years prior to removal of the designation.

F.S. 380.0651(h):

(h) Workforce housing.—The applicable guidelines for residential development and the residential component for multiuse development shall be increased by 50 percent where the developer demonstrates that at least 15 percent of the total residential dwelling units authorized within the development of regional impact will be dedicated to affordable workforce housing, subject to a recorded land use restriction that shall be for a period of not less than 20 years and that includes resale provisions to ensure long-term affordability for income-eligible homeowners and renters and provisions for the workforce housing to be commenced prior to the completion of 50 percent of the market rate dwelling. For purposes of this paragraph, the term "affordable workforce housing" means housing that is affordable to a person who earns less than 120 percent of the area median income, or less than 140 percent of the area median income if located in a county in which the median purchase price for a single-family existing home exceeds the statewide median purchase price of a single-family existing home. For the purposes of this paragraph, the term "statewide median purchase price of a single-family existing home" means the

statewide purchase price as determined in the Florida Sales Report, Single-Family Existing Homes, released each January by the Florida Association of Realtors and the University of Florida Real Estate Research Center.

Monroe County's creation of a "market rate workforce housing" category addresses the specific needs of the county's local workforce and is complementary to separate, existing provisions that incentivize income restricted affordable workforce housing development.

II. BACKGROUND INFORMATION

Florida Statutes Section 380.0552, the Florida Keys Area Protection Act and designation as an Area of Critical State Concern ("ACSC"), establishes the intent to "ensure that the population of the Florida Keys can be safely evacuated," (Section 380.0552(2)(j), F.S.) and requires that amendments to each local government's comprehensive plan to include "goals, objectives, and policies to protect public safety and welfare in the event of a natural disaster by maintaining a hurricane evacuation clearance time for permanent residents of no more than 24.5 hours. The hurricane evacuation clearance time shall be determined by a hurricane evacuation study conducted in accordance with a professionally accepted methodology and approved by the state land planning agency" (Section 380.0552(9)(a)(2), F.S.).

In order to accomplish the hurricane evacuation requirements by the State, the County in concert/coordination with the State of Florida adopted and established a Permit Allocation System known as the Rate of Growth Ordinance (ROGO).

ROGO Adopted Pursuant to Ordinance No. 016-1992 (Adopted June 23, 1992)
The purpose of this Amendment is to implement goals, objectives and policies of the Florida Keys' Comprehensive Plan related to protection of residents, visitors and property in the County from natural disasters, specifically including hurricanes, by adopting a Dwelling Unit Allocation Ordinance limiting annual residential development in Monroe County to an amount and rate commensurate with the County's ability to maintain a reasonable and safe hurricane evacuation clearance time, as determined by policy decisions and recently completed studies. The present hurricane evacuation clearance time in Monroe County is unacceptably high. Based on a continuation of Monroe County's historic rate of growth, clearance time will continue to increase. Therefore, consistent with its responsibility for protecting the health and safety of its citizens, Monroe County must regulate the rate of population growth commensurate with planned increases in evacuation capacity to prevent further unacceptable increases in hurricane evacuation clearance time. Regulation of the rate of growth will also help to prevent further deterioration of public facility service levels, irreversible environmental degradation, and potential land use conflicts.

The Rate of Growth Ordinance (ROGO) was implemented to provide for the safety of residents in the event of a hurricane evacuation and to protect the significant natural resources of Monroe County, as required by the State of Florida. The County originally reduced the annual permitting rate from approximately 500+ units per year to 255 units per year. Later the State adjusted the annual allocation (see Rule 28-20, Florida Administrative Code ("F.A.C.")) to 197 units per year. Each year's ROGO allocation of 197 new units is split with a minimum of 71 units allocated for affordable housing and market rate allocations cannot exceed 126 new residential units per year. On January 22, 2020, the BOCC adopted Ordinance No. 005-2020 to extend the remaining market rate ROGOs for an additional three (3) years from 2023 to 2026.

When the County's new ROGO year began on July 13, 2026, the County will no longer have any ROGO allocations remaining. However, during the 2025 Florida Legislative Session, Chapter 2025-190, Laws of Florida, ("L.O.F.") [a.k.a. "Senate Bill 180"] was passed. There were three changes within the legislation that influence the path forward for the 2026/2027 ROGO year. The first legislatively-driven change is an alteration of F.S. Section 380.0552(9)(a)(2.), which extends the hurricane evacuation time from 24 to 24.5 hours. Secondly, Section 28., Chapter 2025-190, L.O.F., states that each county listed in the Federal Disaster Declaration for Hurricane Debby (DR-4806), Hurricane Helene (DR-4828), or Hurricane Milton (DR-4834), and each municipality within one of those counties may not propose or adopt more restrictive or burdensome amendments to its comprehensive plan or land development regulations.[4] Monroe County was listed in the Federal Disaster Declaration for Hurricanes Helene and Milton. Finally, Section 22., Ch. 2025-190, L.O.F., requires the following:

- The Florida Department of Commerce to conduct baseline modeling scenarios and gather data in order to determine a number of building permit allocations to be distributed in the Florida Keys Area based upon the hurricane evacuation clearance time codified at F.S. Section 380.0552(9)(a)(2.) [i.e., 24.5 hours].
- The permit allocations must be distributed to counties and municipalities based on the number of vacant buildable lots within each jurisdiction.
- The permit allocations must be distributed over a period of **at least 10 years** but may not exceed 900 total permit allocations.
- All permits must be issued for vacant, buildable parcels, of which only one may be awarded for any individual parcel, and the distribution of which must prioritize allocations for owner-occupied residences, affordable housing, and workforce housing.

On December 17, 2025, the Florida Cabinet, sitting as the Administration Commission, met to accept the Florida Department of Commerce's recommendation related to the distribution of building permit allocations to Key West and the Florida Keys Area of Critical State Concern, pursuant to Section 22., Chapter 2025-190, Laws of Florida, and based upon the updated hurricane evacuation modeling performed by the Florida Department of Commerce. The Administration Commission specified the County's portion of the 900 allocations would be 657 allocations. The distribution for the County and the municipalities is as follows:

Islamorada ---------- 72
Key West ---------- 36
Marathon---------- 135
Monroe County ---------- 657
Total ---------- 900

[4] Each county listed in the Federal Disaster Declaration for Hurricane Debby (DR-4806), Hurricane Helene (DR-4828), or Hurricane Milton (DR-4834), and each municipality within one of those counties, may not propose or adopt any moratorium on construction, reconstruction, or redevelopment of any property damaged by such hurricanes; propose or adopt more restrictive or burdensome amendments to its comprehensive plan or land development regulations; or propose or adopt more restrictive or burdensome procedures concerning review, approval, or issuance of a site plan, development permit, or development order, to the extent that those terms are defined by s. 163.3164, Florida Statutes, before October 1, 2027, and any such moratorium or restrictive or burdensome comprehensive plan amendment, land development regulation, or procedure shall be null and void ab initio. This subsection applies retroactively to August 1, 2024.

The Administration Commission received the additional recommendations from the Florida Department of Commerce related to the timing of the distribution of the 900 allocations (See AGENDA; Florida Department of Commerce, Attached as Exhibit 2.):

> *The Department also recommends that, consistent with the requirement set forth in section 22, Chapter 2025-190, Laws of Florida, that allocations be distributed over a ten-year period; that the first 300 allocations be made available beginning January 1, 2026; and that 150 of the remaining 600 be released every two years from January 1, 2028, through January 1, 2035.*

The result, for Monroe County, is the *pro rata* share (657) of the 900 allocations over a 10-year period as follows:

- 219 units between 1/1/2026 and 12/31/2027
- 109.5 units between 1/1/2028 and 12/31/2030
- 109.5 units between 1/1/2030 and 12/31/2032
- 109.5 units between 1/1/2032 and 12/31/2034
- 109.5 units between 1/1/2034 and 12/31/2035

In consideration of the most operative method to distribute these 657 new ROGO allocations, the BOCC provided direction to professional staff to develop a new type of allocation pool, *Market Rate Workforce*, and to provide for an annual allocation of the new units to 40 per year.

During a February 5, 2026, meeting with the Florida Department of Commerce, Monroe County professional staff presented the County's proposed distribution schedule for the 657 additional ROGO allocations at a rate of 40 allocations per year, which would equate to approximately 16 years of allocations. This would provide the County with the longest time to focus on acquiring land to retire development rights, consistent with Section 22, Chapter 2025-190, Laws of Florida.

Based on feedback received from the Florida Department of Commerce and the Executive Office of the Governor, Monroe County professional staff have revised the distribution table to reflect a 10-year allocation schedule that is consistent with the Administration Commission's schedule and distribution of allocations, as reflected in Attachment 2.

Due to the time needed to process the Comprehensive Plan and Land Development Code text amendments to accept the allocations, the first tranche of allocations, and possibly some of the 2nd year tranche may become available "Year 2 or Year 3." This will result in a very large number of Market Rate Workforce units becoming available at once. For that reason, this amendment is proposed to also allow Market Rate Workforce units to be reserved by resolution (similar to how Monroe County reserves the affordable allocations). The Governor's staff offered no objections when the reservation concept was proposed during the February 5, 2026, meeting.

Previous Relevant BOCC Action

On April 13, 2016, the BOCC adopted the 2030 Comprehensive Plan and Land Development Code, which included a ROGO allocation distribution through the year 2023, based on F.A.C. Rule 28-20.140, and the Department of Economic Opportunity's (since renamed the "Florida Department of Commerce") completion of the hurricane evacuation clearance time modeling task that found with 10 years' worth of building permits, the Florida Keys would reach a 24 hour evacuation clearance time (Phase 2 of the 48-hr. phased/staged evacuation).

On January 22, 2020, the BOCC adopted Ordinance No. 005-2020 to extend the remaining market rate ROGOs for an additional three (3) years from 2023 to 2026.

On February 19, 2020, the BOCC discussed whether to direct professional staff to process a comprehensive plan and land development code amendment to: 1) Move a portion of the 378 remaining Market Rate - Rate of Growth Ordinance (ROGO) units through 2026 to the Affordable Housing allocation pool and/or 2) Accept the 300 Workforce Housing units offered by the Department of Economic Opportunity ("DEO") required to evacuate in Phase 1 of the hurricane evacuation model. The BOCC did not decide on the potential shifting of market rate allocations to the affordable housing pool but did direct professional staff to start the process to accept the 300 workforce housing units.

On April 21, 2021, the BOCC adopted Ordinance Nos. 2021-005 and 2021-006 authorizing the acceptance of the 300 early evacuation allocations from the State and to allow said allocations be used in exchange for existing affordable units / approved affordable allocations. Additionally, the Ordinance includes provisions that allow the returned affordable units / allocations to be banked to resolve potential takings cases and Harris Act cases.

At the BOCC's regular September 11, 2024, public meeting, the BOCC directed Planning & Environmental Resources Department professional staff to begin processing Comprehensive Plan and Land Development Code text amendments to eliminate the 1-for-1 takings and Bert Harris Act liability reduction exchange requirement for the early evacuation unit building permit allocations.

At the BOCC's regular December 11, 2024, public meeting, the BOCC adopted Ordinance No. 030-2024, which created a site-specific subarea within Tavernier that permits the use of 86 early evacuation unit building permit allocations on one site in Tavernier without having to satisfy the otherwise applicable 1-for-1 takings and Bert Harris Act liability reduction exchange requirement.

At the BOCC's regular April 16, 2025, public meeting, the BOCC adopted Resolution No. 168-2025 to transmit a proposed text amendment to the Florida Department of Commerce to modify policies related to the 300 affordable workforce early evacuation units to eliminate the 1-for-1 exchange for the remaining 300 workforce affordable housing early evacuation unit building permit allocations.

On August 20, 2025, the BOCC adopted Ordinance Nos. 018-2025 and 019-2025, which were to amend the County's Comprehensive Plan and Land Development Code in order to modify the requirements related to the remainder of the County's 300 early evacuation unit building permit allocations. The amendments were to remove the existing 1-for-1 exchange requirement and allow direct distribution of the allocations for development of affordable workforce housing. On or about November 4, 2025, the County received a letter from the State Land Planning Agency making the allegation that Monroe County Ordinance No. 018-2025 is, putatively, "more restrictive or burdensome making it null and void ab initio pursuant to Section 28 of Chapter 2025-190, L.O.F."

Monroe County Planning and Environmental Resources Department professional staff are currently processing amendments to the Comprehensive Plan (Department File No. 2025-220) and Land Development Code (Department File No. 2025-221) that would voluntarily address the State Land Planning Agency's allegation, without waiving, forfeiting, or conceding the factual and/or legal correctness of such allegation.

Community Meeting and Public Participation

In accordance with LDC Section 102-159(b)(3), a Community Meeting for the Comprehensive Plan and Land Development Code text amendments was held on March 24, 2025, via Zoom Webinar and provided for public input. There were comments from two (2) members of the public in attendance. The concerns identified included the following:

1. Changes to allow affordable ROGOs within the V-zone;
2. What happens to the market rate workforce ROGO/unit when the person occupying the unit retires; and
3. A request to include language to limit the number of allocations the County accepts.

Monroe County Development Review Committee (DRC) Meeting and Public Input
On November 18, 2025, the DRC considered the proposed amendment and provided for public input. On December 16, 2025, the Chair of the DRC signed Resolution No. DRC 22-25, recommending approval of the proposed text amendment.

Monroe County Planning Commission Meeting and Public Input
On April 22, 2026, the Monroe County Planning Commission considered the proposed amendment, received public input, and recommended approval of the proposed amendment to the Monroe County Land Development Code to the BOCC. The Planning Commission adopted Resolution No. P14-26 with the following addition:

> *Monroe County Planning Commission identified a desire to utilize the newly created market rate workforce housing category as a method to comply with the inclusionary housing requirements of LDC Section 139-1 and directed Monroe County Planning Department Staff to analyze the feasibility of this option and include it in the proposed amendment to the BOCC if lawful and internally consistent;*

In response to the Planning Commission's motion, Department professional staff are proposing to allow up to one (1) market rate workforce unit to satisfy a nonresidential inclusionary housing requirement.

In addition, Department professional staff have made additional modifications to the proposed Land Development Code amendment which include the removal of the proposed amendment to the NROGO distribution and ROGO evaluation point criteria to provide for consistency with the Comprehensive Plan.

Transmittal to State Land Planning Agency of Corresponding Comprehensive Plan Amendment
At the BOCC's regular July 15, 2026, public meeting, the BOCC adopted Resolution No. 190-2026, approving the transmittal of the corresponding proposed Comprehensive Plan Amendment to the State Land Planning Agency. Acknowledgement of this amendment was received by the Florida Department of Commerce (State Land Planning Agency) on July 20, 2026. Florida Statutes Section 163.3184(4)(d)(1.) requires the State Land Planning Agency to issue (if it chooses to) an Objections, Recommendations, and Comments (ORC) report "within 60 days after receipt of the proposed . . . [Comprehensive] Plan Amendment." However, on September 29, 2026, or 71 days after the State Land Planning Agency's receipt of the BOCC's proposed Plan Amendment, the State Land Planning Agency issued an ORC report to the BOCC regarding the BOCC's proposed Comprehensive Plan Amendment. The State Land Planning Agency's ORC report identified two objections and two comments. The full ORC report is included as Exhibit 2. to this Professional Staff Report. Monroe County Planning and

Environmental Resources Department professional staff have prepared the memorandum included as Exhibit 3. which discusses options to voluntarily accommodate this ORC report.

Florida Statutes Section 163.3194(1)(b) requires that all land development regulations enacted or amended shall be consistent with the adopted comprehensive plan, therefore, changes to the comprehensive plan in order to resolve the objections and comments in the ORC report, will need to be addressed in the proposed changes to the Land Development Code.

III. PROPOSED LAND DEVELOPMENT CODE TEXT AMENDMENTS

Please refer to the Draft Ordinance in Exhibit 1 for the full text of the proposed amendment to the Monroe County Land Development Code.

IV. ANALYSIS OF PROPOSED AMENDMENT

The proposed text amendment to the Land Development Code is multifaceted and provides new opportunities within the ROGO system to address concerns identified by local and State leaders, as well as the public at-large, and by providing clarifications affected by proposed changes. The amendment includes a number of changes as detailed below.

Develop associated definitions.

The proposed amendments include amendments to Land Development Code (LDC) Sections 101-1 and 138-19 to implement the new ROGO category and provide clarification for existing ROGO categories where appropriate.

Establish and create a new residential Rate of Growth Ordinance (ROGO) category for market rate workforce housing.

During the process of developing the proposed amendments there were various scenarios for staff to consider as presented under a potential increase of the hurricane evacuation timeframe beyond 24 hours through potential changes in the Florida Legislature. Ultimately, the hurricane evacuation requirement in Florida Statutes Section 380.0552(9)(a)(2.) was legislatively amended to 24.5 hours during the 2025 legislative session. However, the idea that a minimum of 70% of any new ROGO allocations received by Monroe County would be designated for the workforce of Monroe County resonated with local and state leaders, as well as the general public.

Policies within the Land Development Code are proposed to be amended to indicate the new ROGO category for *Market Rate Workforce* housing and provide clarity on the number of overall ROGO allocations that may be granted in each ROGO year beginning in 2026. As shown in Section 138-24, staff is proposing to provide a minimum of 54 ROGO allocations per year beginning in 2026. Any remaining ROGO allocations shall be utilized for market rate allocations pro-rated for the partial year.

The amendment as proposed to Section 138-24 ensures compliance with the Comprehensive Plan intent to ensure at least 20% of the total allocations are designated as affordable. This goal is accomplished through the remaining 214 affordable workforce early evacuation units that are provided and available for distribution.

Redistribute residential ROGO allocation as it relates to both the annual rate, percentages and/or numbers assigned to the designated categories (Market Rate and Market Rate Workforce housing).

As described above, due to the limited allocations available and the expressed desire to focus on the workforce of Monroe County, staff is proposing to provide 54 ROGO allocations per year beginning in 2026 with a minimum of 42 *Market Rate Workforce* ROGO per year. Unused and/or expired allocations for *Market Rate* and *Market Rate Workforce* allocations shall be made available for administrative relief.

Accept the remaining 657 ROGO allocations within the 24.5-hour evacuation timeframe.

The Florida Department of Commerce has indicated there are approximately 900 allocations available for distribution within the 24.5-hour hurricane evacuation period. Of the approximately 900 allocations, 657 are available for Monroe County with an anticipated timeframe of distribution of at least ten (10) years. Monroe County's portion of the allocations (657) is shown reserving 78% for *Market Rate Workforce*.

Modify purchase offers related to administrative relief.

Language within the proposed amendment increases the value of offers for purchase of property from fair market value to greater than fair market value as determined by the County's appraisal. This increase in purchase power on behalf of the County may provide greater incentive for property owners to sell for the purpose of retiring development rights. Additionally, the increase accounts for the high market value of land within the Florida Keys and makes the County more competitive on the open market, specifically when resolving pending administrative relief applications.

Remove the prohibition of awarding affordable ROGOs and early evacuation ROGOs to properties within the V-zone.

In August 2024, the Affordable Housing Advisory Committee ("AHAC") adopted Resolution No. 01-2024 providing several recommendations to the BOCC to encourage affordable housing within the County. One of those recommendations is to remove the prohibition of allocating affordable ROGOs to properties within the V-zone through text amendments to the Land Development Code [and Comprehensive Plan]. The limited amount of land available coupled with competition from market rate developments and opposition by property owners within close proximity to proposed developments have limited opportunities for affordable housing development within the County.

During the community meeting, a member of the public raised concern over the potential increase cost of development within the V-zone, including the cost of insurance for the developers and subsequent occupants of the unit. The cost of any required insurance would be a decision for a developer to consider when estimating the cost to develop a project. While property owners may be required to have flood insurance such as all Citizens policyholders (by the year 2027); not all renters obtain renter's insurance and not all renter's policies contain flood coverage.

Research conducted by staff indicates the main difference in renters' insurance between an AE flood zone and a V-zone is that V-zone policies also address potential damage from waves and storm surges due to their higher flood risk. V-zone policies may require more comprehensive coverage due to the increased potential for risk. The cost of renter's flood insurance varies based on several factors, including the flood zone's high-risk designation, coverage amount, and property-specific characteristics.

- **National Flood Insurance Program (NFIP) Rates**: For renters, NFIP offers contents-only flood insurance policies, covering personal belongings up to $100,000. In Florida, the average cost of flood insurance (including both building and contents coverage) is approximately $781–$964 per year, but contents-only policies for renters are significantly cheaper. NerdWallet cites NFIP rates for contents-only coverage as low as $100 per year in low-risk zones, but in high-risk VE zones, costs are higher due to the increased flood risk.
- **Private Insurers**: Private flood insurance may offer competitive rates compared to NFIP, sometimes with higher coverage limits and shorter waiting periods (under two weeks vs. NFIP's 30 days). Private policies for renters in VE zones might range from $300 to $800 per year, depending on the insurer and coverage specifics. Bundling with renters' insurance through the same provider could reduce costs.

Estimated Cost Range

For a renter in a VE zone in Monroe County seeking contents-only flood insurance:

- **NFIP**: $300–$600 per year for $50,000–$100,000 in coverage, potentially reduced by CRS discounts.
- **Private Insurers**: $300–$800 per year, with possible savings through bundling or higher deductibles.
- **Example**: A renter insuring $50,000 in personal property in a VE zone might pay $400–$500 annually through NFIP, or $350–$600 through a private insurer, assuming no elevation certificate or additional discounts.

Estimated Cost Range for Renters' Flood Insurance in AE Zone, Monroe County:

- Low-End (Minimal Coverage, NFIP with CRS Discount): $200–$350 per year
- Mid-Range (Moderate Coverage, NFIP or Private): $350–$600 per year
- High-End (Higher Coverage, Private or High-Risk ZIP): $600–$800 per year

It is important to note that renter's insurance does not cover vehicles; this type of coverage would fall under a person's car insurance.

Amending the Land Development Code to award ROGO allocations on a semi-annual basis from a quarterly basis. The change from a quarterly allocation period to a semi-annual period will take effect with the new allocation year and is expected to reduce staff time. Modifications to the Land Development Code were also made to recalculate the time needed to apply for administrative relief to account for the change from quarterly to semi-annually.

Clarifying language within the ROGO and NROGO system. There were minor changes to clarify issues such as responsibility for the cost of recording documents. The section on *Perseverance Points* was re-arranged and reformatted to provide clarity. Appeals of the Planning Commission decisions on ROGO allocations will now be made to Florida Division of Administrative Hearings pursuant to Chapter 102, Article VI, Division 2.

There are terminology changes throughout the document, such as *state land planning agency* for *Department of Economic Opportunity* and *Department of Planning and Environmental Resources* for *division of growth management.*

Consistency with the Monroe County Land Development Code

In accordance with Land Development Code Section 102-158(d)(7)(b), the BOCC may consider the adoption of an ordinance enacting the proposed map and text amendments to this Land Development Code based on one or more of the following factors:

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

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

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

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

6. *Data updates;*

7. *Consistency with the Comprehensive Plan and the principles for guiding development as defined in Section 380.0552, Florida Statutes.*

   The proposed text amendments to the Land Development Code are based on changes in assumptions, data updates, and amendments to the comprehensive plan and Florida Statutes. The changes to assumptions and data updates are related to updated decennial census information and subsequently updated hurricane evacuation modeling. Monroe County Comprehensive Plan amendments are proposed concurrent to this Land Development Code amendment in order to implement a change in Florida Statutes to the hurricane evacuation time from 24 to 24.5 hours and changes relative to the dwelling unit allocations.

In no event shall an amendment be approved which will result in an adverse community change to the planning area in which the proposed development is located or to any area in accordance with a Livable CommuniKeys Master Plan pursuant to findings of the Board of County Commissioners [Ref. Code Section 102-158(d)(7)d.].

Professional staff do not anticipate the proposed amendment will result in an adverse community change.

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

GOAL 101

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

Objective 101.2

As mandated by the State of Florida, pursuant to Section 380.0552, F.S. and Rule 28-20.140, F.A.C., and to maintain the public health, safety, and welfare, Monroe County shall maintain a maximum hurricane evacuation clearance time of 24 hours and will coordinate with the State Land Planning Agency relative to the 2012 Memorandum of Understanding that has been adopted between the County and all the municipalities and the State agencies.

Policy 101.2.1
Monroe County shall maintain a memorandum of understanding with the State Land Planning Agency, Division of Emergency Management, Marathon, Islamorada, Key West, Key Colony Beach, and Layton to stipulate, based on professionally acceptable data and analysis, the input variables and assumptions, including regional considerations, for utilizing the Florida Division of Emergency Management's (DEM) Transportation Interface for Modeling Evacuations ("TIME") Model to accurately depict evacuation clearance times for the population of the Florida Keys.

Objective 101.3
Monroe County shall regulate new residential development based upon the finite carrying capacity of the natural and man-made systems and the growth capacity while maintaining a maximum hurricane evacuation clearance time of 24 hours.

GOAL 601
Monroe County shall adopt programs and policies to facilitate access by residents to adequate and affordable housing that is safe, decent, and structurally sound, and that meets the needs of the population based on type, tenure characteristics, unit size and individual preferences. [F.S. § 163.3177(6)(f)1., 3.]

Policy 601.1.1
Monroe County shall maintain land development regulations, in conjunction with the Permit Allocation System, for apportioning future affordable housing development.

Policy 601.1.4
All affordable housing projects which receive development benefits from Monroe County, including but not limited to, ROGO allocation award(s) reserved for affordable housing, maximum net density, or donations of land, shall be required to maintain the project as affordable for a period of 99 years pursuant to deed restrictions or other mechanisms specified in the Land Development Code, and administered by Monroe County or the Monroe County Housing Authority.

Policy 601.1.9
Monroe County shall maintain land development regulations which may include density bonuses, impact fee waiver programs, and other possible regulations to encourage affordable housing.

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

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

(a) Strengthening local government capabilities for managing land use and development so that local government is able to achieve these objectives without continuing the area of critical state concern designation.
(b) Protecting shoreline and benthic resources, including mangroves, coral reef formations, seagrass beds, wetlands, fish and wildlife, and their habitat.
(c) Protecting upland resources, tropical biological communities, freshwater wetlands, native tropical vegetation (for example, hardwood hammocks and pinelands), dune ridges and beaches, wildlife, and their habitat.
(d) Ensuring the maximum well-being of the Florida Keys and its citizens through sound economic development.
(e) Limiting the adverse impacts of development on the quality of water throughout the Florida Keys.
(f) Enhancing natural scenic resources, promoting the aesthetic benefits of the natural environment, and ensuring that development is compatible with the unique historic character of the Florida Keys.
(g) Protecting the historical heritage of the Florida Keys.
(h) Protecting the value, efficiency, cost-effectiveness, and amortized life of existing and proposed major public investments, including:
    1. The Florida Keys Aqueduct and water supply facilities;
    2. Sewage collection, treatment, and disposal facilities;
    3. Solid waste treatment, collection, and disposal facilities;
    4. Key West Naval Air Station and other military facilities;
    5. Transportation facilities;
    6. Federal parks, wildlife refuges, and marine sanctuaries;
    7. State parks, recreation facilities, aquatic preserves, and other publicly owned properties;
    8. City electric service and the Florida Keys Electric Co-op; and
    9. Other utilities, as appropriate.
(i) Protecting and improving water quality by providing for the construction, operation, maintenance, and replacement of stormwater management facilities; central sewage collection; treatment and disposal facilities; and the installation and proper operation and maintenance of onsite sewage treatment and 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.
(o) 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.

163.3177(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)(f), F.S. – 1. A housing element consisting of principles, guidelines, standards, and strategies to be followed in:

a. The provision of housing for all current and anticipated future residents of the jurisdiction.
b. The elimination of substandard dwelling conditions.
c. The structural and aesthetic improvement of existing housing.
d. The provision of adequate sites for future housing, including *affordable workforce housing* as defined in s. 380.0651(1)(h), housing for low-income, very low-income, and moderate-income families, mobile homes, and group home facilities and foster care facilities, with supporting infrastructure and public facilities. The element may include provisions that specifically address affordable housing for persons 60 years of age or older. Real property that is conveyed to a local government for affordable housing under this sub-subparagraph shall be disposed of by the local government pursuant to s. 125.379 or s. 166.0451.
e. Provision for relocation housing and identification of historically significant and other housing for purposes of conservation, rehabilitation, or replacement.

f. The formulation of housing implementation programs.
g. The creation or preservation of affordable housing to minimize the need for additional local services and avoid the concentration of affordable housing units only in specific areas of the jurisdiction.

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

380.0552 [2](9) MODIFICATION TO PLANS AND REGULATIONS.—

(a) Any land development regulation or element of a local comprehensive plan in the Florida Keys Area may be enacted, amended, or rescinded by a local government, but the enactment, amendment, or rescission becomes effective only upon approval by the state land planning agency. The state land planning agency shall review the proposed change to determine if it is in compliance with the principles for guiding development specified in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984, and must approve or reject the requested changes within 60 days after receipt. Amendments to local comprehensive plans in the Florida Keys Area must also be reviewed for compliance with the following:
    1. Construction schedules and detailed capital financing plans for wastewater management improvements in the annually adopted capital improvements element, and standards for the construction of wastewater treatment and disposal facilities or collection systems that meet or exceed the criteria in s. 403.086(11) for wastewater treatment and disposal facilities or s. 381.0065(4)(l) for onsite sewage treatment and disposal systems.
    2. Goals, objectives, and policies to protect public safety and welfare in the event of a natural disaster by maintaining a hurricane evacuation clearance time for permanent residents of no more than 24.5 hours. The hurricane evacuation clearance time shall be determined by a hurricane evacuation study conducted in accordance with a professionally accepted methodology and approved by the state land planning agency. For purposes of hurricane evacuation clearance time:
        a. Mobile home residents are not considered permanent residents.
        b. The City of Key West Area of Critical State Concern established by chapter 28-36, Florida Administrative Code, shall be included in the hurricane evacuation study and is subject to the evacuation requirements of this subsection.

[2]**Note.**—Section 22, ch. 2025-190, provides that "[t]he Department of Commerce shall conduct baseline modeling scenarios and gather data in order to determine a number of building permit allocations to be distributed in the Florida Keys Area based upon the hurricane evacuation clearance time provided in s. 380.0552(9)(a), Florida Statutes, as amended by this act. The permit allocations must be distributed to counties and municipalities based on the number of vacant buildable lots within each jurisdiction. The permit allocations must be distributed over a period of at least 10 years but may not exceed 900 total permit allocations. All permits must be issued for

vacant, buildable parcels, of which only one may be awarded for any individual parcel, and the distribution of which must prioritize allocations for owner-occupied residences, affordable housing, and workforce housing."

V. PROCESS

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

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

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

VI. PROFESSIONAL STAFF RECOMMENDATION

Professional staff requests direction from the BOCC regarding the ORC report received that pertains to the corresponding comprehensive plan amendment and recommends continuing this item to the BOCC's November 17, 2026, public meeting for adoption.

VII. EXHIBITS

1. Draft Ordinance
2. December 17, 2025, Florida Cabinet Agenda Item

MONROE COUNTY, FLORIDA
MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

ORDINANCE NO. -2026

AN ORDINANCE ADOPTING AMENDMENTS TO THE MONROE COUNTY LAND DEVELOPMENT CODE TO ESTABLISH A NEW ROGO ALLOCATION CATEGORY FOR MARKET RATE WORKFORCE HOUSING AND ASSOCIATED DEFINITIONS, AMENDING THE CHAPTER, ARTICLES, AND SECTIONS RELATED TO THE REDISTRIBUTION OF ROGO ALLOCATIONS AS IT RELATES TO ANNUAL RATE AND PERCENTAGES AND NUMBERS ASSIGNED TO DESIGNATED CATEGORIES, AND ACCEPTANCE AND DISTRIBUTION OF 657 ROGO ALLOCATIONS AS PROVIDED IN SECTION 22., CHAPTER 2025-190, LAWS OF FLORIDA, AND MODIFYING PURCHASE OFFERS RELATED TO ADMINISTRATIVE RELIEF, BY AMENDING CHAPTER 101 (GENERAL PROVISIONS); SECTION 101-1 (DEFINITIONS); CHAPTER 138 (RATE OF GROWTH RESTRICTIONS / (ROGO / NROGO)), ARTICLE II. (RESIDENTIAL RATE OF GROWTH LIMITATIONS (ROGO)), AND ARTICLE III. (NONRESIDENTIAL RATE OF GROWTH LIMITATIONS (NROGO)), AND CHAPTER 139 (AFFORDABLE AND EMPLOYEE HOUSING); 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.[1]

WHEREAS, at the Monroe County Board of County Commissioners' ("BOCC", "Board", "Monroe County", or the "County") regular December 19, 2024, and October 15, 2025, public meetings, the BOCC directed Monroe County Planning and Environmental Resources Department professional staff to amend the Monroe County 2030 Comprehensive Plan and Land Development Code pertaining to the Rate of Growth Ordinance ("ROGO") allocation System; and

WHEREAS, on March 24, 2025, Department professional staff held a Community Meeting in accordance with Land Development Code ("LDC" or "Code") Section 102-159(b)(3) to discuss the proposed amendments to the Land Development Code and Comprehensive Plan, and provide for public participation; and

[1] Monroe County Planning and Environmental Resources Department File No. 2025-018.

WHEREAS, the Monroe County Development Review Committee ("DRC") reviewed and considered the proposed amendment at a regularly scheduled meeting held on November 18, 2025; and

WHEREAS, on December 16, 2025, the DRC Chair signed Resolution No. DRC 22-25, recommending approval of the proposed text amendment; and

WHEREAS, the Monroe County Planning Commission ("Planning Commission") held a public hearing on April 22, 2026, for review and recommendation of the proposed Land Development Code text amendment; and

WHEREAS, the Monroe County Planning Commission adopted Planning Commission Resolution No. P14-26, recommending approval of the proposed amendment as discussed during the hearing, with consideration given to utilizing the newly created market rate workforce housing category as a means of satisfying the inclusionary housing requirements of LDC Section 139-1, and directed Department professional staff to analyze the feasibility of this option and, if determined to be lawful and internally consistent, incorporate appropriate provisions into the proposed amendment presented to the BOCC; and

WHEREAS, at a regularly scheduled meeting on October 21, 2026, the BOCC held a public hearing to consider adoption of the proposed Land Development Code text amendment; and

WHEREAS, based upon the information and documentation submitted, the BOCC made the following findings of fact and conclusions of law:

1. The proposed amendment is consistent with the Goals, Objectives and Policies of the Monroe County Year 2030 Comprehensive Plan; and
2. The proposed amendment is consistent with the Principles for Guiding Development for the Florida Keys Area of Critical State Concern, Section 380.0552(7), Florida Statutes; and
3. The proposed amendment is consistent with Part II, Chapter 163, Florida Statutes;
4. The proposed amendment addresses a new issue consistent with LDC Section 102-158(d)(7)(b).

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

Section 1. **Recitals and Legislative Intent.** The foregoing recitals, findings of fact, conclusions of law, and statements of legislative purpose and intent are true and correct and are hereby incorporated as if fully stated herein.

Section 2. The text of the Monroe County Land Development Code is hereby amended as follows (deletions are ~~strike through~~; additions are shown in underline.

Chapter 101 - GENERAL PROVISIONS

Sec. 101-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*****

Administrative relief means actions taken by the County granting the owner of real property relief from the continued application of the rate of growth ordinance restrictions provided they meet the criteria established in the Land Development Code.

*****

Affordable housing.

*****

(14) *Inclusionary housing* means the resulting affordable ~~and/or employee housing~~ and/or ~~affordable~~ workforce housing created or preserved with the development and/or redevelopment of a parcel where provisions of approved development agreements or orders implement and promote affordable ~~and/or employee housing~~ and/or ~~affordable~~ workforce housing goals, objectives and policies contained in the plan by requiring set-aside for affordable ~~and/or employee housing~~ and/or workforce housing units.

*****

(20) *Affordable ~~W~~workforce housing* means dwelling units for those who derive at least 70 percent of their income as members of the ~~W~~workforce in Monroe County and who meet the affordable housing income categories of the Monroe County Code. Workforce means individuals or families who are gainfully employed supplying goods and/or services to Monroe County residents or visitors. Affordable ~~W~~workforce housing shall be interchangeable with the terms detached or attached dwellings, employee housing or commercial apartments included in the land use districts and shall be a permitted use in all land use districts where detached dwelling, attached dwellings, employee housing or commercial apartments are included as a current permitted use. An applicant choosing to develop affordable workforce housing is subject to the requirements of Chapter 139 and all other requirements included in the ~~l~~Land ~~d~~Development ~~c~~Code, including but not limited to, density, parking, bufferyards~~,~~ and access~~, etc~~.

*****

Market rate housing means an attached or detached dwelling unit that is intended to serve as permanent housing for households not eligible for affordable or employee housing under this Land Development Code.

*****

Market rate workforce housing means dwelling units for those who derive at least 70 percent of their income as members of the workforce in Monroe County. Workforce means individuals or families who are gainfully employed supplying goods and/or services to Monroe County residents or visitors. Market rate workforce housing shall be interchangeable with the terms detached or attached dwellings, or commercial apartments included in the land use districts and shall be a permitted use in all land use districts where detached dwelling, attached dwellings, or commercial apartments are included as a current permitted use. An applicant choosing to develop market rate

workforce housing shall be subject to a deed restriction limiting occupancy to members of the workforce for a period of 99 years and shall comply with all other requirements included in the Land Development Code, including but not limited to, density, parking, bufferyards, and access.

*****

Chapter 138, RATE OF GROWTH RESTRICTIONS (ROGO/NROGO)

*****

ARTICLE II. RESIDENTIAL RATE OF GROWTH LIMITATIONS (ROGO)

Sec. 138-19. Residential Rate of Growth Ordinance (ROGO).

(a) **Definitions.** The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Allocation closure date means January 12th and July 12th of each year, beginning on July 13, 2026, and each year thereafter. If the allocation closure date falls on a Saturday, Sunday or legal holiday, the allocation closure date shall be the next day, which is neither a Saturday, Sunday nor a legal holiday; and the next allocation period shall begin on the business day following the allocation closure date.

*****

Annual allocation period means the 12-month period beginning on July 13, 1992, (the effective date of the original dwelling unit allocation ordinance), and subsequent one-year periods. Also see definition of "*ROGO year*".

*****

Controlling date means the date and time a ROGO application is submitted. This date shall be used to determine the annual anniversary date for receipt of a perseverance point and shall determine precedence when ROGO applications receive identical ranking scores. A new controlling date shall be established based upon the resubmittal date and time of any withdrawn or revised application, except pursuant to Section 138-25(~~h~~i).

Lawfully established for ROGO/NROGO exemption means a dwelling unit or nonresidential floor area that has received a permit or other official approval from the ~~division of growth management~~ Department of Planning and Environmental Resources for the unit and/or nonresidential floor area.

Quarterly allocation period means the three-month period beginning on July 13, 1992, or such other date as the board may specify, and successive three-month periods through July 12, 2026.

*****

Semi-annual allocation period means the six-month period beginning on July 13, 2026, and successive six-month periods.

*****

ROGO Year means the 12-month period beginning on July 13, 1992, (the effective date of the original dwelling unit allocation ordinance), and subsequent one-year periods. Also see "*Annual Allocation Period*."

*****

Sec. 138-22. Type of Development Not Affected.

The residential ROGO shall not apply to the development described below:

(a) **Redevelopment on-site.** Redevelopment, rehabilitation or replacement of any lawfully established dwelling unit or space that does not increase the number of dwelling units above that which existed on the site prior to the redevelopment, rehabilitation or replacement shall be exempt from the residential ROGO system.

The Planning Director shall review available documents to determine if a body of evidence exists to support the lawful existence of units on or about July 13, 1992, the effective date of the original ROGO. Such evidence shall be documented and submitted to the Planning Director on a form provided by the Planning and Environmental Resources Department. Any issued Monroe County building permit(s) for the original construction of the structure confirming the existence of the dwelling unit and its use(s) on or about July 13, 1992 can stand as the only piece of evidence for a ROGO exemption.

If there are no building permit(s) for the original construction of the structure which confirm the lawful existence of the dwelling unit and its use(s) on or about July 13, 1992, the application shall include, at a minimum, at least two of the following documents:

(1) Any other issued Monroe County building permit(s) supporting the existence of the structure(s) and its use(s) on or about July 13, 1992;
(2) Documentation from the Monroe County Property Appraiser's Office indicating residential use on or about July 13, 1992;
(3) Aerial photographs (to confirm the number of structures, not the number or type of dwelling units) and original dated photographs showing the structure(s) existed on or about July 13, 1992;
(4) Residential county directory entries on or about July 13, 1992;
(5) Rental, occupancy or lease records, on or about July 13, 1992, indicating the number, type and term of the rental or occupancy;
(6) State and/or county licenses, on or about July 13, 1992, indicating the number and types of rental units;
(7) Documentation from the utility providers indicating the type of service (commercial or residential) provided and the number of meters in existence on or about July 13, 1992; and
(8) Similar supporting documentation not listed above as determined suitable by the Planning Director.

Any dwelling unit established after the effective date of the original ROGO should be documented through the ROGO permit allocation system and dwelling units that

received such allocations that were constructed and received certificates of occupancies may be established as exempt from ROGO through verification of the certificate of occupancy alone.

Provision of affidavits to support the existence of a dwelling unit(s) is allowed, but cannot be the sole record upon which a decision is based.

Provision of documents is the responsibility of the applicant.

Dwelling units determined to be exempt from the ROGO per this subsection that have not been previously acknowledged by the Planning Director may also be nonconformities, pursuant to Chapter 102, Article III Nonconformities. Such occasions shall require a determination by the Planning Director as to the lawfulness of the nonconformity.

(b) **Transfer off-site.** Residential dwelling units and transient units may be transferred to another site in the same ROGO subarea, provided that the units lawfully exist and can be accounted for in the County's hurricane evacuation model.

(1) ROGO exemptions may be transferred as follows:

a. between sites within the Upper Keys ROGO subarea;
b. between sites within the Lower Keys ROGO subarea;
c. between sites within the Big Pine Key and No Name Key ROGO subarea;
d. from the Big Pine Key and No Name Key ROGO subarea to the Lower Keys ROGO subarea.

(2) No sender units may be transferred to an area where there are inadequate facilities and services.

(3) Transfer off-site shall consist of either the demolition of a dwelling unit on a sender site or a change of use of the floor area of dwelling unit on a sender site to another permitted use in the applicable land use (zoning) district that does not require the ROGO exemption and the development of a new dwelling unit, transient unit or affordable housing unit on a receiver site.

(4) Transfer of Lawfully Established Unit Types:

a. *Transfer of a transient unit.* A lawfully established hotel room, motel room, campground space, or recreational vehicle space may be transferred off-site to another hotel, motel, campground or recreational vehicle park.
b. *Transfer of an affordable housing unit.* A lawfully established permanent market rate or affordable dwelling unit may be transferred to affordable housing. The receiver site shall be developed with an affordable housing unit pursuant to Sections 101-1 and 139-1.
c. *Transfer of a market rate unit.* A lawfully established permanent market rate dwelling unit may be transferred to a receiver site and developed as a single family detached market rate dwelling unit, subject to the following:
    1. The transfer of market rate ROGO exemptions may be allowed provided that one of the following is satisfied:
        i. A 99 year deed-restricted affordable housing unit, pursuant to Sections 101-1 and 139-1, is retained or redeveloped on the sender site. If the existing dwelling unit is proposed as the deed-restricted affordable housing unit, the unit shall pass a life safety inspection

conducted in a manner prescribed by the Monroe County Building Department, comply with hurricane standards established by the Florida Building Code, and habitability standards established under the Florida Landlord and Tenant Act; or

ii. The sender site is dedicated to Monroe County for the development of affordable housing and an in-lieu fee per unit, based on the current maximum sales price for a one-bedroom affordable unit as established under Section 139-l(a), is paid to the affordable housing trust fund; or

iii. A 99 year deed-restricted affordable housing unit, pursuant to Sections 101-1 and 139-1, is developed on a Tier III property (single-family residential lots or parcels) and the dwelling unit on the sender site is demolished and the sender site is restored.

2. The receiver site for the market rate ROGO exemption must meet the criteria of subsection (6) and the following:

i. Receiver site is a legally platted lot; and

ii. Receiver site is within the Improved Subdivision (IS) Land Use District or the Urban Residential Mobile Home (URM) Land Use District; and

iii. Receiver site is located within the same ROGO subarea as the sender site, except exemptions may be transferred from the Big Pine Key and No Name Key ROGO subarea to the Lower Keys ROGO subarea; and

iv. Receiver site property is not a recreational and commercial working waterfront.

(5) Sender Site Criteria:

a. Contains a documented lawfully-established sender dwelling unit pursuant to subsection (a) and recognized by the County; and

b. Located in a Tier I, II, III-A, or III designated area; including any tier within the County's Military Installation Area of Impact (MIAI) Overlay.

(6) Receiver Site Criteria:

a. The Future Land Use category and Land Use (Zoning) District must allow the requested use;

b. Must meet the adopted density standards;

c. Includes all infrastructure (potable water, adequate wastewater treatment and disposal wastewater meeting adopted LOS, paved roads, etc.);

d. Located within a Tier III designated area; and

e. Structures are not located in a velocity (V) zone, or within a CBRS unit.

*****

Sec. 138-23. Moratorium on New Transient Units.

New transient residential units, such as hotel or motel rooms (and any lock-out units), seasonal residential units, or campground, recreational vehicle or travel trailer spaces, shall not be eligible for residential ROGO allocations until ~~May 1, 2022~~ July 12, 2036.

Sec. 138-24. Residential ROGO Allocations.

(a) ***Number of available annual residential ROGO allocations.*** ~~The number of market rate residential ROGO allocations available in each subarea of the unincorporated county and the total number of affordable residential ROGO allocations and workforce housing early evacuation unit allocations available countywide shall be as follows:~~ The allocation of building permits available in each subarea of the unincorporated county shall be in accordance with the following schedule through July 12, 2026:

	Number of Dwelling Units	
Subarea	ROGO YEARS: July 13, 2020—July 12, 2021 July 13, 2021—July 12, 2022 July 13, 2022—July 12, 2023	ROGO YEARS: July 13, 2023—July 12, 2024 July 13, 2024—July 12, 2025 July 13, 2025—July 12, 2026
Upper Keys	31	30
Lower Keys	29	28
Big Pine and No Name Keys	4	4
Total market rate	64	62
Affordable dwelling units		
Very Low, Low, and Median Incomes	360*	
Moderate Income	350*	
*Includes one annually for Big Pine Key and No Name Key		
Affordable workforce Housing Early Evacuation Initiative	300**	
** Affordable workforce housing early evacuation unit building permit allocations shall be distributed on a first-come first-serve basis in the Upper and Lower Keys subareas. Requests for dwelling units developed and/or deed-restricted utilizing the affordable workforce housing early evacuation unit building permit allocations are subject to the provisions of Comprehensive Plan Polic~~y~~ies 101.3.1~~2~~1, 113.1.1, and Section 138-24(e). Additionally, pursuant to Comprehensive Plan Policy 101.3.10, affordable workforce housing early evacuation unit building permit allocations may be transferred to another government jurisdiction for County-initiated affordable housing projects, as approved ~~by a resolution of the BOCC~~ through an Interlocal Agreement approved by the BOCC.		

ROGO Year	**Annual Allocation**			
	Market Rate		**Affordable Housing (AFH)**	**Affordable Workforce Housing Early**

				Evacuation Initiative
July 13, 2013—July 12, 2014	126 U: 61, L: 57, BPK/NNK: 8		71	
July 13, 2014—July 12, 2015	126 U: 61, L: 57, BPK/NNK: 8		71	
July 13, 2015—July 12, 2016	126 U: 61, L: 57, BPK/NNK: 8		71	
July 13, 2016—July 12, 2017	126 U: 61, L: 57, BPK/NNK: 8		568 total AFH (total available immediately)	N/A
July 13, 2017—July 12, 2018	126 U: 61, L: 57, BPK/NNK: 8			
July 13, 2018—July 12, 2019	126 U: 61, L: 57, BPK/NNK: 8			
July 13, 2019—July 12, 2020	126 U: 61, L: 57, BPK/NNK: 8			
July 13, 2020—July 12, 2021	64 U: 31, L:29, BPK/NNK: 4			
July 13, 2021—July 12, 2022	64 U: 31, L:29, BPK/NNK: 4			**300****
July 13, 2022—July 12, 2023	64 U: 31, L:29, BPK/NNK: 4			
July 13, 2023—July 12, 2024	62 U: 30, L:28, BPK/NNK: 4			
July 13, 2024—July 12, 2025	62 U: 30, L:28, BPK/NNK: 4			
July 13, 2025—July 12, 2026	62			

	U: 30, L:28, BPK/NNK: 4			
TOTAL	1,260		710*	**300****

*Includes two annual affordable ROGO allocations for the Big Pine Key/No Name Key subarea) through the Incidental Take Permit (ITP) ending in 2026~~3~~.

** Affordable workforce housing early evacuation unit building permit allocations are available within the in the Upper and Lower Keys subareas and shall be distributed on a first-come first-serve basis. Requests for dwelling units developed and/or deed-restricted utilizing the affordable workforce housing early evacuation unit building permit allocations are subject to the provisions of Comprehensive Plan Policy~~y~~ies 101.3.1~~2~~1, 113.1.11, and Section 138-24(e) of the Land Development Code. Additionally, pursuant to Comprehensive Plan Policy 101.3.10, affordable workforce early evacuation unit building permit allocations may be transferred to another government jurisdiction for County-initiated affordable housing projects~~ as approved by a resolution of the BOCC~~ within incorporated cities, as approved through an interlocal agreement as approved by the BOCC.

Beginning on July 13, 2026, following the hurricane modeling completed in 2025 by the State Land Planning Agency, the number of permits issued for residential dwelling units under the Rate of Growth Ordinance shall be no more than those specified in the table in Monroe County Comprehensive Plan Policy 101.3.2, plus any available unused ROGO allocations from a previous ROGO year and any of the remaining 300 affordable workforce housing early evacuation unit building permit allocations authorized by the Administration Commission, Chapter 2023-17, Laws of Florida, and the State Land Planning Agency. Unused and/or expired market rate and market rate workforce allocations shall be available for Administrative Relief.

Pursuant to Chapter 2025-190, Laws of Florida, the additional market rate and market rate workforce ROGO allocations authorized beginning July 13, 2026, shall be awarded only to vacant, buildable parcels. No more than one (1) of these ROGO allocations may be awarded to any individual vacant, buildable parcel.

The County shall distribute these ROGO allocations by ROGO year, as provided in subsection (a)(2).

~~(1) *Yearly residential ROGO allocation ratio*. Each subarea shall have its number of market rate residential ROGO allocations available per ROGO year. Affordable ROGO allocations and affordable workforce housing early evacuation unit building permit allocations shall be available for countywide allocation except for Big Pine Key and No Name Key. The allocations for Big Pine Key and No Name Key shall be limited to maximums established in Big Pine Key/No Name Key Livable CommuniKeys Plan, Incidental Take Permit and Habitat Conservation Plan.~~

(~~2~~1)*Quarterly residential ROGO allocation ratio.* For ROGO Year 1, beginning on July 13, 1992, through ROGO Year 34, ending on July 12, 2026, ~~E~~each subarea shall have its number of market rate housing residential ROGO allocations available per ROGO quarter as determined by the following formula:

a. Market rate residential ROGO allocations available in each subarea per quarter is equal to the market rate residential ROGO allocations available in each subarea divided by four.
b. Affordable housing residential ROGO for all four ROGO quarters, including the allocations available for Big Pine Key, shall be made available at the beginning of the first quarter for a ROGO year. Beginning July 13, 2016, the balance of all remaining affordable housing residential ROGO allocations shall be made available for award.
c. Affordable workforce housing early evacuation unit building permit allocations shall be made available at the beginning of the first quarter of ROGO ~~y~~Year 30 (July 13, 2021—July 12, 2022). All affordable workforce early evacuation unit building allocations shall be available for award and shall be distributed on a first-come first-serve basis. Requests for affordable workforce housing early evacuation unit building permit allocations shall require a reservation via BOCC resolution.

(2) *Semi-annual residential ROGO allocation ratio*. Beginning July 13, 2026, the allocation of ROGO allocations available in each subarea of the unincorporated county shall be in accordance with the following schedule:

Distribution of ROGO Allocations per ROGO Year
July 13, 2027- July 12, 2028

Subarea	Market Rate	Market Rate Workforce
Upper Keys	12	97
Lower Keys	10	96
Big Pine Key and No Name Key	2	2
Total market rate per year	24	195

Distribution of ROGO Allocations per ROGO Years
July 13, 2029 – July 12, 2030;
July 13, 2031 – July 12, 2032;
July 13, 2032 – July 12, 2033;
July 13, 2033 – July 12, 2034;
July 13, 2034 – July 12, 2035; and
July 13, 2035 – July 12, 2036

Subarea	Market Rate	Market Rate Workforce
Upper Keys	6	21
Lower Keys	4	20
Big Pine Key and No Name Key	2	2
Total market rate per year	12	43

Distribution of ROGO Allocations per ROGO Years
July 13, 2028 – July 12, 2029 and
July 13, 2030 – July 12, 2031

Subarea		
Upper Keys	6	21
Lower Keys	4	19
Big Pine and No Name Keys	2	2
Total market rate per year	12	42
Affordable Workforce Housing Early Evacuation Initiative	**300***	

ROGO allocations shall be awarded only to vacant, buildable parcels. No more than one (1) of these ROGO allocations may be awarded to any individual vacant, buildable parcel.

*Affordable workforce housing early evacuation unit building permit allocations shall be distributed on a first-come first-serve basis. Requests for dwelling units developed and/or deed-restricted utilizing the affordable workforce housing early evacuation unit building permit allocations are subject to the provisions of Comprehensive Plan Policies 101.3.11 and 113.1.11, and Section 138-24(e) of the Land Development Code. Additionally, pursuant to Comprehensive Plan Policy 101.3.10, affordable workforce housing early evacuation unit building permit allocations may be transferred to another government jurisdiction for County-initiated affordable housing projects, as approved through an Interlocal Agreement between the sending and receiving jurisdictions.

(3) *Ratio of very low income, low income, and median income allocations to moderate income allocations.* The Planning Commission may amend these proportions for affordable housing during any ROGO ~~quarter~~ allocation period.

(4) *Big Pine Key and No Name Key.*

a. All allocation awards on Big Pine Key and No Name Key are subject to the provisions of the Incidental Take Permit (ITP), the Habitat Conservation Plan (HCP) and Livable CommuniKeys Plan (LCP) for the Florida Key Deer and other covered species, which may affect ROGO allocations under this article.

b. In the Big Pine Key/No Name Key subarea the annual maximum number of residential permit allocations that may be awarded in Tier I shall be no more than one (1) every 2 years. Until the ITP, HCP, biological opinion, and LCP are amended, a property owner attempting to develop his property may be granted an allocation through the ROGO process that may be used once that property owner obtains all required permits and authorizations required under the Endangered Species Act and other applicable federal and state laws. The allocation will remain valid so long as the applicant diligently and in good faith continues to work with USFWS to conclude the coordination and ~~pick up~~ issuance of a building permit.

(5) *Limit on number of allocation awards in Tier I.*

a. Big Pine Key/No Name Key subarea: The maximum ROGO allocations in Tier I shall be no more than one (1) every two (2) years.

b. Upper Keys subarea: The annual maximum ROGO allocations in Tier I shall be no more than three (3) through July 12, 2026. Thereafter, the annual maximum ROGO allocations in Tier I shall be no more than one (1).

c. Lower Keys subarea: The annual maximum ROGO allocations in Tier I shall be no more than three (3) through July 12, 2026. Thereafter, the annual maximum ROGO allocations in Tier I shall be no more than one (1).

(b) ***Reservation of allocations.***

(1) Notwithstanding the provisions of Section 138-26 for awarding of affordable housing allocations or affordable workforce housing early evacuation unit building permit allocations, the BOCC may reserve by resolution some or all of the available affordable housing allocations or available affordable workforce housing early evacuation unit building permit allocations for award to certain sponsoring agencies or specific housing programs consistent with all other requirements of this chapter. Building permits for these reserved allocations shall be ~~picked up~~ issued within six months of the effective reservation date, unless otherwise authorized by the BOCC in its resolution. The BOCC may, at its discretion, place conditions on any reservation

as it deems appropriate, such as establishing the income categories for allocations granted. These reservations may be authorized by the BOCC for:

~~(1)~~a. The county housing authority, nonprofit community development organizations, pursuant to Section 139-1(e), and other public entities established to provide affordable housing by entering into a memorandum of understanding with one or more of these agencies;

~~(2)~~b. Specific affordable or employee housing projects participating in a federal/state housing financial assistance or tax credit program or receiving some form of direct financial assistance from the county upon written request from the project sponsor and approved by resolution of the BOCC;

~~(3)~~c. Specific affordable or employee housing projects sponsored by nongovernmental not-for-profit organizations above upon written request from the project sponsor and approved by resolution of the BOCC;

~~(4)~~d. Specific affordable or employee housing programs sponsored by the county pursuant to procedures and guidelines as may be established from time to time by the BOCC;

~~(5)~~e. Specific affordable or employee housing projects by any entity, organization, or person, contingent upon transfer of ownership of the underlying land for the affordable housing project to the county, a not-for-profit community development organization, or any other entity approved by the BOCC, upon written request from the project sponsor and approved by resolution of the BOCC; or

~~(6)~~f. Rental employee housing projects situated on the same parcel of land as the nonresidential workplace for the tenants of these projects, upon written request from the property owner and approved by resolution of the BOCC; or

~~(7)~~g. Affordable workforce housing early evacuation projects, pursuant to Policy 101.3.12 and Section 138-24(c), that require occupants to evacuate in Phase 1 of the 48-hour evacuation as required in Comprehensive Plan Policy 101.2.4, are restricted to rental occupancy, and for those who derive at least 70% of their income as members of the workforce in Monroe County and who meet the affordable housing income categories of the Monroe County Land Development Code.

(2) Notwithstanding the provisions of Section 138-26 for awarding of allocations, the BOCC may reserve by resolution some or all of the available market rate workforce allocations for county-sponsored or coordinated programs and/or to be distributed at a later date with the approval of the BOCC.

(c) ***Affordable housing allocation awards and eligibility.***

(1) The definition of affordable housing shall be as specified in Sections 101-1 and 139-1.

(2) Any portion of the affordable housing allocation not used for affordable housing at the end of a ROGO year shall be made available for affordable housing for the next ROGO year.

(3) No affordable housing allocation shall be awarded to applicants located within a Tier I designated area~~, within a V-zone on the county's flood insurance rating map,~~ or within a Tier III-A (special protection area) designated area.

Notwithstanding the foregoing, and notwithstanding Section 138-24(a)(5), affordable housing ROGO allocations may be awarded to Tier I or Tier III-A properties which meet all of the following criteria:

a. The property contains an existing market rate dwelling unit that meets the criteria in LDC Section 138-22(a) and is determined to be exempt from ROGO;
b. The proposed replacement affordable dwelling unit meets current Florida Building Code and is not a mobile home;
c. The proposed replacement dwelling unit shall be deed restricted for a period of at least 99 years as affordable housing pursuant to the standards of the Land Development Code; and
d. The proposed site plan for the replacement affordable dwelling unit does not propose any additional clearing of habitat~~; and~~.
~~e. The structure is not proposed to be within a V-zone on the county's flood insurance rating map.~~

(4) Only affordable housing allocations for Big Pine Key may be used on Big Pine Key. No affordable housing allocation may be used on No Name Key.

(d) ***Dwelling unit allocation required.*** The county shall issue no building permit for a dwelling unit unless such dwelling unit:

(1) Has a dwelling unit allocation award; or
(2) Is exempted from the dwelling unit allocation system pursuant to this chapter or is deemed vested pursuant to Section 138-22.

(e) ***Affordable workforce Housing Early Evacuation initiative allocation awards, eligibility and requirements.***

(1) Pursuant to Policies 101.3.2, 101.3.3 and 101.3.1~~2~~1, Monroe County establishes a new allocation category to award 300 affordable workforce housing early evacuation unit building permit allocations pursuant to the Workforce-Affordable Housing Initiative (workforce initiative). The Workforce-Affordable Housing Initiative will require dwelling units constructed and/ or deed restricted with affordable workforce housing early evacuation unit building permit allocations to evacuate occupants in Phase 1 of the 48- hour evacuation of a pending major hurricane.
(2) Dwelling units developed and/or deed restricted utilizing the affordable workforce housing unit building permit allocations are subject to the following:
a. Requests for affordable workforce housing early evacuation unit allocations require a reservation via BOCC resolution. The BOCC may, at its discretion, place conditions on any reservation as it deems appropriate such as establishing the income categories for allocations granted.
b. All affordable workforce housing early evacuation units require a deed-restriction ensuring:
1. Before any building permit may be issued for any structure, portion or phase of a project subject to the workforce initiative, a restrictive covenant shall be approved by the Planning Director and County Attorney and recorded in the office of the Clerk of the County to ensure compliance with the

provision of this section running in favor of the county and enforceable by the county and, if applicable, a participating municipality. The following requirements shall apply to these restrictive covenants:

i. The covenants for any affordable workforce housing early evacuation units shall be effective for 99 years.
ii. The covenants shall not commence running until a certificate of occupancy has been issued by the Building Official for the dwelling unit or dwelling units to which the covenant or covenants apply.
iii. For existing dwelling units that are deed-restricted as affordable workforce housing early evacuation units, the covenants shall commence running upon recordation in the official records of Monroe County.

2. The covenants shall require that the affordable workforce housing early evacuation units to be restricted to rental occupancy for those who derive at least 70% of their income as members of the workforce in Monroe County and who meet the affordable housing income categories of the Monroe County Land Development Code. The occupants are required to annually verify their employment and income eligibility.
3. The covenants shall require occupants to evacuate in Phase 1 of the 48-hour evacuation of a pending major hurricane. Persons living in the affordable workforce housing early evacuation units who may be exempted from evacuation requirements are limited to law enforcement, correctional and fire personnel, health care personnel, and public employees with emergency management responsibilities. If there is an occupant that indicates their employment is considered a "first-responder position" and not included in the list of exemptions above, then the Planning Director shall determine, in writing, whether the person may be exempted because of a requirement to remain during an emergency. Any person claiming exemption under this provision shall submit an affidavit of qualification and faithfully certify their status with the onsite property management.
4. The covenants shall require rental agreements which contain a separate disclosure requiring rental occupants to acknowledge the existing restrictive covenant on the unit requiring evacuation in Phase 1 of the 48- hour evacuation and that failure to adhere to the Phase 1 evacuation requirement could result in severe penalties, including eviction, to the occupant.
5. The covenants shall require onsite property managers and a separate employment disclosure requiring the maintenance of training in evacuation procedures and an acknowledgement that failure to adhere to the Phase 1 evacuation requirement could result in severe penalties, including termination.

c. Affordable workforce housing early evacuation units shall be restricted to rental occupancy for those who derive at least 70% of their income as members of the workforce in Monroe County and who meet the affordable housing income categories of the Monroe County Land Development Code. Workforce means individuals or families who are gainfully employed supplying goods and/or services to Monroe County residents or visitors.

d. Affordable workforce housing early evacuation units shall require onsite property management with property managers trained in evacuation procedures and required to manage the evacuation of tenants in Phase I of an evacuation. During traditional working hours, the property manager must be at an office within the workforce housing early evacuation unit development subject property. Outside the traditional working hours, the property manager must be available at all times to respond to evacuation orders.

e. The property management entity for the affordable workforce housing early evacuation units shall be required to annually verify the employment and income eligibility of tenants; report the total units on the site, the occupancy rates of units, and tenant compliance with the requirement to evacuate the units in Phase 1 of an evacuation, including the number of occupants that are exempt from the evacuation requirements. The property management entity must submit a report to the Planning and Environmental Resources Department by May 1 of each year. Further, each lease and this annual report shall be kept by the property manager and be available for inspection by the county during traditional working hours.

f. Affordable workforce housing early evacuation units shall be located within an area designated as Tier III.

g. Affordable workforce housing early evacuation units shall not be located ~~in the V-zone or~~ within a Coastal Barrier Resource System (CBRS).

h. Affordable workforce housing early evacuation units shall be located on a property which has all infrastructure available (potable water, adequate wastewater treatment and disposal wastewater meeting adopted LOS, paved roads, etc.).

i. All affordable workforce housing early evacuation units must demonstrate compliance with all applicable federal standards for accessibility for persons with disabilities (ADA compliance).

j. To the greatest extent practicable, a development utilizing affordable workforce housing early evacuation unit allocations shall incorporate sustainable and resilient design principles into the overall site design.

k. To the greatest extent practicable, a development utilizing affordable workforce housing early evacuation unit building permit allocations shall be located in close proximity to employment centers in Key West, Stock Island and Marathon.

l. For developments owned or operated by a government agency or public housing authority, property management is not required to be located onsite as indicated in this subsection and Comprehensive Plan Policy 101.3.11~~12~~. However, the government agency or public housing authority will oversee and coordinate required evacuation of the residents and must be available at all times to respond to evacuation orders.

(f) ***Market Rate Workforce Housing allocation awards, eligibility, administration, and compliance.***

(1) Eligibility.

a. Occupants of market rate workforce housing dwelling units must derive at least 70 percent of their income as members of the workforce in Monroe County.

Workforce means individuals or families who are gainfully employed supplying goods and/or services to Monroe County residents or visitors.

b. The eligibility of a potential owner-occupier or renter of a market rate workforce housing dwelling unit shall be determined by the Planning Department upon submittal of an affidavit of qualification to the Planning Department. The affidavit shall be on a form prescribed by the Planning Director, or his or her designee. The eligibility shall be determined by the Planning Director, or his or her designee, as follows:

1. At the time the potential owner either applies for a market rate workforce housing ROGO allocation, or applies to purchase a unit that used a market rate workforce housing ROGO allocation; or
2. At the time the potential renter applies to occupy a residential unit that used a market rate workforce housing ROGO allocation.

c. The owner-occupant of a market rate workforce housing dwelling unit who has received a homestead exemption as provided for under the state statutes, is not required to submit an annual affidavit of qualification if that owner-occupant was qualified previously by the Planning Department.

Prior to any change in ownership (including, but not limited to: sale, assignment, devise, or otherwise), the owner-occupant shall be required to provide documentation to the Planning Department in a form prescribed by the Planning Director, or his or her designee, proving that the potential occupying household is eligible to occupy that unit prior to a change in ownership of the property.

d. Except as provided in subsubsection c., above, the property owner of each market rate workforce housing dwelling unit shall be required to annually submit an affidavit of qualification to the Planning Department verifying that the applicable employment requirements of subsubsection a. of this subsection are met. The annual affidavit of qualification shall be in a form prescribed by the Planning Director, or his or her designee, and shall be filed by the property owner annually by May 1st.

e. Failure to submit the required annual verification as required in subsubsection d. of this subsection or failure to provide documentation prior to change in ownership required in subsubsection b.1 shall constitute a violation of the restrictive covenant, the conditions of the certificate of occupancy and this Land Development Code.

(2) Administration and compliance.

a. Before any building permit may be issued for a market rate workforce dwelling unit subject to this subsection, a restrictive covenant shall be approved by the Planning Director and County Attorney and recorded in the Office of the Clerk of the County at the expense of the applicant to ensure compliance with the provision of this subsection running in favor of the County and enforceable by the County. The following requirements shall apply to the restrictive covenants:

1. The covenants for any market rate workforce housing units shall be effective for a period of at least 99 years;

2. The covenants shall not commence running until a certificate of occupancy has been issued by the building official for the dwelling unit(s) to which the covenants apply; and
3. The covenants shall restrict market rate workforce housing dwelling unit(s) to households who derive at least 70 percent of their income as members of the workforce in Monroe County. *Workforce* means individuals or families who are gainfully employed supplying goods and/or services to Monroe County residents or visitors.

Sec. 138-25. Allocation Application Procedures for Residential ROGO.

(a) **Deadlines for submission of building permit applications to be entered into the residential permit allocation system.** No approved building permit application requiring a ROGO allocation award, including applications submitted under privatized plan review as provided for by Chapter 553, F.S., shall be accepted for the entry into the ROGO system under this chapter, unless the building permit application is submitted to the Building Department, and accepted as complete, at least 30 days prior to the end of the allocation period appropriate for the application. Application submittal and acceptance of a building permit application ~~submission~~ 30 days prior does not guarantee that it will be eligible to enter ROGO that ~~quarter~~ allocation period if it has not passed all required reviews.

(b) **Application for allocation.** In each ~~quarterly~~ allocation period, the Planning and Environmental Resources Department shall accept applications to enter the residential ROGO system, which shall be the same dates as those for NROGO. Except for allocations to be reserved and awarded under Section 138-24(b), the ROGO application must be accompanied by an approved building permit application in order to be considered in the current allocation period. The Planning Director, or his or her designee, shall review the ROGO application for completeness. If the application is determined to be incomplete, the Planning Director, or his or her designee, shall reject the ROGO application and provide a written notice to the applicant specifying the application's deficiencies and the reasons therefore, within fifteen (15) working days. The Planning Director, or his or her designee, shall take no further action on the application unless the deficiencies are remedied. The application shall be assigned a controlling date that reflects the time and date of its submittal unless the application is determined to be incomplete. If the application is rejected, then the new controlling date shall be assigned when a complete application is submitted.

(c) **Application requirements.** The ROGO application shall be submitted in a form prescribed by the Planning Director. If a person other than the property owner is submitting an application, a notarized letter of agency, in a form prescribed by the Planning Director, from the property owner authorizing the person to represent them with respect to the application shall be required. The term "applicant" as used in this chapter refers to the property owner or the property owner's agent, as applicable. ~~provided by the Planning and Environmental Resources Department and meet the following requirements:~~ At a minimum, the application must include the following information:

(1) ~~The application shall include:~~
~~a)~~ the name and address of the property owner(s) of record and any authorized agents, to which certified notice of an allocation award will be mailed, if awarded~~.~~;

~~b)~~ (2) the property record card(s) from the Monroe County Property Appraiser~~;~~;

~~c)~~ (3) a written legal description of the property proposed for development~~;~~;

(4) proof of ownership;

(45) a boundary survey, filed with the corresponding building permit application, of the property proposed for development, prepared by a surveyor registered in the State of Florida, showing the boundaries of the site, elevations, bodies of water and wetlands on the site and adjacent to the site, existing structures including all impervious areas, existing easements, total acreage, and total acreage by habitat; and

~~e)~~ (6) a site plan, filed with the corresponding building permit application.

~~The boundary survey and site plan may be filed with the corresponding building permit application. Additional copies of the boundary survey and site plan are not required to be filed with the ROGO application.~~

~~(2)~~ ~~(6) If a conditional use permit is required in accordance with this Land Development Code for the development applied for, the conditional use permit shall be obtained and effective prior to submittal of any ROGO application. A copy of the recorded development order shall be submitted with the ROGO application.~~

~~(3)~~ ~~(7)~~ The site plan shall be prepared and sealed by a professional architect, engineer, or any other professional licensed to prepare a site plan. The site plan shall be drawn to a scale of one inch equals ten feet or one inch equals 20 feet. At a minimum, the site plan shall depict the following features and information:

a. Date, north point and graphic scale;
b. Boundary lines of site, including all property lines and mean high-water lines shown in accordance with Florida Statutes;
c. All attributes from the boundary survey;
d. Future Land Use Map (FLUM) designation(s) of the site;
e. Land Use (Zoning) District designation(s) of site;
f. Tier designation(s) of the site;
g. Flood zones pursuant to the Flood Insurance Rate Map;
h. Setback lines as required by this Land Development Code;
i. Locations and dimensions of all existing and proposed structures, including roof overhangs, all paved areas and clear site triangles;
j. Size and type of buffer yards and parking lot landscaping areas, including the species and number of plants;
k. Extent and area of wetlands, open space preservation areas and conservation easements;
l. Delineation of habitat types to demonstrate buildable area on the site, including depicition of environmental features pursuant to Section 118-2(e) ~~any heritage trees identified and any potential species that may use the site (certified by an approved biologist and based on the most current professionally recognized mapping by the U.S. Fish and Wildlife Service)~~;
m. Drainage plan including existing and proposed topography, all drainage structures, retention areas, drainage swales and existing and proposed permeable and impermeable areas;
n. Location of fire hydrants or fire wells;

o. The location of public utilities, including location of the closest available water supply system or collection lines and the closest available wastewater collection system or collection lines (with wastewater system provider) or on-site system proposed to meet required county and State of Florida wastewater treatment standards; and

p. A table providing the total land area of the site, the total buildable area of the site, the type and number of all dwelling units, the amounts of impervious and pervious areas, and calculations for land use intensity, open space ratio, and off-street parking.

(7) If a conditional use permit is required in accordance with this Land Development Code for the development applied for, the conditional use permit shall be approved and effective prior to submittal of any ROGO application. A copy of the recorded development order shall be submitted with the ROGO application.

(d) **Fee for review of application.** Each ROGO application shall be accompanied by a nonrefundable processing fee established by resolution of the BOCC. Additional fees are not required for successive review of the same ROGO application unless the application is withdrawn and resubmitted.

(e) **Compliance with other requirements.** The ROGO application shall not constitute an indication of whether or not the applicant for a residential ROGO allocation has satisfied and complied with all county, state and federal requirements otherwise imposed by the County regarding conditions ~~precedent~~ prior to issuance of a building permit.

(f) **Non-county time periods.** The County shall develop necessary administrative procedures and, if necessary, enter into agreements with other jurisdictional entities which impose requirements as a condition ~~precedent~~ prior to development in the county, to ensure that such non-county approvals, certifications and/or permits are not lost due to the increased time requirements necessary for the county to process and evaluate dwelling unit applications and issue allocation awards. The County may permit evidence of compliance with the requirements of other jurisdictional entities to be demonstrated by "coordinating letters" in lieu of approvals or permits.

(g) **Limitation on number of applications.**

(1) An individual entity or organization may submit only one (1) ROGO application per dwelling unit in each ~~quarterly~~ allocation period.

(2) There shall be no limit on the number of separate parcels for which ROGO applications may be submitted by an individual, entity or organization.

(3) A ROGO application for a given parcel shall not ~~be for~~ result in more dwelling units than are permitted on said parcel, by applicable zoning or land use regulations or the Comprehensive Plan.

(h) **Expiration of allocation award.** Except as provided for in this article, an allocation award shall expire as follows:

(1) when its corresponding building permit is not ~~picked up~~ issued after 60 days of notification by certified mail ,return receipt requested, of the award~~,~~. In accordance with Section 138-26(d), after three (3) unsuccessful attempts to notify the applicant via certified mail, return receipt requested, the allocation award shall expire; or,

(2) after issuance of the building permit, upon expiration of the permit; or

(3) after failure of the applicant to submit required plan revisions by the required date set forth in subsection (l); or
(4) after the failure to conclude the required coordination with FWS under the permit referral process in Section 122-12(d)(5).

(i) **Revisions of ROGO applications and awards.**

(1) An applicant may elect to revise a ROGO application to increase the competitive points in the application without prejudice or change in the controlling date if a revision is submitted on a form approved by the Planning Director to the Planning and Environmental Resources Department no later than 30 days following the Planning Commission approval of the previous ROGO rankings. Any such revision shall not involve changes to the approved building permit application. During this 30 day period, ~~A~~all other applications that are withdrawn and resubmitted that do not increase the competitive points ~~or involve revisions to the approved building permit application~~ shall be considered new, requiring payment of appropriate fees and receiving a new controlling date.

(2) After receipt of an allocation award, and either before or after receipt of a building permit, but prior to receipt of a certificate of occupancy, no revisions shall be made to any aspect of the proposed residential development which formed the basis for the evaluation review, determination of points and allocation rankings, unless such revision would have the effect of increasing the points awarded~~,~~. This shall not include ~~without~~ the removal of any lot aggregation or land dedication or removal of an affordable housing or workforce deed restriction or density reduction restrictive covenants.

(3) After the receipt of an allocation award, a building permit and a certificate of occupancy or final inspection, no revision shall be made to any aspect of the completed residential development which formed the basis for the evaluation, review, determination of points and allocation rankings, unless such revisions are accomplished pursuant to a new building permit and would have the net effect of maintaining or increasing the number of points originally awarded based on the current evaluation criteria point assignments.

(4) Beginning on July 13, 2027, existing ROGO applicants shall have one year to revise an existing ROGO application one time to change the allocation category (market rate or market rate workforce) without prejudice or change in the controlling date, and shall not require a fee. The revision shall be submitted on a form prescribed by the Planning Director. No such revision shall involve any changes to the approved building permit application.

During this one-year period, all applicants within the ROGO system shall be able to amend their ROGO application, limited to green building certification and/or land dedication, that would result in an increase in the competitive points associated with the ROGO application. No such revision shall involve any changes to the approved building permit application. All other applications that are withdrawn and resubmitted that do not increase the competitive points or those that involve revisions to the approved building

permit application shall be considered new, requiring payment of appropriate fees and receiving a new controlling date.

Beginning on July 13, 2028, an applicant may elect to revise the ROGO application to change the allocation category and shall be considered a new application, requiring payment of appropriate fees and shall receive a new controlling date.

(j) **Clarification of application data.**

(1) At any time during the residential ROGO allocation review and approval process, the applicant may be requested by the Planning Director or the Planning Commission to submit additional information to clarify the relationship of the allocation application, or any elements thereof, to the evaluation criteria. If such a request is made, the Planning Director shall identify the specific evaluation criterion at issue and the specific information needed and shall communicate such request to the applicant.

(2) Upon receiving a request from the Planning Director for such additional information, the applicant may provide such information, or the applicant may decline to provide such information and allow the allocation application to be evaluated as submitted.

(k) **Re-review of criteria and scores.** All applications in or entering into the ROGO system on or after the effective date of the updated FEMA flood insurance rate maps, and all other applications competing in the ROGO system that have not received an allocation award on the effective date of the updated FEMA flood insurance rate maps, shall have the application scores reevaluated and updated based on the updated FEMA flood insurance rate maps (FIRM). Updated FEMA flood insurance rate maps are the maps adopted subsequent to FEMA FLOOD INSURANCE STUDY and the accompanying flood insurance rate maps, dated February 18, 2005; and included by reference within Chapter 122 of the Monroe County Land Development Code.

(l) **Revisions of building permit applications requiring the ROGO allocation(s).** A building permit application for a proposed dwelling unit requiring a ROGO allocation must be approved prior to submitting a ROGO application. In the event that the Florida Building Code and/or a FEMA flood insurance rate map (FIRM) is amended between the date that a ROGO application is submitted and the date on which a building permit, requiring the ROGO allocation(s) applied for, is issued (which follows the date on which the required allocation(s) is awarded), if necessary, the applicant shall submit plan revisions to the building permit application demonstrating full compliance with the current Florida Building Code and the adopted FIRM in effect. These plan revisions shall be submitted and approved within 180 days of the ROGO allocation award date or the applicant shall forfeit the ROGO allocation award. Following receipt of the plan revisions, the Building Department shall review the revisions as if the application is new (however retaining the same building permit number for administrative purposes), based on the building code and the adopted FIRM, for compliance prior to issuance of the building permit requiring the ROGO allocation(s) by the Building Official. Such mandatory revisions and review are limited to the modifications necessary to demonstrate compliance with the Florida Building Code and the adopted FIRM in effect at the time of building permit issuance. Any mandatory revisions that affect the footprint of a dwelling unit, increases clearing of habitat or increases the height of the structure shall be

reviewed for compliance with the Land Development Code in effect at the time of permit issuance.

Sec. 138-26. Evaluation Procedures for Dwelling Unit Allocation.

(a) **Adjustment of residential ROGO allocations.** At the end of each ~~quarterly~~ allocation period, the Planning Director shall recommend additions or subtractions to the basic allocation available by subarea, based upon any of the following, as appropriate:

(1) The number of building permits for new residential units issued which expired;~~.~~
(2) The number of dwelling unit allocation awards that expired prior to issuance of a corresponding building permit and which were awarded in the current annual allocation period;
(3) The number of residential ROGO allocation awards available which were not allocated during the ~~quarterly~~ allocation period in the current annual allocation period;
(4) The number of residential ROGO allocation awards in previous ~~quarters~~ allocation periods which were borrowed from future allocations to accommodate multiple unit projects or ~~to accommodate~~ allocation applications with identical scores, pursuant to Section 138-26(b)(2), or which were granted to applicants via either the appeals process, administrative relief or a beneficial use determination;
(5) Residential ROGO allocations vested during the preceding ~~quarter~~ allocation period;
(6) Any other modifications required or provided for by the Comprehensive Plan or an agreement pursuant to F.S. Chapter 380;
(7) The receipt or transfer of affordable housing allocations from or to municipalities pursuant to this article; or
(8) Allocations reserved and/or awarded by the BOCC pursuant to Section 138-24(b~~e~~).

(b) **Initial evaluation of allocation applications.** Upon receipt of completed allocation applications, the Planning Director shall evaluate the allocation applications for market rate housing and market rate workforce housing pursuant to the evaluation criteria set forth in Section 138-28.

(1) Except for affordable housing, the Planning Director shall classify each allocation application by subarea.
(2) ~~On the evaluation cover page, f~~For each allocation application, the Planning Director shall determine ~~indicate~~ the subarea ~~and the number of dwelling units~~ for which an allocation award~~s are~~ is being requested. Market rate and market rate workforce allocation applications shall be aggregated by subarea. Affordable housing allocation applications shall be aggregated on a countywide basis, except for the Big Pine Key/No Name Key subarea.
As specified in subsection (a), affordable workforce housing early evacuation unit building permit allocations shall be distributed on a first-come first-serve basis.
(3) Within 30 days of the conclusion of an ~~quarterly~~ allocation period for market rate and market rate workforce allocations, unless otherwise extended by the BOCC, the Planning Director shall~~, for market rate allocations~~:
    a. Complete the evaluation of all allocation applications submitted during the relevant allocation period;
    b. Total the number of dwelling units by subarea for which allocation applications have been received; and

c. Rank the allocation applications in descending order from the highest evaluation point total to the lowest and by controlling date, pursuant to subsection (e).

(4) Within 30 days of the conclusion of an ~~quarterly~~ allocation period for affordable housing allocations, unless otherwise extended by the BOCC, the Planning Director shall~~, for affordable housing allocations~~:

a. Complete review of all allocation applications to confirm eligibility of applicants during the relevant allocation period;

b. Total the number of dwelling units for the unincorporated county for which affordable housing allocation applications have been received; and

c. List the affordable housing allocation applications in descending order of controlling date from earliest to latest date.

(5) If the number of dwelling units represented by the allocation applications for market rate and market rate workforce housing, by subarea, is equal to or less than the ~~quarterly~~ allocations available within the allocation period, the Planning Director may make a recommendation to the Planning Commission that all of the allocation applications for that subarea be granted allocation awards.

(6) If the number of dwelling units represented by the allocation applications for affordable housing is equal to or less than the available allocation pool, the Planning Director may make a recommendation to the Planning Commission that all of the allocation applications be granted allocation awards.

(7) If the number of dwelling units represented by the allocation applications for market rate and market rate workforce housing, by subarea, is greater than the ~~quarterly~~ allocations available within the allocation period, the Planning Director shall submit an evaluation report to the Planning Commission indicating the evaluation rankings and identifying those allocation applications whose ranking puts them within the ~~quarterly~~ allocation period, and those allocation applications whose ranking puts them outside of the ~~quarterly~~ allocation period.

(8) If the number of dwelling units represented by the allocation applications for affordable housing is greater than the total available allocation pool, the Planning Director shall submit a report to the Planning Commission indicating the applications in order of their control dates and identifying those allocation applications for which sufficient allocations exist and those allocation applications whose ranking by controlling date puts them outside the available allocation period.

(c) **Public hearings.** Upon completion of the evaluation ranking report and/or recommendation, the Planning Director shall schedule and notice a public hearing by the Planning Commission pursuant to otherwise applicable regulations.

(1) At or prior to the public hearing, the Planning Commission may request, and the Planning Director shall supply, copies of the allocation applications and the Planning Director evaluation worksheets.

(2) Upon review of the market rate allocation applications and evaluation worksheets, the Planning Commission may adjust the points awarded for meeting a particular ~~criteria~~ criterion, adjust the rankings as a result of changes in points awarded, or make such other changes as may be appropriate and justified.

(3) Upon review of the market rate workforce allocation applications and evaluation worksheets, the Planning Commission may adjust the points awarded for meeting a

particular criterion, adjust the rankings as a result of changes in points awarded, or make such other changes as may be appropriate and justified.

(~~3~~4) The basis for any Planning Commission changes in the scoring or ranking of market rate or market rate workforce applications shall be specified in the form of a motion to adopt the allocation rankings and may include one or more of the following:

a. An error in the designation of the applicable subarea.
b. A mistake in the calculation of dedicated or aggregated lots/land.
c. A mistake in assignment of the tier map designation in the application. Such a mistake in reading the tier designation in applying points for the application, any change to the tier map must go through the procedures for amendment of the tier map.
d. Any other administrative error or omission that may cause the application to be incorrectly scored.

(5) ~~(4)~~ The public, including, but not limited to, applicants for allocation awards, shall be permitted to testify at the public hearing. Applicants may offer testimony about their applications or other applications; however, in no event may an applicant offer modifications to an application that could change the points awarded or the ranking of the application.

(6)~~(5)~~ At the conclusion of the public hearing, the Planning Commission may:

a. Move to accept the evaluation rankings for market rate and market rate workforce housing applications and rankings for affordable housing applications as submitted by the Planning Director.
b. Move to accept the rankings as may be modified as a result of the public hearing.
c. Move to continue the public hearing to take additional public testimony.
d. Move to close the public hearing but to defer action on the evaluation rankings pending receipt of additional information.
e. Move to reject the rankings.

(7)~~(6)~~ The Planning Commission shall finalize the rankings within 60 days following initial receipt of the Planning Director evaluation ranking, report and recommendations.

(d) **Notification to applicants.** Upon finalization of the evaluation rankings by the Planning Commission, notice of the rankings, by subarea for market rate and market rate workforce housing, and ~~countywide for~~ affordable housing, shall be posted at the Planning and Environmental Resources Department offices, on the Monroe County website, and at such other places as may be designated by the Planning Commission.

(1) Applicants who receive allocation awards shall be further notified by certified mail, return receipt requested. After three (3) unsuccessful attempts to notify the applicant via certified mail, return receipt requested, the allocation award shall expire. Except as provided herein for allocations for affordable housing awarded by the BOCC pursuant to Section 138-24(b) and subsection (f) of this section, upon receipt of notification of an allocation award, the applicant may request issuance of a building permit for the applicable dwelling unit.

(2) Applicants who fail to receive allocation awards ~~shall be further notified by regular mail; without further action by such applicants or the payment of any additional fee, such applications~~ shall remain in the residential ROGO system for reconsideration in the next ~~succeeding quarterly~~ allocation period.

(e) **Identical rankings for market rate and market rate workforce housing applications.** If two or more allocation applications in a given subarea have identical evaluation points, these

applications shall be ranked in descending order from the earliest controlling date of submission to the latest. The Planning Commission may approve two or more allocation applications with identical rankings and controlling dates despite the fact that the ~~quarterly~~ allocation period will be exceeded if:

(1) A clear statement of findings of fact are made justifying the decision; and
(2) The excess allocation is reduced from the next ~~succeeding quarterly~~ allocation period ~~or is reduced pro rata from the next three quarterly allocation periods~~.

(f) **Extension of expiration period for Affordable Housing.** Upon the written approval of the Planning Director, the expiration period for an allocation award for affordable multi-unit housing projects may be extended where the applicant is unable to be granted a sufficient number of allocations required to initiate the project. As may be required time to time, the BOCC may extend the 60-day expiration period for an allocation award by resolution upon finding that such extension is in the public interest.

Sec. 138-27. Administrative Relief.

(a) **Eligibility.** An applicant for an allocation award is eligible for administrative relief under the provisions of this section if the following criteria are met:

(1) The subject application complies with all requirements of the dwelling unit allocation system;
(2) The subject application has been ~~denied an allocation award~~ considered for four successive years (through either the first 16 consecutive quarterly allocation periods through July 12, 2026 (Year 34), thereafter eight (8) semi-annual allocation periods, or some combination thereof that results in four successive years) in the ROGO Permit Allocation System and has failed to receive an allocation award;
(3) The proposed development otherwise meets all applicable county, state, and federal regulations;
(4) The subject ROGO allocation application has not been withdrawn;
(5) The applicant has complied with all the requirements of the ROGO Permit Allocation System; and
(6) The applicant has followed the procedures for administrative relief.~~; and~~
~~(7) The applicant has not received an allocation award.~~

~~(b) **Notification of eligibility.** Within 30 days of the finalization of evaluation rankings by the Planning Commission, any applicant determined to be eligible for administrative relief pursuant to subsection (a) of this section shall be notified of the applicant's eligibility for administrative relief by certified mail, return receipt requested.~~

(~~c~~b) **Application.** An application for administrative relief shall be made on a form prescribed by the Planning Director and may be filed with the Planning and Environmental Resources Department no earlier than the conclusion of the ~~16th quarterly~~ fourth annual allocation period and no later than 180 days following the close of the ~~16th quarterly~~ fourth annual allocation period. The fourth annual allocation period shall be defined as either the first 16 consecutive quarterly allocation periods through July 12, 2026 (Year 34), thereafter eight (8) semi-annual allocation periods, or some combination thereof that results in four successive years.

(~~d~~c) **Exceptions.** Monroe County shall preclude the granting of administrative relief in the form of the issuance of a building permit for lands within the Florida Forever targeted acquisition or Tier I land areas unless, after 60 days from the receipt of a complete application for administrative relief, it has been determined the parcel cannot be purchased for conservation purposes by any county, state or federal agency or any private entity. The county shall routinely notify the Department of Environmental Protection of upcoming administrative relief requests at least six months prior to the deadline for administrative relief.

(~~e~~d) **Forwarding application to board of county commissioners.** Upon the filing of an application for administrative relief, the Planning Director, or his or her designee, shall prepare a written report with recommendation and forward to the BOCC along with all relevant files and records relating to the subject applications. The Planning Director shall advertise and schedule a public hearing for consideration of the application by the BOCC. Failure to file an application shall constitute a waiver of any rights under this section to assert that the subject property has been taken by the county without payment of just compensation as a result of the dwelling unit allocation system.

(~~f~~e) **Public hearing.** ~~Upon receipt of an application for administrative relief,~~ At a duly noticed public hearing, ~~the BOCC shall notice and hold a public hearing~~ at which the applicant will be given an opportunity to be heard~~.~~, ~~T~~the BOCC may review the relevant application(s) and applicable evaluation ranking, taking testimony from county staff and others as may be necessary, and hear testimony and review documentary evidence submitted by the applicant.

(~~g~~f) **Board of County Commissioners action.** At the conclusion of the public hearing, the BOCC may take any or a combination of the following actions:

(1) Offer to purchase the property at or above its fair market value (as determined by the County's appraisal) in accordance with Comprehensive Plan Policy 101.7.1, as its preferred action if the property is located within:

a. A designated Tier I area or within the Florida Forever (or its successor) targeted acquisition areas (unless, after 60 days from the receipt of a complete application for administrative relief, it has been determined no county, state or federal agency or any private entity is willing to offer to purchase the parcel);
b. A designated Tier II area (Big Pine Key and No Name Key);
c. A designated Tier III-A area (special protection area); ~~or~~
d. A designated Tier III area on a nonwaterfront lot or parcel, for affordable housing, workforce housing, density reduction, or conservation, where appropriate;~~.~~ or
e. A designated Tier III area on a waterfront lot or parcel with protected habitat, for conservation, where appropriate.

Refusal of the purchase offer by a property owner shall not be grounds for the granting of a ROGO allocation award.

(2) Grant the applicant an allocation award for all or a number of dwelling units requested in the next ~~succeeding quarterly~~ allocation period or extended pro rata over several succeeding ~~quarterly~~ allocation periods as the preferred action for buildable properties not meeting any of the criteria in subsection (~~g~~f)(1) of this section.

(3) Suggest or provide such other relief as may be necessary and appropriate.

(4) Deny based upon any one of the following findings by a special magistrate or the Board of County Commissioners:

a. The applicant previously filed an inverse condemnation or other private property rights claim or cause of action that gave rise to a final judgment or order of dismissal issued by a court of competent jurisdiction in Monroe County's favor, and said claim or cause of action involved the same property and issues of fact that underlie the application for administrative relief;

b. A court of competent jurisdiction likely would determine that the failure of the applicant to qualify for an allocation award has not caused a taking of the property (whether such liability, at the time of application under this policy, is likely to be established by a court of competent jurisdiction should be determined based on applicable statutory, regulatory, and case law at the time the application is considered under this policy);

c. The property retains a practicable economically beneficial use despite its failure to qualify for an allocation award;

d. The applicant previously received an offer from a state or federal governmental agency to purchase the property at its fair market value that was rejected by the applicant;

e. The failure of the applicant to qualify for an allocation award can be attributed to laws or regulations that are imposed or mandated by an agency of the federal government.

(h) **Limits on administrative allocations per ~~quarter~~ allocation period.** The number of allocations that may be awarded under administrative relief in any one ~~quarter~~ allocation period shall be no more than 50 percent of the total available market rate allocations available, excluding banked administrative relief allocations and those allocations received from Key West, in a ~~quarter~~ allocation period for that subarea. Any allocations, excluding banked administrative relief allocations and those allocations received from Key West, in excess of 50 percent shall be extended into the succeeding ~~quarter or quarters~~ allocation period until the number of such allocations is 50 percent or less of the total number of market rate allocations available to be awarded.

Sec. 138-28. Evaluation Criteria (ROGO).

(a) **Residential Evaluation Criteria.** The point values established on the following pages are to be applied cumulatively:

For all applications entering the Residential Permit Allocation system after July 13, 2016, the following points and criteria shall apply:

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(4) *Aggregation.* The following points shall be assigned to allocation applications to encourage the voluntary reduction of density, for the retirement of development rights through aggregation of parcels and for the purpose of retirement of development rights through aggregation of legally platted buildable lots.

Point Assignment:	Criteria: (Outside Big Pine Key and No Name Key):[1, 2, 3, 4, 5, 6]
+3 per lot/parcel aggregated	Each additional contiguous vacant, legally platted lot which is aggregated in a designated Tier I area outside of Big Pine Key and No Name Key that meets the aforementioned requirements will earn additional points as specified. Each additional contiguous vacant parcel with a minimum of 2,000 square feet of uplands which is aggregated in a designated Tier I area outside of Big Pine Key and No Name Key that meets the aforementioned requirements will earn additional points as specified.
+4 per lot/parcel aggregated	Each additional contiguous vacant, legally platted lot which is aggregated in a designated Tier III-A (SPA) area outside of Big Pine Key and No Name Key that meets the aforementioned requirements will earn additional points as specified. Each additional contiguous vacant parcel with a minimum of 2,000 square feet of uplands which is aggregated in a designated Tier III-A (SPA) area outside of Big Pine Key and No Name Key that meets the aforementioned requirements will earn additional points as specified.
+6 per lot/parcel aggregated	Each additional contiguous vacant, legally platted lot which is aggregated in a designated Tier III area outside of Big Pine Key and No Name Key that meets the aforementioned requirements will earn additional points as specified. Each additional contiguous vacant parcel with a minimum of 2,000 square feet of uplands which is aggregated in a designated Tier III area outside of Big Pine Key and No Name Key that meets the aforementioned requirements will earn additional points as specified.

[1] *Applies to new applications entering the permit allocation system after July 13, 2016.*

[2] Any parcels (includes lots) aggregated shall require a restrictive covenant and shall be placed under a unity of title with the primary parcel. Clearing of upland native vegetation shall be limited to a maximum of 7,500 square feet (or as specified in Section 118-9) for the primary and aggregated parcels combined, and the remainder of the parcels shall be placed under a conservation easement disallowing any clearing of native habitat.

[3] The County shall not allow the reversal of any lot aggregation used to assign extra points to a ROGO application, whether executed by unity of title and/or restrictive covenant, and regardless of the status of the ROGO allocation award or associated building permit. In the event the dwelling unit was not constructed and the ROGO allocation award has expired, a subsequent ROGO allocation application on the same aggregated parcels will be assigned the same number of extra points originally assigned for the lot aggregation.

[4] A legally binding, restrictive covenant running in favor of the county and enforceable by the County, subject to the approval of the Planning Director and County Attorney and recorded in the office of the clerk of the county, at the expense of the applicant, prior to the issuance of any building permit pursuant to an allocation award. Other documents related to the approval of the aggregation include, but are not limited to, unity of title, conservation easement, affidavit of no encumbrance(s), entity affidavit, joinder(s) subject to the approval of the Planning Director and

County Attorney and recorded in the office of the clerk of the county prior to the issuance of any building permit pursuant to an allocation award.
[5] Eligibility: For aggregation points a parcel must contain a minimum of 2,000 square feet of uplands. Platted lots shall not be subdivided or otherwise reconfigured in any manner that would allow the number of proposed lots to exceed the number of lots that lawfully existed as of September 15, 1986 and that were approved on the Plat.
[6] When proposing the aggregation of parcels with differing tier designations, points shall be assigned based upon the parcel proposed to be aggregated with the primary parcel and the location of the residential dwelling unit.

1

Point Assignment:	Criteria (Within Big Pine Key and No Name Key):[1, 2, 3, 4, 5, 6]
+3 per lot/parcel aggregated	Each additional contiguous vacant, legally platted lot which is aggregated in a designated Tier II or III area on Big Pine Key and No Name Key that meets the aforementioned requirements will earn additional points as specified. Each additional contiguous vacant parcel with a minimum of 2,000 square feet of uplands which is aggregated in a designated Tier II or III area on Big Pine Key and No Name Key that meets the aforementioned requirements will earn additional points as specified
+4 per lot/parcel aggregated	Each additional contiguous vacant, legally platted lot which is aggregated in a designated Tier I area on Big Pine Key and No Name Key that meets the aforementioned requirements will earn additional points as specified. Each additional contiguous vacant parcel with a minimum of 2,000 square feet of uplands which is aggregated in a designated Tier I area on Big Pine Key and No Name Key that meets the aforementioned requirements will earn additional points as specified.
[1] *Applies to new applications entering the permit allocation system after July 13, 2016.*	
[2] Any parcels (includes lots) aggregated shall require a restrictive covenant and shall be placed under a unity of title with the primary parcel. Clearing of upland native vegetation shall be limited to a maximum of 7,500 square feet (or as specified in Section 118-9) for the primary and aggregated parcels combined, and the remainder of the parcels shall be placed under a conservation easement disallowing any clearing of native habitat.	
[3] The County shall not allow the reversal of any lot aggregation used to assign extra points to a ROGO application, whether executed by unity of title and/or restrictive covenant, and regardless of the status of the ROGO allocation award or associated building permit. In the event the dwelling unit was not constructed and the ROGO allocation award has expired, a subsequent ROGO allocation application on the same aggregated parcels will be assigned the same number of extra points originally assigned for the lot aggregation.	
[4] A legally binding, restrictive covenant running in favor of the county and enforceable by the County, subject to the approval of the Planning Director and County Attorney and recorded in the office of the clerk of the county prior to the issuance of any building permit pursuant to an allocation award. Other documents related to the approval of the aggregation include but not limited to unity of title, conservation easement, affidavit of no encumbrance(s), entity affidavit,	

joinder(s) subject to the approval of the Planning Director and County Attorney and recorded in the office of the clerk of the county, at the expense of the applicant, prior to the issuance of any building permit pursuant to an allocation award.
[5] For aggregation points a parcel must contain a minimum of 2,000 square feet of uplands. Platted lots shall not be subdivided or otherwise reconfigured in any manner that would allow the number of proposed lots to exceed the number of lots that lawfully existed as of September 15, 1986 and that were approved on the Plat.
[6] When proposing the aggregation of parcels with differing tier designations, points shall be assigned based upon the parcel proposed to be aggregated with the primary parcel and the location of the residential dwelling unit.

(5) *Land dedication.* The following points shall be assigned to allocation applications to encourage, the voluntary dedication of vacant, buildable land within Tier I designated areas, Tier II (Big Pine Key and No Name Key), Tier III-A Special Protection Areas (SPA), and parcels which contain undisturbed wetlands for the purposes of conservation, resource protection, restoration or density reduction and, if located in Tier III outside of Special Protection Areas (SPA), for the purpose of retirement of development rights or providing land for affordable housing where appropriate. Applicants can utilize lands dedicated pursuant to Policy 101.5.26; however, submerged lands (inundated by water) shall not be eligible for land dedication.

Point Assignment:	**Criteria for lots/parcels dedicated from ~~:(~~Outside Big Pine and No Name Key~~)~~:**
+4 for each platted lot	Proposes dedication to Monroe County of one (1) vacant, legally platted lot, designated as Tier III for affordable housing, containing a minimum of 2,000 square feet of uplands. Each additional vacant, legally platted lot that meets the aforementioned requirements will earn points as specified.
+5 for each platted lot	Proposes dedication to Monroe County of one (1) vacant, legally platted lot with a minimum of 2,000 square feet of uplands, designated as Tier III for the retirement of development rights. Each additional vacant, legally platted lot that meets the aforementioned requirements will earn points as specified.
+4 for each parcel	Proposes dedication to Monroe County of one (1) vacant parcel with a minimum of 2,000 square feet of uplands, designated as Tier III for the retirement of development rights. Each additional vacant parcel that meets the aforementioned requirements will earn points as specified.
+1 for each platted lot	Proposes dedication to Monroe County of a vacant, legally platted lot within a Tier I area, designated as Residential Low containing a minimum of 2,000 square feet of uplands. Each additional vacant, legally platted lot that meets the aforementioned requirements will earn points as specified.
+0.5 for each platted lot	Proposes dedication to Monroe County of one (1) vacant, legally platted lot within a Tier I area, designated as Residential Conservation containing a minimum of 2,000 square feet of uplands. Each additional

	vacant, legally platted lot that meets the aforementioned requirements will earn points as specified.
+2 for each parcel	Proposes dedication to Monroe County less than one (1) acre of vacant, unplatted land located within a Tier I area containing a minimum of 2,000 square feet of uplands. Each additional parcel with vacant, unplatted land that meets the aforementioned requirements will earn points as specified.
+4 for each acre	Proposes dedication to Monroe County of at least one (1) acre of vacant, unplatted land located within a Tier I area containing a minimum of 2,000 square feet of uplands. Each additional one (1) acre of vacant, unplatted land that meets the aforementioned requirements will earn points as specified.
+2 for each platted lot	Proposes dedication to Monroe County of one (1) vacant, legally platted lot which contains undisturbed wetlands. Each additional vacant, legally platted lot that meets the aforementioned requirements will earn points as specified.
+2.5 for each platted lot	Proposes dedication to Monroe County of one (1) vacant, legally platted lot, designated as Tier I, containing a minimum of 2,000 square feet of uplands and not designated as Residential Conservation or Residential Low. Each additional vacant, legally platted lot that meets the aforementioned requirements will earn points as specified.
+2 for each platted lot	Proposes dedication to Monroe County of one (1) vacant, legally platted lot, designated as Tier III-A (Special Protection Area-SPA) containing a minimum of 2,000 square feet of uplands. Each additional vacant, legally platted lot that meets the aforementioned requirements will earn points as specified.
+2 for each parcel	Proposes dedication to Monroe County less than one (1) acre of vacant, unplatted land located within a Tier III-A area containing a minimum of 2,000 square feet of uplands. Each additional parcel with vacant, unplatted land that meets the aforementioned requirements will earn points as specified.
+3 for each parcel	Proposes dedication to Monroe County of at least one (1) acre of vacant, unplatted land located within a Tier III-A area containing a minimum of 2,000 square feet of uplands. Each additional parcel with vacant, unplatted land that meets the aforementioned requirements will earn points as specified.
Additional Requirements	

	A statutory warranty deed that conveys the dedicated property to the county shall be approved by the Planning Director and County Attorney and recorded in the office of the clerk of the county prior to the issuance of any building permit pursuant to an allocation award. Other documents related to the approval of the land dedication may include, but are not limited to, affidavit of no encumbrance(s), entity affidavit, subject to the approval of the Planning Director and County Attorney and recorded in the office of the clerk of the county, at the expense of the applicant, prior to the issuance of any building permit pursuant to an allocation award.

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Point Assignment:	**Criteria for lots/parcels dedicated from ~~: (W~~within Big Pine Key and No Name Key~~):~~***
+2 for each platted lot	Proposes dedication to Monroe County of one (1) vacant, legally platted lot, designated as Tier I on Big Pine Key or No Name Key, containing a minimum of 2,000 square feet of uplands. Each additional vacant, legally platted lot that meets the aforementioned requirements will earn points as specified.
A+4 for each acre	Proposes dedication to Monroe County of at least one (1) acre of vacant, unplatted land located within a Tier I area on Big Pine Key or No Name Key, containing a minimum of 2,000 square feet of uplands. Each additional one (1) acre of vacant, unplatted land that meets the aforementioned requirements will earn points as specified.
+2 for each parcel	Proposes dedication to Monroe County less than one (1) acre of vacant, unplatted land located within a Tier I area on Big Pine Key or No Name Key, containing a minimum of 2,000 square feet of uplands. Each additional parcel with vacant, unplatted land that meets the aforementioned requirements will earn points as specified.
+2 for each platted lot	Proposes dedication to Monroe County of one (1) vacant, legally platted lot, designated as Tier II on Big Pine Key or No Name Key, containing a minimum of 2,000 square feet of uplands. Each additional vacant, legally platted lot that meets the aforementioned requirements will earn points as specified.
+3 for each acre	Proposes dedication to Monroe County of at least one (1) acre of vacant, unplatted land located within a Tier II area on Big Pine Key or No Name Key, containing a minimum of 2,000 square feet of uplands. Each additional one (1) acre of vacant, unplatted land that meets the aforementioned requirements will earn points as specified.
+2 for each parcel	Proposes dedication to Monroe County less than one (1) acre of vacant, unplatted land located within a Tier II area on Big Pine Key or No Name Key, containing a minimum of 2,000 square feet of uplands. Each additional parcel with vacant, unplatted land that meets the aforementioned requirements will earn points as specified.
+5 for each platted lot	Proposes dedication to Monroe County of one (1) vacant, legally platted lot, designated as Tier III on Big Pine Key or No Name Key, containing

	a minimum of 2,000 square feet of uplands. Each additional vacant, legally platted lot that meets the aforementioned requirements will earn points as specified.
+4 for each parcel	Proposes dedication to Monroe County of one (1) vacant parcel, designated as Tier III on Big Pine Key or No Name Key, containing a minimum of 2,000 square feet of uplands. Each additional vacant parcel that meets the aforementioned requirements will earn points as specified.
+2 for each platted lot	Proposes dedication to Monroe County of one (1) vacant, legally platted lot on Big Pine Key or No Name Key which contains undisturbed wetlands. Each additional vacant, legally platted lot that meets the aforementioned requirements will earn points as specified.
Additional Requirements	
	A statutory warranty deed that conveys the dedicated property to the county shall be approved by the Planning Director and County Attorney and recorded in the office of the clerk of the county prior to the issuance of any building permit pursuant to an allocation award. Other documents related to the approval of the land dedication may include but are not limited to affidavit of no encumbrance(s), entity affidavit, subject to the approval of the Planning Director and County Attorney and recorded in the office of the clerk of the county, at the expense of the applicant, prior to the issuance of any building permit pursuant to an allocation award.

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(8) *Central wastewater system availability.* The following points shall be assigned to allocation applications to direct development to areas with sewer:

Point Assignment:	Criteria:
+4~~*~~	Proposes development required to be connected to a central wastewater treatment system that meets the AWT treatment standards established by Florida Legislature and Policy 901.1.1. These points shall not apply to parcels within a CBRS system unit.
~~*These points shall not apply to parcels within a CBRS system unit.~~	

(9) *Payment to the Land Acquisition Fund.* Up to two (2) whole points shall be awarded for a monetary payment by the applicant to the County's land acquisition fund for the purchase of lands for conservation, and retirement of development rights. The monetary value of each point shall be set annually by resolution of the BOCC ~~the County~~ based on the following criteria: ~~upon the estimated average fair market value of vacant, privately-owned, buildable IS/URM zoned, platted lots.~~

~~Additional Requirements:~~

~~1. The monetary value of each point shall be established annually by resolution of the BOCC.~~

~~2~~1. The monetary value of each point shall be based upon the average fair market value of privately-owned, buildable, vacant, IS/URM, platted lots divided by four.

~~3~~2. Payment to the County's land acquisition fund shall be paid prior to the issuance of any building permit pursuant to the allocation award.

(10) *Energy and Water Conservation.* The following points shall be assigned to allocation applications on lands designated as Tier III to encourage the planting of native vegetation and promote water conservation and increased energy efficiency:

Point Assignment:	Criteria:
+3	Proposes a dwelling unit designed according to and certified to the standards of a sustainable building rating or national model green building code.
+1	Dwelling unit includes installation of a permanent concrete cistern with a minimum capacity of 1,000 gallons.
+2	Dwelling unit includes the installation of a gray water reuse system, meeting the requirements of the Florida Building Code.
+1	Dwelling unit includes installation of a solar photovoltaic collection system, a minimum of 3KW in size or the equivalent in other renewable energy systems.*
+0.5	Dwelling unit includes installation of one or both of the following technologies:*a. Ductless air conditioning system.-* b. High efficiency chillers.
** The systems must be maintained for a minimum of five years from C.O. unless replaced with a system that provides a functional equivalent or increased energy or water savings.*	

(11) *Perseverance Points.* Perseverance points shall be assigned as follows:

1. Applications entering the ROGO system after July 13, 2016, shall receive perseverance points as described in the table below.

If, after gaining a perseverance point(s), an application is withdrawn for any reason, the perseverance point(s) gained shall be retained; however, a new controlling date shall be established.

Point Assignment:	Criteria:
+1 for four years	For parcels designated Tier I, II or III-A, one (1) point shall be awarded for each year that the allocation application remains in the allocation system up to four (4) years.
+0.5 after four years	For parcels designated Tier I, II or III-A, ~~A~~after four (4) years, the application shall be awarded 0.5 points for each year the application remains in the system.

+2 for four years	For parcels designated Tier III, two (2) points shall be awarded for each year that the allocation application remains in the allocation system up to four (4) years.
+1 after four years	For parcels designated Tier III, ~~A~~after four (4) years, the application shall be awarded one (1) point for each year the application remains in the system.
~~Applications entering the ROGO system after July 13, 2016, shall receive perseverance points as listed above.~~ ~~Applications in the ROGO system on the effective date of the ordinance which were receiving perseverance points beyond the first four years in the system at an annual rate of +2 points for each year that the application remains in the ROGO system, shall be eligible to continue to earn points at an annual rate of +2 points for each year that the application remains in the ROGO system.~~ ~~All other applications competing in the ROGO system that have not received an allocation award in quarter 4, ROGO year 24, ending July 12, 2016, shall receive perseverance points as listed above.~~	

2. Applications in the ROGO system with a controlling date prior to July 13, 2016, which were receiving perseverance points beyond the first four years in the system at an annual rate of +2 points for each year that the application remains in the ROGO system, shall be eligible to continue to earn points at an annual rate of +2 points for each year that the application remains in the ROGO system.

   If, after gaining a perseverance point(s), an application is withdrawn for any reason, the perseverance point(s) gained shall be retained; however, a new controlling date shall be established.

(12) The County shall not allow the reversal of any 'acreage tract density reduction,' previously approved restrictive covenant by the County and recorded in the official records of Monroe County, Florida, and used to assign extra points to a ROGO application, regardless of the status of the ROGO allocation award or associated building permit. In the event the dwelling unit was not constructed and the ROGO allocation award has expired, a subsequent ROGO allocation application on the same parcel(s) will be assigned the same number of extra points originally assigned for the 'density reduction.'

~~(13) All applicants in the ROGO system upon the effective date of the ordinance from which this article is derived shall be notified by regular mail within 30 days from the effective date of the ordinance from which this article is derived by the county Planning and Environmental Resources Department of the new ROGO scoring system. In this notification, applicants shall be informed that they have 30 days from the date of the notification, if they so choose, to submit a revision to their ROGO application to receive positive points through aggregation, land dedication, or payment of fees to the land acquisition fund. Within this one-time, 30-day time period, applicants shall be able to~~

~~revise their applications without payment of fees or a change in their controlling date upon condition that their approved building permit application is not revised.~~

Sec. 138-29. Appeals.

(a) An appeal from the decision of the Planning Commission on a ROGO allocation shall be made to the BOCC. The notice of such appeal shall be in a form prescribed by the Planning Director and must be filed with the Planning Director within 20 working days of the Planning Commission's decision. Upon the filing of an appeal, the Planning Commission's secretary will forward to the board all relevant files and records relating to the matter. Failure to file an appeal with the BOCC shall constitute a waiver of any rights under this chapter to further dispute the decision of the Planning Commission~~.~~

(b) The filing of an appeal shall not stay either the action of the Planning Commission or the action of the director of planning.

(c) If, as a result of a successful appeal, additional allocation awards are to be made, the BOCC shall instruct the Planning Director as to how many dwelling unit applications shall receive allocation awards, when such allocation awards are to be made and what effect such additional allocation awards will have on the current annual or ~~quarterly~~ successive dwelling unit allocation period. To ensure that the dwelling unit allocations set forth in Section 138-24 are not exceeded, the Planning Director shall inform the Planning Commission of the results of the appeal and the disposition of any additional allocation awards.

Secs. 138-30—138-46. Reserved.

ARTICLE III. NONRESIDENTIAL RATE OF GROWTH LIMITATIONS (NROGO)

Sec. 138-47. Nonresidential Rate of Growth Ordinance (NROGO).

(a) **Definitions.** The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

~~*Allocation date* means the specific date and time by which applications for the NROGO allocation will be accepted and processed.~~

Allocation closure date means the January 12 and July 12 of each year beginning on July 13, 2026, and each year thereafter. If the allocation closure date falls on a Saturday, Sunday or legal holiday, the allocation closure date shall be the next day, which is neither a Saturday, Sunday nor a legal holiday; and the next allocation period shall begin on the next business day following the allocation closure date.

Allocation period means a defined period of time within which applications for the NROGO allocation will be accepted and processed.

Annual allocation period means the 12-month period beginning on July 14, 2001, and subsequent one-year periods that is used to determine the amount of nonresidential floor area to be allocated based on the number of ROGO allocations to be issued in the upcoming ROGO year through July 12, 2026. Thereafter, *annual allocation period* means the 12-month period

beginning on July 13, 2026, and subsequent one-year periods that are used to determine the amount of nonresidential floor area to be based on the number of ROGO allocations to be issued in the upcoming ROGO year.

Annual nonresidential ROGO allocation, also referred to as an annual NROGO allocation, means the maximum floor area that may be allocated during an annual allocation period.

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Controlling date means the ~~same as defined in Section 138-19(a), except it shall apply to NROGO applications under this article.~~ date and time a NROGO application is submitted. This date shall be used to determine the annual anniversary date for receipt of a perseverance point and shall determine precedence when NROGO applications receive identical ranking scores. A new controlling date shall be established based upon the resubmittal date and time of any withdrawn or revised application, except pursuant to Section 138-52(k).

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Lawfully established ROGO/NROGO exemption means a dwelling unit or nonresidential floor area that has received a permit or other official approval from the ~~division of growth management~~ Department of Planning and Environmental Resources for the ~~units~~ unit(s) and/or nonresidential floor area.

Nonresidential floor area means the sum of the total floor area for a nonresidential building or structure, as defined in Section 101-1. Additionally, covered and unenclosed boat racks with three or fewer sides not associated with retail sales of boats are not considered nonresidential floor area. Further, the term "nonresidential floor area" does not include space occupied by residential uses, including spaces occupied by a transient residential unit and an institutional-residential use as defined in Section 101-1.

~~*Nonresidential*~~ *NROGO allocation,* ~~also referred to as NROGO allocation,~~ means the maximum amount of nonresidential floor area which may be allocated in a given time period.

~~*Nonresidential*~~ *NROGO allocation award*, ~~also referred to as NROGO allocation award,~~ means the approval of an ~~nonresidential~~ NROGO application prior to the ~~application and subsequent~~ issuance of ~~a~~ the associated building permit to authorize construction of new nonresidential floor area.

~~*Nonresidential*~~ *NROGO bank*, ~~also referred to as NROGO bank,~~ means the cumulative total of:

a) NROGO allocations that were not awarded and thereby not allocated due to a lack of demand~~.~~;

b) nonresidential floor area not made available for the annual NROGO allocation by the BOCC; and

c) allocated nonresidential floor area reclaimed due to the abandonment or expiration of approved development that received an NROGO allocation award.

~~*Nonresidential*~~ *NROGO bank account*, ~~also referred to as NROGO account,~~ means one of the two accounts that cumulatively establish the NROGO bank. There are two accounts within the NROGO bank, with each carrying an independent balance of nonresidential floor area: 1) the Big Pine/No Name NROGO subarea account; and 2) the Upper and Lower Keys general (joint) NROGO account.

NROGO Year means the 12-month period beginning on July 14, 2001, and subsequent one-year periods. See "*NROGO Annual Allocation Period*."

Quarterly ~~*Nonresidential*~~ *NROGO allocation* means the maximum ~~number of~~ amount of nonresidential floor area square footage which may be allocated in a quarterly allocation period for ROGO years 1-34.

Quarterly ~~*Nonresidential*~~ *NROGO allocation period* means any one of the four periods within an annual allocation period.

Semi-annual allocation period means the six-month period beginning on July 13, 2026, and successive six-month periods.

Site means the parcels of land required to be aggregated to be developed or from which existing nonresidential floor area is to be transferred or received.

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Sec. 138-48. General Provisions.

(a) **~~Nonresidential~~ NROGO allocation award required.** No building permit shall be issued after September 19, 2001 that results in additional nonresidential floor area on a site unless that nonresidential development has received an NROGO allocation award or is determined to be exempt as provided in Section 138-50.

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Sec. 138-49. Type of Development Affected; Special Requirements.

(a) The NROGO shall apply to the development of all new and expanded nonresidential floor area, except as exempted by Section 138-50, for which a building permit or other final development approval is required.

(b) Unincorporated areas other than Big Pine Key and No Name Key. Notwithstanding the provisions of development, as defined in Section 101-1, the following new uses shall only be eligible for an NROGO allocation under this article on sites located within a designated area approved for such use, identified within a community master plan and/or an overlay district established within Chapter 130:

(1) Commercial retail ~~very~~ high-intensity uses that generate more than 150 vehicle trips per 1,000 square feet of floor area.

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Sec. 138-50. Type of Development Not Subject to the NROGO Permit Allocation System.

The NROGO shall not apply to the development described below:

(a) **Development with no net increase in nonresidential floor area.** The redevelopment, rehabilitation or replacement of any lawfully established nonresidential floor area which does not increase the amount of nonresidential floor area greater than that which existed on the site prior to the redevelopment, rehabilitation or replacement.

The Planning Director shall review available documents to determine if a body of evidence exists to support the lawful existence of nonresidential floor area on or about September 19, 2001, the effective date of the original NROGO. Such evidence shall be documented and submitted to the Planning Director on a form provided by the Planning and Environmental Resources Department. Any issued Monroe County building permit(s) confirming the existence of the structure(s) and its use(s) on or about September 19, 2001 can stand as the only piece of evidence for an NROGO exemption.

If there are no building permit(s) which confirm the lawful existence of the structure(s) and its use(s) on or about September 19, 2001, the application shall include, at a minimum, at least two of the following documents:

(1) Any other issued Monroe County building permit(s) supporting the existence of the structure(s) and its use(s) on or about September 19, 2001;
(2) Documentation from the Monroe County Property Appraiser's Office indicating nonresidential use on or about September 19, 2001;
(3) Aerial photographs (to confirm the number of structures, not the type of structure) and original dated photographs showing the structure(s) existed on or about September 19, 2001;
(4) Nonresidential County Directory entries on or about September 19, 2001;
(5) Rental, occupancy or lease records, on or about September 19, 2001, indicating the number, type and term of the rental or occupancy;
(6) State and/or county licenses, on or about September 19, 2001, indicating the nonresidential use;
(7) Documentation from the utility providers indicating the type of service (commercial /nonresidential or residential) provided and the number of meters in existence on or about September 19, 2001; and
(8) Similar supporting documentation not listed above as determined suitable by the Planning Director.

Nonresidential floor area established after the effective date of the original NROGO should be documented through the NROGO permit allocation system. Such nonresidential floor area that received such an NROGO allocation(s) that was constructed may be lawfully established through verification of the certificate of completeness/occupancy alone. Provision of affidavits to support the existence of nonresidential floor area is allowed, but affidavits cannot be the sole record upon which a decision is based. Other than files in which the growth management division is custodian, provision of documents is the responsibility of the applicant. Nonresidential floor area determined to be exempt from the NROGO per this subsection that has not been previously acknowledged by the Planning Director may also be a nonconformity,

pursuant to Chapter 102, article III nonconformities. Such occasions shall require a separate determination by the Planning Director as to the lawfulness of the nonconformity.

(b) **Areas exempted from residential ROGO.** Any area of the unincorporated county exempted from residential ROGO as provided for in Section 138-22.

(c) **Public/governmental uses.** Public/governmental uses, including public buildings, as defined in Section 101-1.

(d) **Development activity for certain not-for-profit organizations.** Except for the nonpublic institutional uses on Big Pine Key and No Name Key pursuant to Section 138-49, nonresidential development activity within Tier III designated areas by federally tax exempt not-for-profit educational, scientific, health, religious, social, cultural and recreational organizations which predominately serve the county's non-transient population, if approved by the BOCC after review and recommendation by the Planning Director and Planning Commission. This exemption is subject to the condition that a restrictive covenant be placed on the property prior to the issuance of a building permit. The restrictive covenant shall be approved by the Planning Director and County Attorney, recorded in the office of the Clerk of the County at the expense of the applicant to ensure compliance with the provision of this subsection, run in favor of the county for a period of at least 20 years and be enforceable by the county. Any change in the use or ownership of the property subject to this restrictive covenant shall require prior approval by the Planning Commission, unless the total floor area exempted by the Planning Commission is obtained through an off-site transfer of floor area and/or nonresidential floor area allocation. If the total amount of floor area that is transferred and/or allocated meets or exceeds the total amount of floor area exempted, the restrictive covenant shall be vacated by the county, at the expense of the applicant. This exemption is not applicable to nonresidential development proposed within any Tier I or Tier III-A (special protection area) designated areas.

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(j) **Transfer off-site of existing nonresidential floor area.** The demolition/removal and transfer off-site of nonresidential floor area from a sender site and the development of the transferred nonresidential floor area on a receiver site in accordance with the following procedures and criteria:

(1) *Eligibility of sender floor area.* Nonresidential floor area shall be lawfully established floor area pursuant to subsection (a) or have received an NROGO allocation or transfer of floor area after September 19, 2001.

(2) *Criteria:*

a. The receiver site shall be within a Tier III designated area and, if on Big Pine Key, it shall also be ~~is~~ located within the designated community center overlay area;

b. The receiver site shall be located within the same ROGO subarea, as set forth in Section 138-20, as the sender site;

c. The use that would utilize the transferred nonresidential floor area on the receiver site shall not be a high-intensity commercial retail use which will generate more than 150 daily vehicle trips per 1,000 square feet of floor area, unless the receiver site is within an overlay district or

area, established in a community master plan or within Chapter 130, specifically allowing such a high-intensity commercial retail use;

d. The receiver site shall not be located within a V special flood hazard zone;

e. The receiver site shall not be located in a coastal barrier resources system; and

f. The receiver site shall not be located in an offshore island/conservation land protection area.

(3) *Limitations on the amount of nonresidential floor area which may be transferred to any one site.* The amount of nonresidential floor area which may be transferred to any one site shall be as follows:

a. No more than a maximum cumulative total of 50,000 square feet of nonresidential floor area may be transferred to any one site.

b. A structure utilizing the transferred nonresidential floor area shall not be greater than 10,000 square feet, except for:

~~a)~~ 1. a structure within the Urban Commercial (UC) land use (zoning) district consisting of up to a maximum total of 50,000 square feet of nonresidential floor area; ~~and~~ or

~~b)~~ 2. a structure within an overlay district or area, established in a community master plan or within Chapter 130, may consist of up to a maximum total of nonresidential floor area set forth in the superseding overlay district or area.

(4) *Procedures.* The following procedures shall be followed for permitting transfer of nonresidential floor area off-site:

a. A minor conditional use permit shall be required to identify, determine the eligibility of and document the approval of the sender and receiver site, pursuant to the process set forth in Section 110-69. If a single receiver site is proposed to receive the transferred nonresidential floor area from multiple sender sites, only a single minor conditional use permit application shall be required. All sender and receiver sites associated with a proposed transfer shall be identified at the time of application.

b. The minor conditional use permit application required in the previous subsection shall be submitted in a form provided by the Planning and Environmental Resources Department. A development order shall memorialize approval of the minor conditional use permit. After successfully passing all applicable appeal periods, the development order shall be recorded in the official records of the Monroe County Clerk of the Circuit Court, at the expense of the applicant. Such recording shall be carried out so that the document is associated with all applicable sender and receiver sites.

c. No building permit shall be issued for the nonresidential floor area on the receiver site until the sending site structure is demolished as per an issued demolition permit and a final inspection for the demolished floor space has been completed by the Building Department.

Sec. 138-51. NROGO Allocations.

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(b) **Maximum allocation of nonresidential floor area by site per each allocation period ~~quarter~~.** The amount of nonresidential floor area to be allocated shall be limited to a maximum share of 10,000 square feet for any one site per each allocation period ~~quarter~~.

(c) **Maximum floor area per structure.** A structure shall not receive an allocation that expands the structure to more than 10,000 square feet of nonresidential floor area, excluding:

~~a)~~ 1. a structure in the Urban Commercial (UC) land use (zoning) district that may receive an allocation that expands the structure to not more than 50,000 square feet; ~~and~~ or

~~b)~~ 2. a structure within an overlay district established in a community master plan, in which the maximum floor area shall be governed by the master plan if applicable, or within Chapter 130 specifically allowing such a structure of over 10,000 square feet.

(d) **Allocation dates.** To be considered for an allocation award, all NROGO applications must be submitted to the Planning and Environmental Resources Department and deemed complete by the Planning Director, or his or her designee, by no later than ~~4:00~~ 12:00 p.m. on the specified allocation ~~quarter~~ period closure, which shall be the same dates as those for the residential ROGO.

(e) **Annual nonresidential ROGO allocation.** This annual allocation shall be distributed between the ~~four~~ semi-annual allocation periods ~~quarters~~, which shall be the same dates as those for the residential ROGO.

Sec. 138-52. Application Procedures for NROGO.

(a) **Deadlines for submission of building permit applications to be entered into the nonresidential permit allocation system.** No approved building permit application requiring an NROGO allocation award, including applications submitted under privatized plan review as provided for by Chapter 553, F.S., shall be accepted for the entry into the NROGO system under this chapter, unless the building permit application is submitted to the Building Department, and deemed complete, at least 30 days prior to the end of the allocation period appropriate for the application. Application submittal and acceptance of a building permit application ~~submission~~ 30 days prior does not guarantee that it will enter NROGO that ~~quarter~~ allocation period if it has not passed all required reviews.

(b) **Application for allocation by way of the NROGO allocation system.** ~~Applications competing in the Residential Permit Allocation system that have not received an allocation award in quarter 4, ROGO year 24, ending July 12, 2016, shall receive perseverance points as listed above.~~ The Planning and Environmental Resources Department shall accept applications to enter the NROGO system. The NROGO application must be accompanied by an approved building permit application in order to be considered. The Planning Director, or his or her designee, shall review the NROGO application for completeness. If the application is determined to be incomplete, the Planning Director, or his or her designee, shall reject the NROGO application and provide a written notice to the applicant specifying the application's

deficiencies, and the reasons therefore, within fifteen (15) working days. The Planning Director or his or her designee shall take no further action on the application unless the deficiencies are remedied. If determined to be complete, the application shall be assigned a controlling date.

(c) **Application requirements.** The NROGO application shall be submitted in a form prescribed by the Planning Director. If a person other than the property owner is submitting an application, a notarized letter of agency from the property owner authorizing the person to represent them with respect to the application, on a form prescribed by the Planning Director, shall be required. The term "applicant" as used in this chapter refers to the property owner or the property owner's agent, as applicable. ~~provided by the Planning and Environmental Resources Department and meet the following requirements:~~ At a minimum, the application must include the following information:

(1) ~~The application shall include a~~) the name and address of the property owner(s) of record and any authorized agents,

~~b)~~ (2) the property record card(s) from the Monroe County Property Appraiser,

~~c)~~ (3) a written legal description of the property proposed for development,

~~d)~~ (4) a boundary survey of the property proposed for development, to be filed with the corresponding building permit application, prepared by a surveyor registered in the State of Florida, showing the boundaries of the site, elevations, bodies of water and wetlands on the site and adjacent to the site, existing structures including all impervious areas, existing easements, total acreage and total acreage by habitat;~~-~~and

~~e)~~ (5) proof of ownership;

(6) a site plan.

~~The boundary survey and site plan may be filed with the corresponding building permit application. Additional copies of the boundary survey and site plan are not required to be filed with the NROGO application.~~

~~(2) If a conditional use permit is required in accordance with this Land Development Code for the development applied for, the conditional use permit shall be obtained and effective prior to submittal of any NROGO application. A copy of the recorded development order shall be submitted with the NROGO application.~~

~~(3)~~ The site plan shall be prepared and sealed by a professional architect, engineer, or any other professional licensed to prepare a site plan and filed with the corresponding building permit application. The site plan shall be drawn to a scale of one inch equals ten feet or one inch equals twenty feet. At a minimum, the site plan shall depict the following features and information:

a. Date, north point and graphic scale;
b. Boundary lines of site, including all property lines and mean high-water, lines shown in accordance with Florida Statutes;
c. All attributes from the boundary survey;
d. Future Land Use Map (FLUM) designation(s) of the site;
e. Land Use (Zoning) District designation(s) of site;
f. Tier designation(s) of the site;
g. Flood zones pursuant to the Flood Insurance Rate Map;
h. Setback lines as required by this Land Development Code;

i. Locations and dimensions of all existing and proposed structures, including all paved areas and clear site triangles;
j. Size and type of buffer yards and parking lot landscaping areas, including the species and number of plants;
k. Extent and area of wetlands, open space preservation areas and conservation easements;
l. Delineation of habitat types to demonstrate buildable area on the site, including any heritage trees identified and any potential species that may use the site (certified by an approved biologist and based on the most current professionally recognized mapping by the U.S. Fish and Wildlife Service);
m. Drainage plan including existing and proposed topography, all drainage structures, retention areas, drainage swales and existing and proposed permeable and impermeable areas;
n. Location of fire hydrants or fire wells;
o. The location of public utilities, including location of the closest available water supply system or collection lines and the closest available wastewater collection system or collection lines (with wastewater system provider) or on-site system proposed to meet required County and State of Florida wastewater treatment standards; and
p. A table providing the total land area of the site, the total buildable area of the site, the type and square footage of all nonresidential land uses, the type and number of all dwelling units, the amounts of impervious and pervious areas, and calculations for land use intensity, open space ratio, and off-street parking.

(7) If a conditional use permit is required in accordance with this Land Development Code for the development applied for, the conditional use permit shall be obtained and effective prior to submittal of any NROGO application. A copy of the recorded development order shall be submitted with the NROGO application.

(d) **Fee for review of application.** Each NROGO application shall be accompanied by a nonrefundable processing fee established by resolution of the BOCC. Additional fees are not required for successive review of the same NROGO application unless the application is withdrawn and resubmitted.

(e) **Compliance with other requirements.** The NROGO application shall not constitute an indication of whether or not the applicant for the nonresidential floor area allocation has satisfied and complied with all county, state, and federal requirements otherwise imposed by the county regarding conditions ~~precedent~~ prior to issuance of a building permit.

(f) **Time of review.** The Planning Director may retain the allocation application and its associated building permit application for review pursuant to the evaluation procedures and criteria set forth in Section 138-53 and Section 138-55.

(g) **Non-county time periods.** The county shall develop necessary administrative procedures and, if necessary, enter into agreements with other jurisdictional entities which impose requirements as a condition ~~precedent~~ prior to development in the county, to ensure that such non-county approvals, certifications and/or permits are not lost due to the increased time requirements necessary for the county to process and evaluate NROGO applications and issue allocation awards. The county may permit evidence of compliance with the requirements of

other jurisdictional entities to be demonstrated by coordination letters in lieu of approvals or permits.

(h) **Limitation on number of applications.**

(1) An individual entity or organization may have only one active NROGO application per site in the allocation period.

(2) There shall be no limit to the number of separate projects for which NROGO applications may be submitted by an individual, entity or organization.

(i) **Expiration of allocation award.** Except as provided for in this article, an allocation award shall expire as follows:

(1) when its corresponding building permit is not ~~picked up~~ issued ~~–~~after 60 days of notification of the award by certified mail, return receipt requested ~~of the award, or~~. In accordance with 138-53(c), after three (3) unsuccessful attempts to notify the applicant via certified mail, return receipt requested, the allocation award shall expire;

(2) after issuance of the building permit, upon expiration of the building permit; ~~or~~

(3) after failure of the applicant to submit required plan revisions by the required date set forth in subsection (n); or

(4) after the failure to conclude the required coordination with FWS under the permit referral process in Section 122-12(d)(5).

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(n) **Revisions of building permit applications requiring the NROGO allocation(s).** A building permit application for proposed nonresidential floor area requiring an NROGO allocation must be approved prior to submitting an NROGO application. In the event that the Florida Building Code and/or a FEMA flood insurance rate map (FIRM) is amended between the date on which an NROGO application is submitted and the date on which a building permit requiring the NROGO allocation(s) applied for is issued (which follows the date on which the required allocation(s) is awarded), if necessary, the applicant shall submit plan revisions to the building permit application demonstrating full compliance with the current Florida Building Code and the adopted FIRM in effect. These plan revisions shall be submitted and approved within 180 days of the NROGO allocation award date or the applicant shall forfeit the NROGO allocation award. Following receipt of the plan revisions, the Building Department shall review the revisions as if the application is new (however retaining the same building permit number for administrative purposes), based on the building code and the adopted FIRM, for compliance prior to issuance of the building permit requiring the NROGO allocation(s) by the Building Official. Such mandatory revisions and review are limited to the modifications necessary to demonstrate compliance with the Florida Building Code and the adopted FIRM in effect at the time of building permit issuance. Any mandatory revisions that affect the footprint of the structure, increases clearing of habitat or increases the height of the structure shall be reviewed for compliance with the Land Development Code in effect at the time of permit issuance.

(o) **Application for allocation by way of the NROGO bank.** The Planning and Environmental Resources Department shall maintain a record of NROGO allocations that were not awarded in annual NROGO allocation periods. This shall be known as the NROGO bank. As of July

12, 2025 ~~2012~~ (NROGO Year ~~20~~ 34), the NROGO bank balance for each ROGO subarea was as follows:

~~Big Pine Key and No Name Key ROGO subarea~~	~~4,339 square feet~~
~~Upper Keys and Lower Keys ROGO subareas~~	~~389,991 square feet~~

NROGO Year 34 Balances Available for Quarter 1	
-	Year 34 General Bank (1. Joint Lower & Upper and 2. Big Pine/No Name) Total
Big Pine Key and No Name Key subarea	31,913 SF
Upper	852,127 SF
Lower	
Totals	884,040 SF

~~Prior to the opening date of NROGO Year 22 (July 13, 2013), the Planning and Environmental Resources Department shall determine the precise balance of the NROGO bank.~~

Upon availability of nonresidential floor area in a given and applicable ROGO account within the NROGO bank, the Planning and Environmental Resources Department shall accept applications from applicants requesting the banked nonresidential floor area. The NROGO application must be accompanied by an approved building permit application in order to be considered. The Planning Director, or his or her designee, shall review the application for completeness. If the application is determined to be incomplete, the Planning Director shall reject the application and notify the applicant of such rejection, and the reasons therefore, within 30 days. The application shall be submitted in a form provided by the Planning and Environmental Resources Department and meet the same requirements for a standard NROGO application as set forth in subsection 138-52(b). Each application shall be accompanied by a nonrefundable processing fee as established by resolution of the board of county commissioners.

Sec. 138-53. Evaluation Procedures for Nonresidential Floor Area Allocation.

(a) **Initial evaluation of allocation applications.** Upon receipt of completed NROGO allocation applications, the Planning Director or his or her designee, shall evaluate the allocation applications pursuant to the evaluation criteria set forth in Section 138-55.

(1) Within 30 days of an allocation ~~date~~ period, unless otherwise extended by the Planning Commission, the Planning Director shall:
   a. Complete the evaluation of all allocation applications submitted during the relevant allocation period;
   b. Total the amount of square footage for which allocation applications have been received for each ROGO subarea (Upper Keys; Lower Keys; and Big Pine Key/No Name Key); and

c. Rank the allocation applications, in descending order from the highest evaluation point total to the lowest for each ROGO subarea and by controlling date pursuant to subsection (d).

(b) **Public hearings and allocation awards.** Upon completion of the evaluation ranking report and/or recommendation, the Planning Director shall schedule and notice a public hearing by the Planning Commission pursuant to otherwise applicable regulations.

(1) At or prior to the public hearing, the Planning Commission may request, and the Planning Director shall supply, copies of the allocation applications and the evaluation worksheets.

(2) Upon review of the allocation applications and evaluation worksheets, the Planning Commission may adjust the points awarded for meeting a particular criterion, adjust the rankings as a result of changes in points awarded, or make such other changes as may be appropriate and justified.

(3) The basis for Planning Commission changes shall be specified in the form of a motion to adopt the allocation rankings and may include the following:

a. A mistake in the application of one or more of the evaluation criteria; ~~and~~ or

b. A misinterpretation of the applicability of an evaluation criterion.

(4) The public, including, but not limited to, applicants for allocation awards, shall be permitted to testify at the public hearing. Applicants may offer testimony about their applications or other applications; however, in no event may an applicant offer modifications to an application that could change the points awarded or the ranking of the application.

(5) At the conclusion of the public hearing, the Planning Commission may:

a. Move to accept the evaluation rankings as submitted by the Planning Director;

b. Move to accept the evaluation rankings as may be modified as a result of the public hearing;

c. Move to continue the public hearing to take additional public testimony;

d. Move to close the public hearing but to defer action on the evaluation rankings pending receipt of additional information; ~~and~~ or

e. Move to reject the evaluation rankings.

(6) The Planning Commission shall finalize the evaluation rankings within 60 days following initial receipt of the Planning Director evaluation ranking, report and recommendation.

(c) **Identical rankings.** If two or more allocation applications in a given subarea receive an identical evaluation ranking and both (or all) cannot be granted allocation awards within the allocation period, the Planning Commission shall award the allocation to the completed application first submitted, based on the controlling date and time of the application.

(~~c~~d) **Notification to applicants.** Upon finalization of the evaluation rankings by the Planning Commission, notice of the rankings shall be posted at the Planning and Environmental Resources Department offices, on the Monroe County website and at such other places as may be designated by the Planning Commission.

(1) Applicants who receive allocation awards shall be further notified by certified mail, return receipt requested. After three (3) unsuccessful attempts to notify the applicant via certified mail, return receipt requested, the allocation award shall expire. Upon receipt of notification of an allocation award, the applicant may request issuance of a building permit for the applicable development of the allocated nonresidential floor area.

(2) Applicants who fail to receive allocation awards ~~shall be further notified by regular mail, return receipt requested; without further action by such applicants nor the payment of any additional fee, such applications~~ shall remain in the NROGO system for reconsideration ~~at~~ in the next succeeding allocation ~~in the current or following annual allocation~~ period.

~~(d) **Identical rankings.** If two or more allocation applications in a given size classification receive an identical evaluation ranking and both (or all) cannot be granted allocation awards within the allocation period, the Planning Commission shall award the allocation to the completed application first submitted, based on the controlling date of the application. If two or more such completed applications were submitted with the same controlling date, the available allocation shall be awarded to the application with the fewest number of negative points.~~

(e) **Allocation by way of the NROGO bank.** ~~Concerning applications submitted pursuant to Section 138-52(n), if nonresidential floor area is available in an NROGO subarea account within the NROGO bank, upon receipt of completed application, the Planning Director shall evaluate the application pursuant to the evaluation criteria set forth in Section 138-55.~~ If nonresidential floor area is available in an NROGO subarea account within the NROGO bank, the Planning Director shall evaluate the applications pursuant to the evaluation criteria set forth in Section 138-55 for all completed applications submitted pursuant to Section 138-52(n).

(1) *Public hearing.* Excluding reservations granted by the BOCC, the Planning Director shall schedule and notice the application for review and decision by the Planning Commission at a public hearing.

a. *Allocation by Planning Commission.* Allocations by way of the NROGO bank shall only be awarded ~~four times~~ twice per NROGO year, on the same public hearing dates in which annual NROGO allocations are awarded per Section 138-53(b). Such allocations shall be awarded pursuant to subsections (e)(2) through (e)(12).

b. *Reservation of allocation by the Board of County Commissioners.* Notwithstanding provisions of subsections (e)(2) through (e)(12), ~~the BOCC may~~ for projects in excess of 10,000 square feet of nonresidential floor area, the BOCC may reserve by resolution~~, for up to eighteen (18) months,~~ some or all of the available nonresidential floor area within an applicable account within the NROGO bank for a specified development for up to eighteen (18) months.

Prior to the public hearing in which the reservation is to be considered, the applicant shall:

~~a)~~ 1. if necessary, have entered into a development agreement with Monroe County for the development requiring the nonresidential floor area; and

~~b)~~ 2. if required, have been issued a conditional use permit for the development requiring the nonresidential floor area.

Building permits for these reserved allocations shall be ~~picked up~~ issued within six months of the effective reservation date, unless otherwise authorized by the BOCC in its resolution. The BOCC may, at its discretion, place conditions on any reservation as it deems appropriate.

c. Testimony. The public, including but not limited to applicants, shall be permitted to testify at the public hearing. Applicants may offer testimony about their

applications or other applications; however, in no event may an applicant offer modifications to an application that could change the points awarded or the ranking of the application.

d. *Decision by the Planning Commission.* At the conclusion of the public hearing, the Planning Commission may:

1. If applicable, move to accept the evaluation rankings as submitted by the Planning Director;
2. If applicable, move to accept the evaluation rankings as may be modified as a result of the public hearing;
3. Move to continue the public hearing to take additional public testimony;
4. Move to close the public hearing but to defer action on the evaluation rankings pending receipt of additional information; ~~and~~ or
5. Move to reject the evaluation rankings.

Within 60 days of the public hearing, the Planning Commission shall render its final decision on an application for an allocation by way of the NROGO bank by resolution. If an approval, the resolution shall be issued and pass all relevant appeal periods prior to issuance of a building permit requiring the nonresidential floor area awarded by the resolution.

(2) *NROGO bank accounts.* Beginning July 13, 2013, the NROGO bank shall consist of two accounts. The accounts consist of 1) Upper Keys and Lower Keys (joint or general) account, and 2) Big Pine Key and No Name Key subarea account. The boundaries of the ROGO subareas are defined in section 138-20(c). An applicant may only request nonresidential floor area from the account associated with the ROGO subarea in which the subject property is located. As of July 13, 2013, pursuant to Section 138-51(a), the distribution of the annual NROGO allocation shall be distributed to each of the ROGO subareas based on the number of dwelling unit permits made available for each of the ROGO subareas. The unused remainders of nonresidential floor area from the annual NROGO allocation for each of the ROGO subareas shall roll over into the applicable NROGO accounts (general, or Big Pine Key and No Name Key subarea account) within the NROGO bank each year. Nonresidential floor area within a given subarea NROGO account shall be available for eligible developments within the boundaries of that subarea. The nonresidential floor area within the general (joint) NROGO account shall be available for eligible developments within the boundaries of either the Upper Keys or Lower Keys subareas. On the opening day of each subsequent NROGO year (July 13), excluding the reserves provided for in subsection (e)(4), the non-reserve balances of the general (joint) account shall be returned to the general (joint) account for the Upper Keys and Lower Keys ROGO subareas.

(3) *Eligibility per tier designation.* Only applications for developments within Tier III designated areas shall be eligible for allocation by way of the NROGO bank.

(4) *NROGO subarea account reserves.* The general (joint) account shall maintain reserves of 20,000 square feet for the Upper Keys and Lower Keys NROGO subarea. The Big Pine/No Name Key subarea account is not required to maintain a reserve.

(5) *Noncompetitive applications.* If the total amount of nonresidential floor area requested in a single application or cumulatively in multiple applications by separate applicants is equal to or less than the amount available in the applicable NROGO bank ~~(excluding reserved floor area)~~ account (excluding reserved floor area), the Planning Commission

may grant the total amount of nonresidential floor area requested in the application(s) to the applicant(s).

(6) *Competitive applications.* If the total amount of nonresidential floor area requested in a single application or cumulatively in multiple applications by separate applicants is greater than that the total amount available in the applicable NROGO bank accounts (excluding reserved floor area), the Planning Director shall submit an evaluation report to the Planning Commission indicating the evaluation rankings. The Planning Commission shall award available nonresidential floor area in the applicable NROGO bank account (excluding reserved floor area) to the applicant with most points pursuant to Section 138-55. If the highest scoring applicant does not request the entire amount available in an NROGO bank account, the Planning Commission shall award the remaining available nonresidential floor area in the applicable NROGO bank account (excluding reserved floor area) to the application with the second highest score and so on until the NROGO bank reaches its balance (excluding reserves).

(7) *Single application requesting more than the balance in an NROGO bank account.* If there are not any competing applications, the Planning Commission may grant the total amount of nonresidential floor area available in an NROGO bank account (excluding reserved floor area) to the applicant and require the applicant to acquire the remaining nonresidential floor area through the NROGO permit allocation system.

(8) *De minimis applications.* Square footage for de minimis applications may be deducted from the annual NROGO allocation or the NROGO bank. Nonresidential floor area permitted via de minimis shall be deducted from the NROGO subarea account in which the property is located.

~~(9) *Testimony.* The public, including but not limited to applicants, shall be permitted to testify at the public hearing. Applicants may offer testimony about their applications or other applications; however, in no event may an applicant offer modifications to an application that could change the points awarded or the ranking of the application.~~

~~(10) *Decision by the Planning Commission.* At the conclusion of the public hearing, the Planning Commission may:~~

~~a. If applicable, move to accept the evaluation rankings as submitted by the Planning Director;~~

~~b. If applicable, move to accept the evaluation rankings as may be modified as a result of the public hearing;~~

~~c. Move to continue the public hearing to take additional public testimony;~~

~~d. Move to close the public hearing but to defer action on the evaluation rankings pending receipt of additional information; and~~ or

~~e. Move to reject the evaluation rankings.~~

~~Within 60 days of the public hearing, the Planning Commission shall render its final decision on an application for an allocation by way of the NROGO bank by resolution. If an approval, the resolution shall be issued and pass all relevant appeal periods prior to issuance of a building permit requiring the nonresidential floor area awarded by the resolution.~~

~~(11) *Opening balances.* Opening balances for the NROGO bank accounts as of NROGO Year 22 (July 13, 2013). The opening balances for the NROGO bank accounts shall be determined and calculated by the Planning and Environmental Resources~~

~~Department based on available and unused annual nonresidential floor area from NROGO Years 10 through 21.~~

~~(12) *Joint Account.* Commencing NROGO Year 23 (July 13, 2014), on the opening date of each NROGO Year, excluding the reserves provided for in subsection (e)(4), the non-reserve balances of the general (joint) bank account for the Upper Keys ROGO subarea and the Lower Keys ROGO subarea shall be returned to the general or joint account for award within the Upper Keys and Lower Keys ROGO subareas.~~

~~(9)~~(13)*Notification to the general public of the availability of the NROGO account balances.* For each of the ~~four~~ Planning Commission public hearings in a given NROGO Year in which NROGO allocations may be awarded, the Planning and Environmental Resources Department shall provide a detailed report to the Planning Commission and general public providing the exact balances of nonresidential floor area that exist within the NROGO bank. In addition, these balances shall be provided in the newspaper advertisements for the Planning Commission public hearings (as required by Section 110-5) in which NROGO allocation awards may be awarded.

Sec. 138-54. Administrative Relief.

(a) **Eligibility.** An applicant is eligible for administrative relief under the provisions of this section if all the following criteria are met:

(1) The subject applicant has complied with all requirements of the nonresidential permit allocation system;

(2) The subject application has been ~~denied an allocation award~~ considered for four successive years (through either the first 16 consecutive quarterly allocation periods through July 12, 2026 (Year 34), thereafter eight (8) semi-annual allocation periods, or some combination thereof that results in four successive years) in the NROGO Allocation System and has failed to receive an allocation award;

(3) The proposed development otherwise meets all applicable county, state, and federal regulations;

(4) The subject NROGO application has not been withdrawn or received a new controlling date pursuant to LDC Section 138-52(b);

(5) The applicant has complied with all the requirements of the NROGO Allocation System; and

(6) The applicant has followed the procedures for administrative relief.~~; and~~

~~(7) The applicant has not received an allocation award.~~

(b) **Application.** An application for administrative relief shall be made on a form prescribed by the Planning Director and may be filed with the Planning and Environmental Resources Department no earlier than the conclusion of the fourth annual allocation period and no later than 180 days following the close of the fourth annual allocation period. The fourth annual allocation period shall be defined as either the first 16 consecutive quarterly allocation periods through July 12, 2026 (Year 34), thereafter eight (8) semi-annual allocation periods, or some combination thereof that results in four successive years.

(c) **Waiver of rights.** Failure to file an application shall constitute a waiver of any rights under this section to assert that the subject property has been taken by the county without payment of just compensation as a result of the nonresidential floor area allocation system.

(d) **Exceptions.** Monroe County shall preclude the granting of administrative relief in the form of the issuance of a building permit for lands within the Florida Forever targeted acquisition or Tier I land areas unless, after 60 days from the receipt of a complete application for administrative relief, it has been determined the parcel cannot be purchased for conservation purposes by any county, state or federal agency or any private entity. The county shall routinely notify the Department of Environmental Protection of upcoming administrative relief requests at least six months prior to the deadline for administrative relief.

(e) **Processing and review by Planning Director.** Upon the filing of an application for administrative relief, the Planning Director shall prepare a written report with recommendation and forward the report to the BOCC along with all relevant files and records relating to the subject application. The Planning Director shall advertise and schedule a public hearing for consideration of the application by the BOCC.

(f) **Public hearing.** At a duly noticed public hearing at which the applicant will be given an opportunity to be heard, the BOCC may review the relevant application and application evaluation ranking, taking testimony from county staff and others as may be necessary and review documentary evidence submitted by the applicant.

(g) **BOCC action.** At the conclusion of the public hearing, the BOCC may take any or a combination of the following actions:

(1) Offer to purchase the property at or above its fair market value (as determined by the County's appraisal) in accordance with Comprehensive Plan Policy 101.7.1, as its preferred action if the property is located within:
   a. A designated Tier I area or within the Florida Forever (or its successor) targeted acquisition areas (unless, after 60 days from the receipt of a complete application for administrative relief, it has been determined no county, state or federal agency or any private entity is willing to offer to purchase the parcel);
   b. A designated Tier II area (Big Pine Key and No Name Key);
   c. A designated Tier III-A area (special protection area); or
   d. A designated Tier III area on a nonwaterfront lot for affordable housing.

   Refusal of the purchase offer by a property owner shall not be grounds for the granting of a NROGO allocation award.

(2) Grant the applicant an allocation award for all or part of the nonresidential floor area requested in the next allocation ~~award~~ period as the preferred option for buildable properties not meeting the criteria in subsection (g)(1) of this section.

(3) Suggest such other relief as may be necessary and appropriate.

(4) Deny based upon any one of the following findings by a special magistrate or the Board of County Commissioners:

   a. The applicant previously filed an inverse condemnation or other private property rights claim or cause of action that gave rise to a final judgment or order of dismissal issued by a court of competent jurisdiction in Monroe County's favor, and said claim or cause of action involved the same property and issues of fact that underlie the application for administrative relief;

   b. A court of competent jurisdiction likely would determine that the failure of the applicant to qualify for an allocation award has not caused a taking of the property (whether such liability, at the time of application under this policy, is likely to be established by a court of competent jurisdiction should be

determined based on applicable statutory, regulatory, and case law at the time the application is considered under this policy);

c. The property retains a practicable economically beneficial use despite its failure to qualify for an allocation award;

d. The applicant previously received an offer from a state or federal governmental agency to purchase the property at its fair market value that was rejected by the applicant;

e.. The failure of the applicant to qualify for an allocation award can be attributed to laws or regulations that are imposed or mandated by an agency of the federal government.

Sec. 138-55. Evaluation Criteria (NROGO).

(a) **Evaluation point values.** The following point values established are to be applied cumulatively except where otherwise specified. For all applications entering the Nonresidential Permit Allocation system after July 13, 2016, the following points and criteria shall apply:

(1) *Tier designation.* Utilizing the Tier System for land classification, the following points shall be assigned to allocation applications for proposed nonresidential development in a manner that encourages development of infill in predominately developed areas with existing infrastructure, commercial concentrations, and few sensitive environmental features, and discourages development in areas with environmentally sensitive upland habitat, which are targeted for acquisition and the retirement of development rights for resource conservation and protection:

Point Assignment:	**Criteria for lots/parcels ~~(O~~outside Big Pine Key and No Name Key~~)~~:**
0	Proposes new nonresidential development within an area designated Tier I [Natural Area].
+4	Proposes expansion of an existing, lawfully established nonresidential development regardless of Tier, with no further clearing of any native upland vegetation.
+10	Proposes new nonresidential development that will result in the clearing of any upland native vegetation within a Special Protection Area in Tier III-A.
+20	Proposes new nonresidential development within an area designated Tier III [Infill Area].

Point Assignment	**Criteria for lots/parcels ~~(W~~within Big Pine Key and No Name Key~~)~~:**
0	Proposes new nonresidential development within an area designated Tier I [Natural Area]
+10	Proposes new nonresidential development within an area designated Tier II [Transition and Sprawl Reduction Area on Big Pine Key and No Name Key].
+20	Proposes new nonresidential development within an area designated Tier III on Big Pine Key and No Name Key.

+4	Proposes expansion of an existing, lawfully established nonresidential development regardless of Tier, with no further clearing of any native upland vegetation, located within the U.S. 1 Corridor Area and the commercial community center overlay in the Big Pine Key and No Name Key Livable CommuniKeys Community Master Plan.

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(3) *Land dedication.* The following points shall be assigned to allocation applications to encourage the voluntary dedication of vacant, buildable land within Tier I, Tier II (Big Pine Key and No Name Key), and Tier III-A (Special Protection Areas (SPA)) designated areas and parcels which contain undisturbed wetlands for the purposes of conservation, resource protection, restoration or density reduction and, if located in Tier III outside of Special Protection Areas, for the purpose of providing land for the retirement of development rights or affordable housing where appropriate. Applicants can utilize lands donated pursuant to Policy 101.5.26; however, submerged lands (inundated by water) shall not be eligible for land dedication.

Point Assignment:	**Criteria <u>for lots/parcels</u> (~~O~~<u>o</u>utside Big Pine Key and No Name Key~~)~~:**
+4 for each platted lot	Proposes dedication to Monroe County of one (1) vacant, legally platted lot, designated as Tier III for affordable housing, containing a minimum of 2,000 square feet of uplands. Each additional vacant, legally platted lot which meets the aforementioned requirements will earn the additional points as specified.
+5 for each platted lot	Proposes dedication to Monroe County of one (1) vacant, legally platted lot, designated as Tier III containing a minimum of 2,000 square feet of uplands. Each additional vacant, legally platted lot that meets the aforementioned requirements will earn points as specified.
+4 for each parcel	Proposes dedication to Monroe County of one vacant parcel with a minimum of 2,000 square feet of uplands, designated as Tier III for the retirement of development rights. Each additional vacant parcel that meets the aforementioned requirements will earn points as specified.
+1 for each platted lot	Proposes dedication to Monroe County of a vacant, legally platted lot within a Tier I area, designated as Residential Low containing a minimum of 2,000 square feet of uplands. Each additional vacant, legally platted lot that meets the aforementioned requirements will earn points as specified.
+0.5 for each platted lot	Proposes dedication to Monroe County of one (1) vacant, legally platted lot within a Tier I area, designated as Residential Conservation containing a minimum of 2,000 square feet of uplands. Each additional vacant, legally platted lot that meets the aforementioned requirements will earn points as specified.
+2.5 for each platted lot	Proposes dedication to Monroe County of one (1) vacant, legally platted lot, within a Tier I area and containing a minimum of 2,000 square feet of uplands and not designated as Residential Conservation or

	Residential Low. Each additional vacant, legally platted lot that meets the aforementioned requirements will earn points as specified.
+2 for each parcel	Proposes dedication to Monroe County less than one (1) acre of vacant, unplatted land located within a Tier I area containing a minimum of 2,000 square feet of uplands. Each additional parcel with vacant, unplatted land that meets the aforementioned requirements will earn points as specified.
+4 for each acre	Proposes dedication to Monroe County of at least one (1) acre of vacant, unplatted land located within a Tier I area containing a minimum of 2,000 square feet of uplands. Each additional one (1) acre of vacant, unplatted land that meets the aforementioned requirements will earn points as specified.
+2 for each platted lot	Proposes dedication to Monroe County of one (1) vacant, legally platted lot which contains undisturbed wetlands. Each additional vacant, legally platted lot that meets the aforementioned requirements will earn points as specified
+2 for each platted lot	Proposes dedication to Monroe County of one (1) vacant, legally platted lot, designated as Tier III-A (Special Protection Area-SPA) containing a minimum of 2,000 square feet of uplands. Each additional vacant, legally platted lot that meets the aforementioned requirements will earn points as specified.
+2 for each parcel	Proposes dedication to Monroe County less than one (1) acre of vacant, unplatted land located within a Tier III-A area containing a minimum of 2,000 square feet of uplands. Each additional parcel with vacant, unplatted land that meets the aforementioned requirements will earn points as specified.
+3 for each parcel	Proposes dedication to Monroe County of at least one (1) acre of vacant, unplatted land located within a Tier III-A area containing a minimum of 2,000 square feet of uplands. Each additional parcel with vacant, unplatted land that meets the aforementioned requirements will earn points as specified.
Additional Requirements:	
	A statutory warranty deed that conveys the dedicated property to the county shall be approved by the Planning Director and County Attorney and recorded in the office of the clerk of the county prior to the issuance of any building permit pursuant to an allocation award. Other documents related to the approval of the land dedication may include, but are not limited to, affidavit of no encumbrance(s), entity affidavit, subject to the approval of the Planning Director and County Attorney and recorded in the office of the clerk of the county at the expense of the applicant, prior to the issuance of any building permit pursuant to an allocation award.

Point Assignment:	**Criteria for lots/parcels ~~(W~~within Big Pine Key and No Name Key~~)~~:**

+2 for each platted lot	Proposes dedication to Monroe County of one (1) vacant, legally platted lot, designated as Tier I on Big Pine Key and No Name Key, containing a minimum of 2,000 square feet of uplands. Each additional vacant, legally platted lot that meets the aforementioned requirements will earn points as specified.
+4 for each acre	Proposes dedication to Monroe County of at least one (1) acre of vacant, unplatted land located within a Tier I area on Big Pine Key or No Name Key, containing a minimum of 2,000 square feet of uplands. Each additional one (1) acre of vacant, unplatted land that meets the aforementioned requirements will earn points as specified.
+2 for each parcel	Proposes dedication to Monroe County of less than one (1) acre of vacant, unplatted land located within a Tier I area on Big Pine Key or No Name Key, containing a minimum of 2,000 square feet of uplands. Each additional parcel with vacant, unplatted land that meets the aforementioned requirements will earn points as specified.
+2 for each platted lot	Proposes dedication to Monroe County of one (1) vacant, legally platted lot, designated as Tier II on Big Pine Key and No Name Key, containing a minimum of 2,000 square feet of uplands. Each additional vacant, legally platted lot that meets the aforementioned requirements will earn points as specified.
+3 for each acre	Proposes dedication to Monroe County of at least one (1) acre of vacant, unplatted land located within a Tier II area on Big Pine Key or No Name Key, containing a minimum of 2,000 square feet of uplands. Each additional one (1) acre of vacant, unplatted land that meets the aforementioned requirements will earn points as specified.
+2 for each parcel	Proposes dedication to Monroe County less than one (1) acre of vacant, unplatted land located within a Tier II area on Big Pine Key or No Name Key, containing a minimum of 2,000 square feet of uplands. Each additional parcel with vacant, unplatted land that meets the aforementioned requirements will earn points as specified.
+5 for each platted lot	Proposes dedication to Monroe County of one (1) vacant, legally platted lot, designated as Tier III on Big Pine Key or No Name Key, containing a minimum of 2,000 square feet of uplands. Each additional vacant, legally platted lot that meets the aforementioned requirements will earn points as specified.
+4 for each parcel	Proposes dedication to Monroe County of one (1) vacant parcel with a minimum of 2,000 square feet of uplands, designated as Tier III for the retirement of development rights. Each additional vacant parcel that meets the aforementioned requirements will earn points as specified.
+2 for each platted lot	Proposes dedication to Monroe County of one (1) vacant, legally platted lot on Big Pine Key or No Name Key which contains undisturbed wetlands. Each additional vacant, legally platted lot that meets the aforementioned requirements will earn points as specified.
Additional Requirements:	
	A statutory warranty deed that conveys the dedicated property to the county shall be approved by the Planning Director and County Attorney

	and recorded in the office of the clerk of the county prior to the issuance of any building permit pursuant to an allocation award. Other documents related to the approval of the land dedication may include, but are not limited to, affidavit of no encumbrance(s), entity affidavit, subject to the approval of the Planning Director and County Attorney and recorded in the office of the clerk, at the expense of the applicant, of the county prior to the issuance of any building permit pursuant to an allocation award.

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~~(5) *Perseverance Points.*~~

~~**Point Assignment:**~~	~~**Criteria:**~~
~~+1 for four years~~	~~For parcels designated Tier I, II or III-A, one (1) point shall be awarded for each year that the allocation application remains in the allocation system up to four (4) years.~~
~~+0.5 after four years~~	~~After four (4) years, the application shall be awarded 0.5 points for each year the application remains in the system.~~
~~+2 for four years~~	~~For parcels designated Tier III, two (2) points shall be awarded for each year that the allocation application remains in the allocation system up to four (4) years.~~
~~+1 after four years~~	~~After four (4) years, the application shall be awarded one (1) point for each year the application remains in the system.~~
~~Applications entering the NROGO system after July 13, 2016, shall receive perseverance points as listed above.~~	

(6~~5~~)*Highway Access.* The following points shall be assigned to allocation applications to encourage connections between commercial uses and reduction of the need for trips and access onto U.S. Highway 1:

Point Assignment:	**Criteria:**
+3	The development eliminates an existing driveway on or access-way to U.S. Highway 1.
+2	The development provides no new driveway or access-way on U.S. Highway 1 and provides a connection between commercial uses.

(~~7~~6)*Landscaping, Energy and Water Conservation.* The following points shall be assigned to allocation applications on lands designated as Tier III to encourage the planting of native vegetation and promote water conservation and increased energy efficiency:

Point Assignment:	**Criteria:**
+1	The project provides a total of two hundred percent (200%) of the number of native landscape plants required by the Land Development Code within landscaped bufferyards and parking areas.
+1	Twenty-five percent (25%) of the native plants provided to achieve the point award above or provided to meet the landscaped bufferyard and

	parking area requirements of the Land Development Code are listed as threatened or endangered plants native to the Florida Keys.
+1	Project landscaping is designed for water conservation including the collection and direction of rainfall to landscaped areas, or the application of re-used wastewater for watering landscape plants.
+3	Proposes a commercial structure designed according to and certified to the standards of a sustainable building rating or national model green building code.
+1	Includes installation of a solar photovoltaic collection system, a minimum of 3KW in size or the equivalent in other renewable energy systems.*
+0.5	Includes installation of one or both of the following technologies:* a. Ductless air conditioning system. b. High efficiency chillers.
+1	Includes installation of a permanent concrete cistern with a minimum capacity of 2,000 gallons.
+2	Includes the installation of a gray water reuse system meeting the requirements of the Florida Building Code.
** The systems must be maintained for a minimum of five years from C.O. unless replaced with a system that provides a functional equivalent or increased energy or water savings.*	

(~~8~~7)*Central Wastewater System Availability*~~*~~. The following points shall be assigned to allocation applications to direct development to areas with central sewer:

Point Assignment:	**Criteria:**
+4~~*~~	Proposes development required to be connected to a central wastewater treatment system that meets the AWT treatment standards established by Florida Legislature and Policy 901.1.1. These points shall not apply to parcels within a CBRS system unit.
~~*These points shall not apply to parcels within a CBRS system unit.~~	

(~~9~~8)*Employee Housing.* The following points, up to a maximum of four (4) points, shall be assigned to allocation applications, which includes new employee housing units:

Point Assignment:	**Criteria:**
+2	Proposes a new employee housing unit which is located on the same parcel with a nonresidential use.
Additional Requirements:	
	1. The employee housing unit shall be required to meet the applicable provisions of Section 139-1.
	2. The proposed employee housing unit shall be included in the development approval for the nonresidential development proposed in the allocation application.

	3. A certificate of occupancy shall be granted for the nonresidential development authorized by the allocation award, but shall not be issued prior to the certificate of occupancy for the employee housing units.
	4. Each additional NROGO application which increases the number of proposed employee housing units may receive additional points. The same employee housing unit included in a previous NROGO application cannot earn additional points in subsequent applications.

(~~10~~9)*Payment to the Land Acquisition Fund.* Up to two (2) whole points shall be awarded for a monetary payment by the applicant to the County's land acquisition fund for the purchase of lands for conservation, and retirement of development rights. The monetary value of each point shall be set annually by resolution of the BOCC ~~the County~~ based on the following criteria: ~~upon the estimated average fair market value of vacant, privately-owned, buildable IS/URM zoned, platted lots.~~

1. The monetary value of each point shall be based upon the average fair market value of privately-owned, buildable, vacant, IS/URM, platted lots divided by four.
2. Payment to the County's land acquisition fund shall be paid at the time of ROGO Application submission.

(1~~1~~0)*Community Centers.* The following points shall be assigned to allocation applications to encourage, nonresidential development within ~~an~~ areas designated as a Community Center in an adopted Livable CommuniKeys Plan.

Point Assignment:	**Criteria:**
+5	Proposes nonresidential development within an area designated as a Community Center.

(11)*Perseverance Points.* Applications entering the NROGO system after July 13, 2016, shall receive perseverance points as described in the table below.

If, after gaining a perseverance point(s), an application is withdrawn for any reason, the perseverance point(s) gained shall be retained; however, a new submittal date and time shall be established.

Point Assignment:	**Criteria:**
+1 for four years	For parcels designated Tier I, II or III-A, one (1) point shall be awarded for each year that the allocation application remains in the allocation system up to four (4) years.
+0.5 after four years	For parcels designated Tier I, II or III-A, after four (4) years, the application shall be awarded 0.5 points for each year the application remains in the system.
+2 for four years	For parcels designated Tier III, two (2) points shall be awarded for each year that the allocation application remains in the allocation system up to four (4) years.
+1 after four years	For parcels designated Tier III, after four (4) years, the application shall be awarded one (1) point for each year the application remains in the system.

Sec. 138-56. Appeals.

(a) An appeal from the decision of the Planning Commission on an NROGO allocation shall be made to the BOCC. The notice of such an appeal shall be in a form prescribed by the Planning Director and must be filed with the Planning Director within 20 working days of the Planning Commission's decision. Upon the filing of an appeal, the Planning Commission's secretary will forward to the board all relevant files and records relating to the matter. Failure to file an appeal with the BOCC shall constitute a waiver of any rights under this chapter to further dispute the decision of the Planning Commission.

(b) The filing of an appeal shall not stay either the action of the Planning Commission or the action of the director of planning.

(c) If, as a result of a successful appeal, additional allocation awards are to be made, the BOCC shall instruct the Planning Director as to how many nonresidential floor space applications shall receive allocation awards, when such allocation awards are to be made and what effect such additional allocation awards will have on the current annual allocation for nonresidential floor area. To ensure that the allocations set forth in Section 138-51 are not exceeded, the Planning Director shall inform the Planning Commission of the results of the appeal and the disposition of any additional allocation awards.

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Chapter 139
AFFORDABLE AND EMPLOYEE HOUSING

Sec. 139-1. Affordable and Employee Housing; Administration.

(a) **Purpose.**

(1) The Board of County Commissioners has determined that the public health, safety and general welfare of the community warrants the implementation of affordable and employee housing provisions for the following purposes:

a. To implement the goals, objectives and policies ~~and objectives~~ of the Monroe County 2030 Comprehensive Plan and increase the supply of affordable housing ~~affordable~~ to targeted income groups within the community; and

b. To provide housing opportunities for lower income groups in order to meet the existing and anticipated housing needs of such persons and to maintain a socio-economic mix in the community; and

c. To address market demands that show that the workforce in the County continues to require moderately priced housing units, particularly those whose earnings range from 50 percent up to 120 percent of the County's median income, the target income groups; and

d. To reduce the out-migration of the people employed in the County and their families which has placed increasing stress in maintaining a viable workforce; and

e. To stimulate the private sector production of affordable housing and encourage the widespread distribution of affordable housing opportunities throughout all portions of the community, including within new and expanding developments; and

f. To provide for a range of housing opportunities for those who live and work in Monroe County and who provide the community with essential services, especially in the public health and safety sectors of the economy.

(b) **Generally.**

(1) Notwithstanding the density limitations in Section 130-157, the owner of a parcel of land shall be entitled to:

a. Develop affordable and employee housing as defined in Section 101-1, on parcels of land classified as follows:

1. Urban Residential (UR) at an intensity up to a maximum net residential density of 25 dwelling units per buildable acre, and

2. Mixed Use (MU) at an intensity up to a maximum net residential density of 18 dwelling units per buildable acre, and

3. Suburban Commercial (SC) at an intensity up to a maximum net residential density of 18 dwelling units per buildable acre.

b. Develop market rate housing, as defined in Section 101-1, as part of an affordable or employee housing project in accordance with subsection (b)(8) of this section, provided that on parcels of land classified as Urban Residential (UR), the maximum net residential density shall not be greater than 18 dwelling units per buildable acre.

(2) The maximum net residential density allowed per district and by this section shall not require Transferable Development Rights (TDR) for affordable and employee housing and market rate housing developed in accordance with subsection (b)(8) of this section.

(3) Market_rate housing developed in accordance with subsection (b)(8) below shall be eligible to receive points pursuant to Section 138-28(~~b~~a)(6).

(4) The requirements of this Land Development Code for the provision of impact fees shall be waived for affordable and employee housing and any market rate housing developed in accordance with subsection (b)(8) of this section.

(5) Notwithstanding the provisions of this article, when calculating density, any existing lawfully established or proposed affordable or employee housing on a parcel and the floor area thereof shall be excluded from the calculation of the total gross nonresidential floor area and hotel/motel density development that may be lawfully established on the parcel, provided, however, that the total residential density allowed on the site shall not exceed the maximum net density for affordable and employee housing.

In order for affordable density to be excluded from hotel/motel density on a parcel as set forth in subsection (5) above, the following criteria must be met:

a. All affordable units must be deed restricted as employee housing, as defined in section 101-1;

b. The ratio of affordable units must adhere to the following schedule:

1. A maximum of 25 percent moderate income, and a minimum of 25 percent low income or very low income, or one dwelling unit, whichever is greater; and

2. Fifty percent of affordable units shall be allotted to on-site personnel;

c. The total maximum net density of any such parcel shall not exceed 25 dwelling units per buildable acre for hotel/motel rooms or spaces and affordable or employee housing combined. In no case shall hotel/motel rooms or spaces exceed the maximum allocated density (without the use of TDRs) or the maximum net density (with the use of TDRs) set forth in section 130-162. In no case shall affordable or employee housing exceed the maximum net density as set forth in section 130-157;

d. The owner of the hotel/motel must provide the employees of the hotel/motel a right of first refusal for lease of any affordable housing; and

e. The subject property must be designated Tier III.

(6) In order for the owner of a parcel of land to be entitled to the incentives for affordable or employee housing outlined in this section and Chapter 138, Articles II and III, the owner must ensure that:

a. The use of the affordable housing dwelling unit is restricted to households that meet the annual income limits as defined in Section 101-1;

b. Except as provided for under the special provisions for employer-owned rental housing as set forth under subsection (b)(6)k of this section, if the affordable housing dwelling unit is designed for employee housing, the use of the dwelling is restricted to households that derive at least 70 percent of their household income from gainful employment in the county and meet the annual income limits as defined in Section 101-1;

c. The use of the affordable or employee dwelling unit is deed restricted for the 99-year period specified in Section 101-1;

d. Tourist housing use or vacation rental use of affordable or employee housing units is prohibited;

e. The parcel of land proposed for development of affordable or employee housing shall only be located within a tier III designated area.

Notwithstanding the foregoing, and notwithstanding Section 138-24(a)(5), affordable housing ROGO allocations may be awarded to properties within any tier, provided all of the following criteria is met:

1. The property contains an existing market rate dwelling unit that meets the criteria in LDC Section 138-22(a) and is determined to be exempt from ROGO;

2. The proposed replacement affordable dwelling unit meets current Florida Building Code and is not a mobile home;

3. The proposed replacement dwelling unit shall be deed restricted for a period of at least 99 years as affordable housing pursuant to the standards of the Land Development Code; and

4. The proposed site plan for the replacement affordable dwelling unit does not propose any additional clearing of habitat.~~; and~~

~~5. The structure is not proposed to be within a V-zone on the county's flood insurance rating map.~~

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k. In the special case of employer-owned rental housing, as defined in Section 101-1, employees shall be eligible as tenants of the affordable rental housing, if the income of each individual tenant, as determined following the requirements in subsection (b)(6)j. of this section, is not more than the 80 percent (low income) of the area median income for the county. The tenants of this employer-owned rental housing shall be required to derive at least 70 percent of their income from gainful employment within the county. The maximum occupancy of employer-owned rental housing for employees shall be no more than two (2) tenants per bedroom; with a maximum of three (3) bedrooms per unit. The total monthly lease charged tenants for each dwelling unit shall not exceed 30 percent of the area median income for the county, divided by 12.

(7) Commercial apartment dwelling units, as defined in Section 101-1, shall only be eligible for the incentives outlined in this section if they meet the requirements of subsection (b)(6) of this section for employee housing.

(8) If an affordable or employee housing project or an eligible commercial apartment designated for employee housing contains at least five (5) dwelling units, a maximum of 20 percent of these units may be developed as market rate housing dwelling units. The owner of a parcel of land must develop the market rate housing dwelling units as an integral part of an affordable or employee housing project. In order for the market rate housing dwelling units to be eligible for incentives outlined in this section, the owner must ensure that:

a. The use of the market rate housing dwelling unit is restricted for a period of at least 30 years to households that derive at least 70 percent of their household income from gainful employment in the county; and

b. Tourist housing use and vacation rental use of the market rate dwelling unit is prohibited.

(c) **Administration and compliance.**

(1) Before any building permit may be issued for any structure, portion or phase of a project subject to this section, a restrictive covenant shall be approved by the Planning Director and County Attorney and recorded in the Office of the Clerk of the County at the expense of the applicant to ensure compliance with the provision of this section running in favor of the County and enforceable by the County and, if applicable, a participating municipality. The following requirements shall apply to these restrictive covenants:

a. The covenants for any affordable or employee housing units shall be effective for a period of at least 99 years.

b. The covenants shall not commence running until a certificate of occupancy has been issued by the building official for the dwelling unit(s) ~~or dwelling units~~ to which the covenant(s) ~~or covenants~~ apply.

c. For existing dwelling units that are deed-restricted as affordable or employee housing units, the covenants shall commence running upon recordation in the Official Records of Monroe County.

(2) Restrictive covenants for housing subject to the provisions of this section shall be filed that require compliance with the following:

a. Restricting affordable housing dwelling units to households meeting the income requirements of subsection (b)(6)a. of this section;

b. Restricting employee housing dwelling units to households meeting the income and employment requirements of subsection (b)(6)b. of this section;

c. Restricting market rate housing dwelling units to households meeting the employment requirements of subsection (b)(8)a. of this section; and

d. Prohibiting tourist housing use or vacation rental use of any housing developed or deed-restricted under the provisions of this section.

(3) The eligibility of a potential owner-occupier or renter of an affordable, employee or market rate housing dwelling unit, which is an employee or affordable housing project/unit, shall be determined by the Planning Department upon submittal of an affidavit of qualification to the Planning Department. The form of the affidavit shall be in a form prescribed by the Planning Department. This eligibility shall be determined by the Planning Department as follows:

a. At the time the potential owner either applies for affordable housing ROGO allocation, or applies to purchase a unit that used affordable housing ROGO allocation or applies to purchase a deed-restricted dwelling unit; or

b. At the time the potential renter applies to occupy a residential unit that used an affordable ROGO allocation or is deed-restricted.

(4) Except as provided in subsection (c)(5) of this section, the property owner of each affordable employee or market rate housing dwelling unit, which is an affordable or employee housing project/unit, shall be required to annually submit an affidavit of qualification to the Planning Department verifying that the applicable employment and income requirements of subsection (c)(2) of this section are met. The annual affidavit of qualification shall be in a form prescribed by the Planning Director and shall be filed by the property owner annually by May 1st.

(5) The owner-occupant of an affordable, employee, or market rate housing dwelling unit, which is an affordable or employee housing project/unit, who has received a homestead exemption as provided for under the state statutes, is not required to submit an annual affidavit of qualification as required above in subsection (c)(4) of this section if that owner-occupant was qualified previously by the Planning Department. Prior to any change in ownership (including, but not limited to: sale, assignment, devise, or otherwise), the owner-occupant shall be required to provide documentation to the Planning Department in a form prescribed by the Planning Director proving that the potential occupying household is eligible to occupy that unit prior to a change in ownership of the property.

(6) Failure to submit the required annual verification as required in subsection (c)(4) of this section or failure to provide documentation prior to change in ownership required in

subsection (c)(5) of this section shall constitute a violation of the restrictive covenant, the conditions of the certificate of occupancy and this Land Development Code.

(7) The restrictive covenants for affordable and employee housing required under this section shall be approved by the Planning Director and County Attorney prior to the recording of the covenant in the Office of the Clerk of the County, at the expense of the applicant, and prior to issuance of any building permit.

(8) Upon written agreement between the Planning Director and an eligible governmental or nongovernmental entity, the Planning Director may authorize that entity to administer the eligibility and compliance requirements for the Planning and Environmental Resources Department under subsections (c)(3), (c)(4), and (c)(5) of this section. Under such an agreement, the eligible entity is authorized to qualify a potential owner-occupier or renter of affordable, employee, or market rate housing developed as part of an employee or affordable housing project, and annually verify the employment and/or income eligibility of tenants pursuant to subsection (c)(2) of this section. The entity shall still be required to provide the Planning and Environmental Resources Department, by May 1st of each year, a written certification verifying that tenants of each affordable, employee, or market rate housing units meets the applicable employment and income requirements of subsection (c)(2) of this section. The following governmental and nongovernmental entities shall be eligible for this delegation of authority:

a. The county housing authority, not-for-profit community development organizations, pursuant to subsection (i) of this section, and other public entities established to provide affordable housing;

b. Private developers or other nongovernmental organizations participating in a federal/state housing financial assistance or tax credit program or receiving some form of direct financial assistance from the County; or

c. Nongovernmental organizations approved by the BOCC as affordable housing providers.

(9) Should an entity fail to satisfactorily fulfill the terms and conditions of the written agreement executed pursuant to subsection (c)(6) and (8) of this section, the Planning Director shall provide written notice to the subject entity to show cause why the agreement should not be terminated within 30 days. If the entity fails to respond or is unable to demonstrate to the satisfaction of the Planning Director that it is meeting the terms and conditions of its agreement, the agreement may be terminated by the Planning Director within 30 days of the written notice.

(d) **Interlocal affordable rate of growth allocation agreements.** The BOCC may authorize interlocal agreements between the County and the cities of Marathon, and Key West, and Islamorada, Village of Islands for the purpose of sharing residential rate of growth affordable housing allocations. The interlocal agreements may be based upon a specific project proposal within one or more jurisdictions or may be for a specific allocation of units on an annual basis, from the county to a municipality or from a municipality to the county. ~~The interlocal agreements may also accept and/or transfer allocations pursuant to the 2012 Hurricane Evacuation Clearance Time Memorandum of Understanding.~~ All allocations made available to a jurisdiction must meet

the applicable affordable housing requirements of the receiving jurisdiction's land development regulations and affordable housing ordinances.

(e) **Residential Inclusionary Housing Requirements.**

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(3) *Exemptions and waivers.*

a. The following uses shall be exempt from the inclusionary housing requirements set forth in subsection (e)(2)a. of this section: affordable housing, employee housing, nursing homes, or assisted care living facilities.

b. The BOCC may reduce, adjust, or waive the requirements set forth in this subsection (e) where, based on specific findings of fact, the BOCC concludes, with respect to any developer or property owner, that:

1. Strict application of the requirements would produce a result inconsistent with the Comprehensive Plan or the purpose and intent of this subsection;

2. Due to the nature of the proposed residential development, the development furthers Comprehensive Plan policies and the purpose and intent of this subsection through means other than strict compliance with the requirements set forth herein;

3. The developer or property owner demonstrates an absence of any reasonable relationship between the impact of the proposed residential development and requirements of this subsection (e);

4. The strict application with the requirements set forth herein would improperly deprive or deny the developer or property owner of constitutional or statutory rights; or

5. In the event of a declared State of Local Emergency, the BOCC adopts a resolution recognizing that the strict application of the nonresidential inclusionary requirements would not enhance nor protect the health, safety and welfare of the community.

c. Any developer or property owner who believes that he/she may be eligible for relief from the strict application of this section may petition the BOCC for relief under this subsection (e)(3) of this section by submitting an application in a form specified by the Planning Director. Any petitioner for relief hereunder shall provide evidentiary and legal justification for any reduction, adjustment or waiver of any requirements under this section.

(4) *Alternate compliance.*

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c. *Land donation.* Upon the acceptance of the BOCC of a proposed onsite or offsite parcel(s) ~~(or parcels)~~, a developer may satisfy the requirements of this subsection by donating to the county, or other agency or not-for-profit organization approved by the BOCC, one (1) IS or URM platted lot for each inclusionary unit required but not

provided through actual construction or in-lieu fees (or ~~a parcel or~~ parcel(s) of land zoned other than IS or URM as long as the donated parcel(s) will support the development of an appropriate number of affordable inclusionary units). Lots or other parcels so provided shall not be subject to environmental or other constraints that would prohibit immediate construction of affordable housing units. The developer, along with any corresponding donated parcel(s), shall transfer to the county ownership the associated ROGO allocations or ROGO-exempt development rights for any affordable unit(s) required under this section. In order to utilize the land donation alternate compliance option, the developer must donate the land with associated ROGO allocations or exemptions. If ROGO allocations or exemptions are not available, the developer may not utilize this option.

(5) *Applicable standards.*

a. *Incentives.* All incentives and bonuses pursuant to this subsection (e), including, but not limited to, maximum net density provisions, non-residential intensity provisions, residential ROGO allocation set asides and points, and impact fee waivers, provided by the land development and other regulations for the construction of affordable housing shall be available to builders of affordable housing ~~provided pursuant to this subsection (e), including, but not limited to, density and floor area ratio bonuses, residential ROGO allocation set asides and points, and impact fee waivers~~.

b. *Developer responsibility.*

1. If the applicant elects to pursue alternative compliance as set forth in subsection (e)(4) of this section, the deed-restriction of existing dwelling units shall be recorded prior to the issuance of a building permit for any market rate unit; and/or any in-lieu fees must be paid or parcels donated, including the transfer to the county ownership the associated ROGO allocations or ROGO-exempt development rights, prior to the issuance of a building permit for any market rate unit.

2. If a developer does not elect to meet the requirements of subsection (e)(2) of this section through alternative compliance as set forth in subsection (e)(4) of this section, or obtain approval for an adjustment to, a partial exemption from or a waiver of strict compliance pursuant to subsection (e)(3) of this section, the developer must post a bond equivalent to 200 percent of the in-lieu fees that otherwise would have been required through the in-lieu alternate compliance option prior to the issuance of a building permit for any market rate unit(s). The county shall retain any bond money or guaranties in escrow until the affordable housing is completed, or for a period of three (3) years, whichever comes first. Upon the issuance of certificates of occupancy for the affordable housing units, the county shall release to the developer any bonds or guaranties relating to the portion of the inclusionary housing requirement satisfied. If the developer has not satisfied the requirements of this section by completing the required affordable housing units within three (3) years, all of the bond funds, or the corresponding portion ~~of the bond funds~~ shall be forfeited to the affordable housing trust fund.

c. *Standards.* Affordable workforce housing provided pursuant to subsection (e)(2) of this section shall comply with the standards set forth in subsections (b) and (c) and below. Applications for development projects subject to these requirements ~~and developers and property owners~~ shall ~~provide to the county~~ include information and necessary legal assurances to demonstrate current and continued compliance with these provisions to the County, consistent with the applicable enforcement mechanisms set forth in subsection (c) of this section. The county may institute any appropriate legal action necessary to ensure compliance with this subsection.

1. Affordable housing units required pursuant to subsection (e)(2) of this section are restricted to sales prices and annual rental amounts for households that shall not exceed the annual income limits for owner-occupied or rental housing, as defined in Section 101-1;

2. Affordable housing units provided pursuant to subsection (e)(2) of this section may be provided on-site, off-site or through linkage with another off-site project as provided in subsection (g) of this section;

3. Each affordable unit provided pursuant to subsection (e)(2) of this section shall contain a minimum of 350 square feet of habitable floor area;

4. The county will not issue certificates of occupancy for any market rate unit(s) associated with development or redevelopment projects subject to the provisions of this subsection (e) unless and until the developed affordable housing units have an approved and recorded deed restriction, and certificates of occupancy have been issued for required affordable housing units.

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(f) **Nonresidential Inclusionary housing requirements.**

(1) *Purpose.* Consistent with Goal 601 of the Comprehensive Plan, the purpose of this subsection (f) is to ensure that the need for affordable and workforce housing is not exacerbated by nonresidential and transient development, as follows:

a. Promote the health, safety and general welfare of the citizens of the County through the implementation of the goals, objectives and policies of the 2030 Monroe County Comprehensive Plan; and

b. To ensure that affordable housing opportunities are available throughout the entire community and to maintain a balanced and sustainable local economy and the provision of essential services; and

c. To increase the supply of affordable housing ~~affordable~~ to targeted income groups within the community; and

d. To provide a range of housing opportunities for those who work in Monroe County but may be unable to pay market rents or market housing prices in the community; and

e. To increase the percentage of the workforce living locally and to provide housing opportunities for lower income groups in order to meet the existing and anticipated

housing needs of such persons and to maintain a socio-economic mix in the community; and

f. To address the affordable workforce housing needs generated by the construction and expansion of nonresidential/transient development, and the employment that occurs at the nonresidential/transient development after the construction or expansion is completed; and

g. To ensure that affordable workforce housing is provided to the local workforce by the employee generating development proportionate with the demand for affordable workforce housing the development creates; and

h. To address market demands that show that the workforce in the County continues to require moderately priced housing units, particularly those whose earnings range from 50 percent up to 120 percent of the County's median income (the target income groups); and

i. To stimulate the private sector production of affordable workforce housing and encourage the widespread distribution of affordable workforce housing opportunities throughout all portions of the community, including within new and expanding developments.

(2) *Intent.* Nonresidential and transient use development or redevelopment generates a direct impact on housing for the workforce. The intent of this section is to ensure that there is an affordable supply of housing for the local workforce. This will be accomplished by requiring workforce housing be provided for all new development and redevelopment in an amount proportionate to the need for affordable workforce housing that the nonresidential and transient use development or redevelopment creates. The intent of this subsection is to permit nonresidential and transient use owners to continue to establish uses consistent with the current building and safety standards and to ensure that as development and redevelopment occurs, comprehensive plan policies regarding affordable housing are implemented. The technical support and analysis upon which the nonresidential inclusionary housing requirements are established are based upon the 'Affordable Workforce Housing Support Study for Non-Residential Development,' prepared by Clarion Associates, LLC, prepared in June 2017.

(3) *Applicability.* Except as provided in subsection (4) of this section, the nonresidential inclusionary housing requirements set forth below shall apply. This will be accomplished by requiring affordable workforce housing be provided for all new development and expansions in an amount proportionate to the need for affordable workforce housing that the nonresidential and transient uses create. Expansion as used in this section means extending a use or structure to occupy a greater amount of floor area or square footage beyond that which it occupied. Determinations regarding the applicability of this subsection shall be made by the Planning Director. The applicant shall provide the necessary information to determine compliance with the nonresidential inclusionary housing requirements on the forms prescribed by the Planning Director. For purposes of calculating the number of affordable workforce housing units required by this subsection, density bonuses shall not be counted, and only fractional requirements equal to or greater than 0.5 shall be rounded up to the nearest whole number.

a. *New Development.* Each new development project not exempted by subsection (4), shall mitigate 50% of the affordable workforce housing demand created by the proposed development by one or a combination of the methods identified in subsection (5).

b. *Redevelopment with an Expansion.* Each redevelopment project not exempted by subsection (4), shall mitigate 50% of the affordable workforce housing demand created by the proposed redevelopment by one or a combination of the methods identified in subsection (5). The affordable workforce housing required for nonresidential development when an existing use is expanded shall be calculated based on the incremental increase is size of the existing use (net additional square footage).

c. *Redevelopment with a Change in Use Increasing Housing Demand.* Each redevelopment project with a change of use increasing housing demand, not exempted by subsection (4), shall mitigate 50% of the affordable workforce housing demand created by the proposed redevelopment by one or a combination of the methods identified in subsection (5). The affordable workforce housing required for nonresidential development when a new use replaces an existing use and increases~~ing~~ housing demand (for example from an industrial use to an office use) shall be calculated based on the square footage proposed for conversion and/or based on the incremental increase in size of the new uses (if any).

d. *Unspecified Use.* If a proposed development project does not fall within one of the specific use categories in the table within subsection (5), then the Planning Director shall determine whether the use is comparable to a use category listed and assign a category or may allow the applicant to conduct an independent calculation to determine the appropriate affordable workforce housing inclusionary requirement. If the applicant chooses to propose an independent calculation, the following applies:

1. An independent calculation shall require a public meeting with the Board of County Commissioners to determine if there is a mutually agreeable approach to the calculation prior to the application proceeding to the Development Review Committee for review. The review of the independent calculation will not be scheduled as a public hearing, but as a public meeting during which the BOCC may offer their input and direction and the public may have input on the proposed methodology and calculation.

2. The applicant shall use generally accepted principles and methods and verifiable local information and data, and other appropriate materials to support the employee generation data and housing demand calculated.

3. The BOCC may agree or disagree with the independent calculation for mitigation based on generally recognized principles and methodologies of impact analysis and the accuracy of the data, information, and assumptions used to prepare the independent calculation.

4. Each development project subject to an independent calculation and not exempted by subsection (4), shall mitigate 50% of the demand for affordable workforce housing created by the development.

(4) *Exemptions and waivers.*

a. The following uses shall be exempt from the nonresidential inclusionary housing requirements set forth in subsections (f)(3) and (5) of this section:

1. Affordable housing developments; and

2. Residential developments; and

3. Nursing homes, assisted care living facilities, and retirement homes; and

4. Mobile home and manufactured home parks and subdivisions; and

5. Public facilities and public uses ~~limited to home parks and subdivisions~~; and

6. Airport uses; and

7. The new development, redevelopment, remodeling, repair, change to a different use category or cumulative expansion of a nonresidential use that does not establish or increase the area of the nonresidential use by more than 1,000 square feet of gross floor area or area of use. This exemption is not required to be utilized in whole or limited to a single building permit application; however cumulatively, an individual property shall not receive an exemption for any more than 1,000 square feet of gross floor area or area of use after April 17, 2024.

b. The BOCC may reduce, adjust, or waive the requirements set forth in this subsection (f), based on specific findings of fact, where the BOCC concludes, with respect to any applicant, that:

1. Strict application of the requirements would produce a result inconsistent with the Comprehensive Plan or the purpose and intent of this subsection;

2. Due to the nature of the proposed nonresidential development, the development furthers Comprehensive Plan policies and the purpose and intent of this subsection through means other than strict compliance with the requirements set forth herein;

3. The applicant demonstrates an absence of any reasonable relationship between the impact of the proposed nonresidential development and requirements of this subsection (f);

4. The strict application with the requirements set forth herein would improperly deprive or deny the applicant of constitutional or statutory rights; or

5. In the event of a declared State of Local Emergency, the BOCC adopts a resolution recognizing that the strict application of the nonresidential inclusionary requirements would not enhance nor protect the health, safety and welfare of the community.

Any applicant who believes that he/she may be eligible for relief from the strict application of this section may petition the BOCC for relief under this subsection (f)(4). Any petitioner for relief hereunder shall provide evidentiary and legal justification for any reduction, adjustment or waiver of any requirements under this section. The petitioner shall use generally accepted principles and methods

and verifiable local information and data, and other appropriate materials to support the requested relief.

(5) *Compliance Requirements.* Nonresidential development or redevelopment projects shall provide affordable workforce inclusionary housing as provided in subsection (3) of the affordable workforce housing demand created by the new or expanded development or redevelopment in accordance with the standards in the table below.

a. The table indicates the number of affordable workforce housing units or in-lieu fee needed for every square foot (and per 1,000 sf) of new development or redevelopment (expanded or converted square footage) for each category of non-residential land use.

TOTAL NEED CREATED BY NONRESIDENTIAL DEVELOPMENT (for construction and post-construction employees).				
Land Use Category	Total Affordable Housing Need per 1,000 sf (units/1000 sf)	Total Affordable Housing Need per sf (units/sf)	Total In-Lieu Fee per 1,000 sf (monetary fee/1000 sf)	Total In-Lieu Fee per sf (monetary fee/sf)
Commercial Retail (Retail stores, supermarkets, shopping centers, restaurants, etc.)	0.416	0.000416	$66,722	$66.72
Office (Professional and non-professional office buildings, etc.)	0.704	0.000704	$78,492	$78.49
Industrial (Light manufacturing, lumber yards, warehousing, storage facilities, etc.)	0.226	0.000226	$24,397	$24.39
Institutional (Religious facilities, private schools, colleges, daycares, etc.)	0.337	0.000337	$36,284	$36.28
Tourist/recreational (Theatres, auditoriums,	0.614	0.000614	$104,691	$104.69

nightclubs, tourist attractions, etc.)				
Hotel & Motel (Transient uses)	0.295	0.000295	$49,947	$49.94
Governmental (Governmental office buildings, public schools, etc.)	0.427	0.000427	$38,285	$38.28
Other (Utility, gas, and electric uses, mining, and sewage disposal facilities)	0.644	0.000644	$99,838	$99.83

Data for the mitigation requirement is from the 'Affordable Workforce Housing Support Study for Non-Residential Development,' prepared by Clarion Associates, LLC, for Monroe County in June 2017.

b. The inclusionary housing unit requirement (or required number of affordable workforce housing dwelling units) for the nonresidential development or redevelopment shall be calculated by multiplying the per square foot requirement for the appropriate type of land use category by the proposed square footage of the nonresidential development and/or the incremental increase in size of the nonresidential use (net additional square footage) and applying the appropriate mitigation standard.

c. The inclusionary in-lieu fee requirement (or required amount of monetary fee) for the nonresidential development or redevelopment shall be calculated by multiplying the per square foot requirement for the appropriate type of land use category by the proposed square footage of the nonresidential development and/or the incremental increase in size of the nonresidential use (net additional square footage) and applying the appropriate mitigation standard.

d. Expansions to nonresidential and transient uses shall be tracked for cumulative changes and compliance with subsection (f). In phased projects, the inclusionary requirements shall be proportionally allocated among the phases. If a subsequent development or redevelopment is proposed following a prior development approved on the same property, after the effective date of this ordinance, the requirements in this section shall be met as part of the subsequent development or redevelopment.

e. The following table provides EXAMPLE calculations of the nonresidential inclusionary requirements:

	Total Affordable Housing Need per sf (units/sf)	Total In-Lieu Fee per sf (monetary fee /sf)		100% Mitigation		**50% Mitigation**		30% Mitigation	
				Units	In-lieu fees	**Units**	**In-lieu fees**	Units	In-lieu fees
Commercial Retail (Retail stores, supermarkets, shopping centers, restaurants, etc.)	0.000416	$66.72	5,000 SF	2.08	$333,610	**1.04**	**$166,805**	0.62	$100,083.0
			10,000 SF	4.16	$667,220	**2.08**	**$333,610**	1.25	$200,166
			20,000 SF	8.32	$1,334,440	**4.16**	**$667,220**	2.50	$400,332
Office (Professional and non-professional office buildings, etc.)	0.000704	$78.49	5,000 SF	3.52	$392,460	**1.76**	**$196,230**	1.06	$117,738
			10,000 SF	7.04	$784,920	**3.52**	**$392,460**	2.11	$235,476
			20,000 SF	14.09	$1,569,840	**7.04**	**$784,920**	4.23	$470,952
Industrial (Light manufacturing, lumber yards, warehousing, storage facilities, etc.)	0.000226	$24.39	5,000 SF	1.13	$121,985	**0.56**	**$60,993**	0.34	$36,596
			10,000 SF	2.26	$243,970	**1.13**	**$121,985**	0.68	$73,191
			20,000 SF	4.51	$487,940	**2.26**	**$243,970**	1.35	$146,382
Institutional (Religious facilities, private schools, colleges, daycares, etc.)	0.000337	$36.28	5,000 SF	1.69	$181,420	**0.84**	**$90,710**	0.51	$54,426
			10,000 SF	3.37	$362,840	**1.69**	**$181,420**	1.01	$108,852
			20,000 SF	6.74	$725,680	**3.37**	**$362,840**	2.02	$217,704
Tourist/recreational (Theatres, auditoriums,	0.000614	$104.69	5,000 SF	3.07	$523,455	**1.54**	**$261,728**	0.92	$157,037
			10,000 SF	6.14	$1,046,910	**3.07**	**$523,455**	1.84	$314,073

nightclubs, tourist attractions, etc.)			20,000 SF	12.28	$2,093,820	**6.14**	**$1,046,910**	3.69	$628,146
Hotel & Motel (Transient uses)	0.000295	$49.94	5,000 SF	1.58	$249,735	**0.79**	**$124,868**	0.47	$74,921
			10,000 SF	3.15	$499,470	**1.58**	**$249,735**	0.95	$149,841
			20,000 SF	6.31	$998,940	**3.15**	**$499,470**	1.89	$299,682
Governmental (Governmental office buildings, public schools, etc.)	0.000427	$38.28	5,000 SF	2.14	$191,425	**1.07**	**$95,713**	0.64	$57,428
			10,000 SF	4.28	$382,850	**2.14**	**$191,425**	1.28	$114,855
			20,000 SF	8.55	$765,700	**4.28**	**$382,850**	2.57	$229,710
Other (Utility, gas, and electric uses, mining, and sewage disposal facilities)	0.000644	$99.83	5,000 SF	3.22	$499,190	**1.61**	**$249,595**	0.97	$149,757
			10,000 SF	6.44	$998,380	**3.22**	**$499,190**	1.93	$299,514
			20,000 SF	12.88	$1,996,760	**6.44**	**$998,380**	3.86	$599,028

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f. All nonresidential uses not exempted by subsection (4) shall mitigate the demand for affordable workforce housing created by the proposed development or redevelopment by one or a combination of the methods identified below.

1. The construction of affordable workforce housing dwelling units on the site of the development project. The affordable workforce housing dwelling units shall meet the County's affordable housing restrictions as specified in Section 139-1(b) and (c), for a period not less than 99 years;

2. The construction of affordable workforce housing dwelling units off-site of the development project but within a 15 mile radius of the nonresidential development/ redevelopment. The affordable workforce housing dwelling units shall meet the County's affordable housing restrictions as specified in Section 139-1(b) and (c), for a period not less than 99 years;

3. The deed-restriction of existing dwelling units within a 15 mile radius of the nonresidential development/redevelopment. The affordable workforce housing dwelling units meet the County's affordable housing restrictions as specified in Section 139-1(b) and (c), for a period not less than 99 years;

4. The donation of land to the County, upon the acceptance of the BOCC of a proposed parcel or parcels, may satisfy the requirements of this subsection by donating one (1) IS or URM zoned platted lot for each affordable workforce housing unit required but not provided through actual construction or in-lieu fees (or a Tier III parcel or parcels of land zoned other than IS or URM as long as the donated parcel(s) have the appropriate density available to support the development of the required number of affordable workforce units); and/or

5. The payment of a fee in-lieu for the inclusionary housing requirement for all or a percentage of the affordable workforce housing units required. The in-lieu fee shall be paid prior to issuance of a building permit for the nonresidential development or redevelopment. All in-lieu fees shall be deposited into the affordable housing trust fund and spent solely for the purposes allowed for that fund.

~~eg~~. If the affordable workforce housing requirement results in less than one (1) affordable dwelling unit, then the applicant may choose to build one (1) affordable dwelling unit or pay the fee in-lieu amount.

(6) *Applicable Standards.*

a. *Incentives.* All incentives and bonuses pursuant to this subsection (f), including, but not limited to, maximum net density provisions, non-residential intensity provisions, residential ROGO allocation set asides and points, and impact fee waivers, provided by the land development and other regulations for the construction of affordable housing shall be available to builders of affordable workforce housing ~~provided pursuant to this subsection (f), including, but not limited to, density and floor area ratio bonuses, residential ROGO allocation set asides and points, and impact fee waivers~~.

b. *Standards.* Affordable ~~W~~workforce housing provided pursuant to subsection (f) shall comply with the standards set forth in subsections (b) and (c) and below. Applications for development projects subject to these inclusionary requirements ~~and applicants~~ shall

~~provide~~ include ~~to the County~~ information and necessary legal assurances to demonstrate current and continued compliance with these provisions to the County, consistent with the applicable enforcement mechanisms set forth in Section 139-1(c). The County may institute any appropriate legal action necessary to ensure compliance with this subsection.

1. Affordable ~~W~~workforce housing units required pursuant to this subsection are restricted to either units for the owner of the nonresidential use that meets the sales price and annual income limits for owner-occupied housing, as defined in Section 101-1 or rental units that meet the rental amounts and annual income limits for rental housing, as defined in Section 101-1;

2. Affordable ~~W~~workforce housing units provided pursuant to subsection (f) may be provided on-site, off-site as provided in subsection (f)(5); or through linkage with another off-site project as provided in subsection (g) of this section;

3. Each affordable workforce unit provided pursuant to this subsection shall contain a minimum of 350 square feet of habitable floor area;

4. Prior to the issuance of a building permit for the nonresidential and transient development or redevelopment projects, any in-lieu fees must be paid.

~~4~~5. The County will not issue certificates of occupancy for the nonresidential and transient development or redevelopment projects subject to the provisions of this subsection (f) unless and until:

~~(1)~~ i. the required number of inclusionary affordable workforce housing units have an approved and recorded deed restriction, and certificates of occupancy have been issued for the affordable workforce housing units; and/or

~~(2)~~ ii. the required number of existing dwelling units must have an approved and recorded deed-restriction; and/or

~~(3)~~ iii. the donation of parcels to the County is completed.

~~5. Prior to the issuance of a building permit for the nonresidential and transient development or redevelopment projects, any in-lieu fees must be paid.~~

(7) *Monitoring and review.* The requirements of this subsection (f) shall be monitored to ensure effective and equitable application. Every two years, following the effective date of the ordinance from which this section is derived, the BOCC may request the Planning Director provide to the BOCC a report describing the impact of this subsection on the provision of affordable workforce housing and other market or socioeconomic conditions influencing or being influenced by these requirements. Issues such as affordability thresholds, inclusionary requirements, and the impacts of these provisions on the affordable housing inventory and housing needs in the county shall be addressed, in addition to other matters deemed relevant by the Planning D~~d~~irector.

(8) *Inclusionary Requirement Reduction for Very ~~l~~Low and Low Income Units.* Certain types of affordable workforce housing are relatively more desirable in satisfying the affordable housing needs of the workforce. To address the market demands that show that the workforce in the County continues to require lower priced rental housing units, particularly those whose earnings are up to or below 80 percent of the County's median income, an applicant with an inclusionary requirement of five (5) or more units, which

builds all the required affordable units as low-income and very low-income either on site or within 5 miles of the nonresidential or transient development project, shall have a reduced inclusionary housing requirement of 40%. The affordable workforce housing units shall meet the ~~County's affordable housing~~ rental restrictions as specified in Section 139-1(b) and (c), for a period not less than 99 years. To be eligible for a reduction pursuant to this subsection (8), a~~A~~n applicant may not propose the payment of a fee in-lieu for any portion of the inclusionary housing requirement.

(9) *Alternate compliance.*

a. *Market rate workforce housing.* Up to one (1) market rate workforce housing dwelling unit as defined in LDC Section 101-1, may be utilized to satisfy all or a portion of a developer's nonresidential inclusionary housing requirement to address the workforce housing demand created.

(g) **Linkage of projects.**

(1) Two or more development (residential and/or nonresidential) projects that are required to provide affordable housing may be linked to allow the affordable housing requirement of one development project to be built at the site of another project, so long as the affordable housing requirement of the latter development is fulfilled as well and the projects are within a 15 mile radius of the nonresidential development/redevelopment. The affordable units must be built either before or simultaneously with the projects. Sequencing of construction of the affordable component of linked projects may be the subject of the Planning Department or the Planning Commission's approval of a project.

(2) In addition, if a developer builds more than the required number of affordable units at a development site, this development project may be linked with a subsequent development project to allow compliance with the subsequent development's affordable unit requirement provided:

a. the developer may not utilize affordable units previously built with County financial investment, other than building permit fee waivers and impact fee waivers; and

b. the projects are within a 15 mile radius of the nonresidential development/redevelopment; and

c. the linkage must be identified by the developer to the Planning Department and/or Planning Commission at the time of the subsequent development's administrative or conditional use approval; and

d. the affordable units proposed to satisfy the inclusionary housing requirement may not have received certificates of occupancy more than three (3) years prior to the project approval for the development triggering the inclusionary housing requirement.

Additionally, if the affordable units are proposed to satisfy nonresidential inclusionary requirements, the units are restricted to either affordable workforce housing units for the owner of the nonresidential use that meets the sales price and annual income limits for owner-occupied housing, as defined in Section 101-1 or rental affordable workforce housing units that meet the rental amounts and annual income limits for rental housing, as defined in

Section 101-1. ~~The linkage must be identified by the developer to the Planning Commission at the time of the subsequent development's conditional use approval.~~

(3) All linkages under this subsection may occur between sites within the county and in the cities of Key West, Marathon and Islamorada, subject to an interlocal agreement, where appropriate. The linkage must occur within 15 miles of each project and within the same geographic planning area, (~~i.e.,~~ ~~l~~Lower Keys ROGO subarea, ~~middle~~ Big Pine Key and No Name Key ROGO subarea, and ~~u~~Upper ~~k~~Keys ROGO subarea.

(4) All linkages must be approved via a covenant running in favor of the County, and if the linkage project lies within a city, also in favor of that city. The covenant shall be placed upon two or more projects linked, stating how the requirements for affordable housing are met for each project. The covenant shall be approved by the BOCC and, if applicable, the participating municipality.

(45) Projects with existing affordable units that have existing approvals, approved prior to the effective date of this ordinance, which allow linkage of the affordable housing units to satisfy inclusionary requirements shall not be subject to the provisions subsection (g) and shall follow the provisions of the existing, approved development order(s).

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Sec. 139-2. Affordable Housing Incentive Programs.

(a) **Purpose and intent.** The intent of this section is to set forth a program to help incentivize affordable housing development within Monroe County.

(b) **Program 1: Transfer of ROGO Exemptions from Mobile Home Parks.**

(1) *Purpose and intent.*

The intent of this program is to establish an appropriate incentive for mobile home park owners to maintain mobile home park sites, mobile home developments in URM and URM-L districts, and contiguous parcels under common ownership containing mobile homes where any of the foregoing is presently serving as a primary source of affordable housing in Monroe County (any of the foregoing being an "eligible sender site") by providing an alternative development strategy to straightforward market rate redevelopment. This program is intended to allow the transfer of market rate ROGO exemptions associated with lawfully established dwelling units now existing at an eligible sender site to be transferred to another site or sites in exchange for maintaining an equal or greater number of deed-restricted affordable dwelling units within Monroe County. This program seeks to address the housing needs of the Florida Keys as a regional obligation.

This program provides an eligible sender site owner the opportunity to transfer market rate ROGO exemptions currently associated with existing and lawfully established dwelling units from eligible sender sites to receiver site(s) within Monroe County, provided that it involves the pooling of affordable dwelling unit rights for redevelopment at donated, purchased or otherwise appropriately deed-restricted sites, and transfer of ROGO exemptions or allocations for the purpose of implementing and facilitating one or more affordable housing projects. The provisions of this section shall control over all contrary provisions of this Land Development Code related to the transferability of ROGO exemptions.

(2) *Procedure.*

a. This transfer shall require an approved development agreement.

b. Minor conditional use approval is required to complete the transfer.

c. A development agreement shall not be required for an eligible sender site containing ten or fewer mobile homes. For the purposes of this exception, property owners shall not be permitted to subdivide by deed, split ownership or otherwise divide larger contiguous parcels containing more than ten mobile homes to create parcels containing fewer than ten mobile homes.

(3) *Development agreement requirements.*

a. Sender site restrictions:

1. ROGO exemptions transferred under this program may be transferred on a 1 for 1 basis where the ROGO exemptions are to be transferred, provided <u>all</u> the following is <u>criteria is met</u> ~~satisfied~~:

i. The exemption is transferred to single-family residential legally platted lots;

ii. The exemption is transferred within the same ROGO subarea, except exemptions may be transferred from the Big Pine Key and No Name Key ROGO subarea to the Lower Keys ROGO subarea;

iii. Receiver site is within the Improved Subdivision (IS) Land Use District or the Urban Residential Mobile Home (URM) Land Use District; and

iv. The receiver site property is not a recreational and commercial working waterfront.

Example: Transfer on a 1 for 1 basis.

Existing 100-unit mobile home park. A development agreement with the county may, if approved, allow the owner to transfer up to 100 ROGO-exemptions to single-family platted lots as long as an equivalent number of deed-restricted affordable dwelling units remain or are created on one or more ~~created on one or more~~ eligible sender site(s).

2. The eligible sender site property(ies) shall be donated or sold to Monroe County, or otherwise appropriately deed-restricted for long-term affordability. Prior to acceptance of a donated or purchased parcel, all units to be maintained on site shall pass a life safety inspection conducted in a manner prescribed by the Monroe County Building Department. Monroe County may then lease the sender site property to a party who will serve as lessee and sub-lessor of the eligible sender site(s).

3. The number of transferred ROGO exemptions shall not exceed the number of restricted affordable dwelling units maintained at the eligible sender sites.

4. The resulting development or redevelopment of affordable housing pursuant to the governing development agreement will be targeted to serve as closely as possible the following household income categories: 25 percent very low income households, 25 percent low income households, 25 percent median income households, and 25 percent moderate income households (or as otherwise approved by the BOCC).

5. Lot rents and/or sales prices for resulting deed-restricted dwelling units shall be established in accordance with restrictions outlined in Florida Statutes and/or the Monroe County Code.

6. All units designated by the applicable development agreement to remain as deed restricted affordable housing at the donated, purchased or appropriately deed-restricted site(s) shall comply with hurricane standards established by the Florida Building Code and habitability standards established under the Florida Landlord and Tenant Act. Compliance shall be accomplished in a manner and within a timeframe set forth in the development agreement or, if applicable, in the relevant minor conditional use.

7. A development agreement proposed under this program shall not utilize more than 50 percent of the existing affordable housing allocations then available to Monroe County, unless otherwise approved by the BOCC.

8. All of the redeveloped or preserved affordable housing units, whether redeveloped or retained at the original sender site(s), or at alternate or additional locations, shall remain in the same ROGO subarea as the original sender site(s).

(4) *Minor conditional use requirements.*

a. All of the following r~~R~~eceiver site criteria must be met:

1. The receiver site shall be located in a Tier III designated area.

2. The receiver site shall not be located in a velocity (V) zone or within a CBRS unit.

3. The receiver site is a legally platted lot.

4. The receiver site is within the Improved Subdivision (IS) Land Use District or the Urban Residential Mobile Home (URM) Land Use District.~~; and~~

5. The receiver site property is not a recreational and commercial working waterfront.

6. A property owner cannot receive a certificate of occupancy for any unit constructed as a result of a transferred ROGO exemption until all corresponding eligible sender site units are completed and deed-restricted as affordable dwelling units.

7. All or any portion of the redeveloped or preserved affordable housing units may be redeveloped or retained at one or more alternate or additional locations donated or sold to Monroe County, identified in the Development Agreement and otherwise compliant with the remainder of this section, including but not limited to the requirements set forth in subsection (b)(3)a.2.

8. Transferred ROGO-exemptions shall remain in the same ROGO subarea, except exemptions may be transferred from the Big Pine Key and No Name Key ROGO subarea to the Lower Keys ROGO subarea.

9. The receiver site property includes all infrastructure (potable water, adequate wastewater treatment and disposal wastewater meeting adopted LOS, paved roads, etc.).

(5) Nothing herein shall preclude the county's replacement of sender site dwelling units with affordable allocations and recovery and transfer of market rate ROGO-exemptions from the sender sites for use in administrative relief programs or other like purposes.

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Section 3. The analysis, findings of fact, and conclusions of law in the October 2, 2026-dated Monroe County Planning and Environmental Resources Department ("Department") professional staff report accompanying this BOCC agenda item stating that it is for meeting date October 21, 2026, provided to the BOCC by

Department Senior Director Devin Tolpin, A.I.C.P.,[2] C.F.M.,[3] Department Senior Administrator of Planning and Policy Cheryl Cioffari, and Department Planning Policy Advisor Barbara Powell, is/are, to the extent not plainly inconsistent with this Ordinance, hereby incorporated and adopted as the BOCC's own analysis, findings of fact, and conclusions of law

Section 4. To the extent of any internal or external conflicts, inconsistencies, and/or ambiguities, within this Ordinance or between this Ordinance and the Monroe County Code of Ordinances, Florida Building Code, Monroe County Land Development Code, floodplain management regulations, Comprehensive Plan, or any other determination, interpretation, or approval of the Monroe County Board of County Commissioners, Monroe County Planning Commission, Monroe County Planning and Environmental Resources Department, or other department or office of Monroe County, the more restrictive rule, regulation, law, provision, and/or text shall always apply and control.

Section 5. Subject to Section 4. above, the interpretation of this Ordinance and all provisions of the Monroe County Comprehensive Plan, Florida Building Code, Monroe County Codes, Florida Statutes, and floodplain management regulations whose interpretation arise out of, relate to, or are interpreted in connection with this Ordinance, shall be liberally construed and enforced in favor of Monroe County, and such interpretation shall be entitled to great weight in adversarial administrative proceedings, at trial, in bankruptcy, and on appeal.

Section 6. **Inconsistency, Partial Invalidity, Severability, and Survival of Provisions.** If any provision of this Ordinance, or part or any portion thereof, is held to be invalid or unenforceable in or by any administrative hearing officer or court of competent jurisdiction, the invalidity or unenforceability of such provision, or any part or portion thereof, shall neither limit nor impair the operation, enforceability, or validity of any other provision of this Ordinance, or any remaining part(s) and/or portion(s) thereof. All other provisions of this Ordinance, and remaining part(s) and/or portion(s) thereof, shall continue unimpaired in full force and effect.

Section 7. **Repeal of Inconsistent Provisions.** All ordinances in conflict with this Ordinance are hereby repealed to the extent of said conflict. The repeal of an ordinance herein shall not repeal the repealing clause of such ordinance or revive any ordinance which has been repealed thereby.

Section 8. **Transmittal.** This Ordinance shall be transmitted by the Director of Planning to the State Land Planning Agency pursuant to Chapters 163 and 380, Florida Statutes.

Section 9. **Filing and Effective Date.** This Ordinance shall be filed in the Office of the Secretary of the State of Florida but shall not become effective until a notice is issued by the State Land Planning Agency or Administration Commission finding

[2] American Institute of Certified Planners (A.I.C.P.) – Certification
[3] Association of State Floodplain Managers (A.S.F.P.M.) – Certified Floodplain Manager (C.F.M.).

the amendment in compliance with Chapter 163, Florida Statutes, and after any applicable challenges have been resolved.

Section 10. **Inclusion in the Land Development Code.** The subject text amendment shall be incorporated in the Monroe County Land Development Code. The numbering of the foregoing amendment may be renumbered to conform to the numbering in the Monroe County Land Development Code.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular public meeting held on the 21st day of October, 2026.

Mayor Michelle Lincoln, District 2	_____
Mayor *Pro Tem* David Rice, District 4	_____
Commissioner Craig Cates, District 1	_____
Commissioner James K. Scholl, District 3	_____
Commissioner Holly Merrill Raschein, District 5	_____

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By: _____
MAYOR MICHELLE LINCOLN

(SEAL)

ATTEST: KEVIN MADOK, CLERK

_____
AS DEPUTY CLERK

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM

_____
PETER MORRIS
ASSISTANT COUNTY ATTORNEY
Date: 10/9/26

AGENDA
FLORIDA DEPARTMENT OF COMMERCE

MEMBERS
Governor Ron DeSantis
Attorney General James Uthmeier
Chief Financial Officer Blaise Ingoglia
Commissioner Wilton Simpson

December 10, 2025

1. Authorization of additional building permit allocations in the Florida Keys Area pursuant to section 22, Chapter 2025-190, Laws of Florida and updated hurricane-evacuation modelling. Further, direct the Department of Commerce to work with the local governments in the Florida Keys Area to facilitate any necessary comprehensive plan amendments.

ATTACHMENT 1

Background:

1. The 2025 Florida Legislature amended section 380.0552(9)(a)2., Florida Statutes, to increase the hurricane evacuation clearance time from 24 hours to 24.5 hours. Further, section 22, Chapter 2025-190, Laws of Florida, provides:

   > "[t]he Department of Commerce shall conduct baseline modeling scenarios and gather data in order to determine a number of building permit allocations to be distributed in the Florida Keys Area based upon the hurricane evacuation clearance time provided in s. 380.0552(9)(a), Florida Statutes, as amended by this act. The permit allocations must be distributed to counties and municipalities based on the number of vacant buildable lots within each jurisdiction. The permit allocations must be distributed over a period of at least 10 years but may not exceed 900 total permit allocations. All permits must be issued for vacant, buildable parcels, of which only one may be awarded for any individual parcel, and the distribution of which must prioritize allocations for owner-occupied residences, affordable housing, and workforce housing."

2. As required by section 22, Chapter 2025-190, Laws of Florida, the Department conducted the baseline scenario modeling.

3. Based on the modeling the Department has identified that the 900 allocations authorized by section 22, Chapter 2025-190, Laws of Florida, can be received by the local governments in the Florida Keys Area without exceeding the 24.5-hour evacuation time limit set forth in section 380.0552(9)(a)2., Florida Statutes.

4. The County, in consultation with the municipalities, performed an analysis to identify the total number of vacant, buildable parcels throughout the Florida Keys Area. Of the vacant, buildable parcels identified by the local governments, the modeling supports that 1,700 vacant buildable parcels can receive allocations.

5. Following review, the Department performed an additional analysis to identify the total number of vacant, buildable parcels throughout the Florida Keys Area. Of the vacant, buildable parcels identified by the Department, the modeling supports that 1,610 vacant buildable parcels can receive allocations.

6. As of December 2025, there are 273.17 unused Rate of Growth Ordinance allocations, and 363.2 unused early evacuation workforce housing allocations currently distributed throughout the Florida Keys Area for a total of 636.37 total unused allocations.

Recommended Action

Allocation: The Department received the vacant, buildable parcel analysis performed by the local governments and used that as a basis and comparison point for its own analysis. Based on the collaborative efforts of the local governments and the Department, the Department recommends the following scenario to distribute the additional 900 allocations, consistent with section 22, Chapter 2025-190, Laws of Florida.

Local Government	Allocation
Islamorada	72
Key West	36
Marathon	135
Monroe County	657
Total	900

Distribution: The Department also recommends that, consistent with the requirement set forth in section 22, Chapter 2025-190, Laws of Florida, that allocations be distributed over a ten-year period; that the first 300 allocations be made available beginning January 1, 2026; and that 150 of the remaining 600 be released every two years from January 1, 2028, through January 1, 2035.

The Department further recommends that as each tranche of allocations are distributed to the local governments, that each local government receive a pro rata share of those allocations, based upon the conclusion of the Department's analysis of the total number of vacant, buildable parcels within each local government's jurisdiction, as supported by the updated hurricane evacuation study.

Further Implementation: Based on the current available allocation stock in the County and the municipalities, the Department recommends that the Administration Commission direct the Department to work collaboratively with the County and each municipality to prioritize amendments to those local government's comprehensive plans to accept the new 900 allocations and fully utilize any previous allocations.