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MONROE COUNTY, FLORIDA
MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

ORDINANCE NO. 026-2022

AN ORDINANCE BY MONROE COUNTY BOARD OF COUNTY COMMISSIONERS APPROVING AMENDMENTS TO THE MONROE COUNTY LAND DEVELOPMENT CODE AMENDING SECTION 101-1 DEFINITIONS; TO UPDATE FLOODPLAIN MANAGEMENT DEFINITIONS; TO REPEAL AND REENACT CHAPTER 122, FLOODPLAIN MANAGEMENT; TO ADOPT AN UPDATED CHAPTER 122, FLOODPLAIN MANAGEMENT, TO BE CONSISTENT WITH THE FLORIDA DIVISION OF EMERGENCY MANAGEMENT - BUREAU OF MITIGATION - STATE FLOODPLAIN MANAGEMENT OFFICE'S MODEL FLOODPLAIN MANAGEMENT ORDINANCE WHICH IS WRITTEN TO EXPLICITLY RELY ON AND BE COORDINATED WITH THE FLOOD PROVISIONS IN THE FLORIDA BUILDING CODE, MEETING THE NATIONAL FLOOD INSURANCE PROGRAM REQUIREMENTS AND APPROVED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY IN 2013; INCLUDING DESIGNATING A FLOODPLAIN ADMINISTRATOR, ADOPTING PROCEDURES AND CRITERIA FOR DEVELOPMENT IN FLOOD HAZARD AREAS, AND FOR OTHER PURPOSES; PROVIDING FOR SEVERABILITY; PROVIDING FOR APPLICABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR AMENDMENT TO AND INCORPORATION IN THE MONROE COUNTY LAND DEVELOPMENT CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Monroe County policies and regulations adopted in the Monroe County Comprehensive Plan and Land Development Code are to maintain public health, safety, and welfare of the citizens of the Florida Keys and to strengthen our local government capability to manage land use and development; and

WHEREAS, the Monroe County Board of County Commissioners (BOCC) recognizes that the work of ordinance codification is an ongoing process that requires a continuing effort by various County officials and staff, and it is the goal of the BOCC to ensure that Monroe County Land Development Code Chapter 122 is kept current and of maximum use and clarity; and

WHEREAS, the Legislature of the State of Florida has, in Chapter 125 – County Government, Florida Statutes, conferred upon local governments the authority to adopt regulations

1
2 **Sec. 122-14. – Inspections.**

3 **(a) Inspections required.** Development for which a floodplain development order or permit is
4 required shall be subject to county inspection.

5 **(b) Development other than buildings and structures.** The Floodplain Administrator shall
6 inspect all development to determine or confirm compliance with the requirements of this
7 chapter and the conditions of issued floodplain development orders or permits.

8 **(c) Buildings, structures and facilities exempt from the Florida Building Code.** The Floodplain
9 Administrator shall inspect buildings, structures and facilities exempt from the Florida
10 Building Code to determine or confirm compliance with the requirements of this chapter and
11 the conditions of issued floodplain development orders or permits.

12 **(d) Buildings, structures and facilities exempt from the Florida Building Code, lowest floor**
13 **inspection.** Upon placement of the lowest floor, including basement, and prior to further
14 vertical construction, the owner of a building, structure or facility exempt from the Florida
15 Building Code, or the owner's authorized agent, shall submit to the Floodplain Administrator:

16 (1) If a design flood elevation was used to determine the required elevation of the lowest floor,
17 the FEMA Elevation Certificate prepared and sealed by a Florida licensed professional
18 surveyor; or

19 (2) If the elevation used to determine the required elevation of the lowest floor was determined
20 in accordance with section 122-13(b) of this chapter, the accurate documentation of height
21 of the lowest floor above highest adjacent grade, prepared by the owner or the owner's
22 authorized agent.

23 **(e) Buildings, structures and facilities exempt from the Florida Building Code, final**
24 **inspection.** As part of the final inspection, the owner or the owner's authorized agent shall
25 submit to the Floodplain Administrator a final FEMA Elevation Certificate of the lowest floor
26 or final documentation of the height of the lowest floor above the highest adjacent grade; such
27 certifications and documentations shall be prepared as specified in section 122-14(d) of this
28 chapter.

29 **(f) Manufactured homes.** The Floodplain Administrator shall inspect manufactured homes that
30 are installed or replaced in flood hazard areas to determine or confirm compliance with the
31 requirements of this chapter and the conditions of the issued permit. Upon placement of a
32 manufactured home, certification of the elevation of the lowest floor shall be submitted to the
33 Floodplain Administrator.

34
35 **Sec. 122-15. – Required Inspections of Enclosed Areas Below Elevated Residential**
36 **Structures.**

37 **(a) Applicability.** Prior to the transfer of ownership of any property occupied by an elevated
38 residential structure with a below base flood enclosed area for which construction of the
39 enclosed commenced on or after June 15, 1973, a county approved inspection of the below
40 base flood enclosure shall be conducted. No earlier than 180 days prior to the transfer of the
41 property, the seller or the prospective purchaser, with the seller's permission, shall have the
42 required inspection conducted. The intent of this inspection, which is strictly limited to
43 inspection of below base flood enclosures, is to identify for county records and purchasers any
44 nonconformities or illegal structures or uses.

45 **(b) Inspections.** Upon inspection request, the inspection required under this section shall be
46 conducted by an inspector from the Building Department. Fees for inspections conducted by

1 the Building Department shall be in accordance with the schedule established by resolution of
2 the BOCC for inspections conducted under the county's flood insurance inspection and
3 compliance program.

4 (c) **Inspection procedures and forms.** All inspections required under this section shall be
5 conducted in accordance with procedures and recorded on county forms approved by the
6 Floodplain Administrator.

7 (d) **Inspection submittal requirements.** The original inspection report, signed by the county
8 inspector, shall be maintained by the Building Department and a copy shall be submitted to the
9 seller, who has contacted the County, as provided above, and the purchaser, provided that the
10 purchaser has contacted the County as provided above no later than ten days prior to the closing
11 date for transfer of the subject property.

12 (e) **Failure to comply with inspection submittal requirements.** Should the inspection required
13 by this section not be completed, the seller and purchaser, if known, will be notified that the
14 structure is in violation of this section. The purchaser and his or her successors and assigns
15 may enforce the terms of this section in law or at equity. The purchaser may seek injunctive
16 relief against the seller in a court of competent jurisdiction to prevent a violation of or otherwise
17 in connection with a violation of this section. Attorney's fees and costs incurred in an action to
18 enforce these regulations may be awarded to a substantially prevailing party at the discretion
19 of the court. A purchaser may seek and the court may award treble damages as an aggrieved
20 party. The sole intent of this inspection is to provide information for recording and monitoring
21 improvements to below base flood enclosures subject to the county's floodplain regulations
22 and in accordance with Monroe County Board of County Commission Resolution 440-2011,
23 which does not require that the property be brought into compliance prior to or subsequent to
24 transfer. The purpose of this inspection is not to identify other types of unpermitted
25 improvements that are unrelated to the floodplain regulations in this chapter.

26 (f) Nothing in this section shall prohibit the county from prosecuting illegal, unpermitted
27 improvements under the Pilot Inspection Program (under previous 44 CFR 59.30, repealed on
28 July 5, 2018 -FEMA terminated this program on June 28, 2013).

29 (g) If the results of the inspection identify illegal unpermitted improvements, the requirements of
30 the Florida Building Code applicable to enclosed areas below elevated buildings shall apply
31 when a building permit is sought by an applicant.

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33 **Sec. 122-16. – Floodplain Certificate of Compliance Program.**

34 (a) **Generally.** Any property owner is eligible to obtain a certificate of compliance if they have
35 obtained an inspection of an enclosure below base flood elevation by one of the following:

36 (1) FEMA Insurance Inspection Program; or

37 (2) Inspection at time of sale; or

38 (3) Voluntary inspection.

39 The below base flood enclosure must have been found in compliance with the Monroe
40 County floodplain regulations by Monroe County staff. Prior to obtaining the certificate,
41 the owner must record a nonconversion agreement in the Monroe County official land
42 records on a form to be provided by the county and approved by the Floodplain
43 Administrator. Properties that have received their inspections prior to implementation of
44 the certificate of compliance program may receive a certificate of compliance; however, a
45 re-inspection (with no fee) shall be necessary to ensure compliance has been maintained