



Kevin Madok, CPA

Clerk of the Circuit Court & Comptroller – Monroe County, Florida

April 22, 2025

Department of State
Administrative Code & Register
500 S Bronough Street
Tallahassee FL 32399-0250

To Whom It May Concern,

Attached is a copy of Ordinance No. 009-2025 of the Board of County Commissioners of Monroe County, Florida, amending Monroe County Code Section to reflect changes to the Table of Organization, including amending Section 1-2 to clarify the definition of the term “Department Head” and to eliminate the current requirements that the Veterans Affairs Department Head and Emergency Management Department Head direct report to the County Administrator; providing for severability; providing for the repeal of all Ordinances inconsistent herewith; providing for incorporation into the Monroe County Code; providing for filing with the Department of State; and providing an effective date.

This Ordinance was adopted by the Monroe County Board of County Commissioners at a regular meeting, held in formal session, on April 16, 2025. Should you have any questions please feel free to contact me at (305) 292-3550.

Respectfully Submitted,

Kevin Madok, CPA, Clerk of
the Circuit Court & Comptroller &
ex-officio to the Monroe County
Board of County Commissioners
by: Liz Yongue, Deputy Clerk

cc: County Administrator
County Attorney
MuniCode
BOCC
File

**MONROE COUNTY, FLORIDA
MONROE COUNTY BOARD OF COUNTY COMMISSIONERS
ORDINANCE NO. 009 -2025**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY AMENDING MONROE COUNTY CODE SECTION TO REFLECT CHANGES TO THE TABLE OF ORGANIZATION INCLUDING AMENDING 1-2 TO CLARIFY THE DEFINITION OF THE TERM “DEPARTMENT HEAD” AND TO ELIMINATE THE CURRENT REQUIREMENTS THAT THE VETERANS AFFAIRS DEPARTMENT AND EMERGENCY MANAGEMENT DEPARTMENT HEADS DIRECT REPORT TO THE COUNTY ADMINISTRATOR; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES INCONSISTENT HERewith; PROVIDING FOR INCORPORATION INTO THE MONROE COUNTY CODE; PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on March 25, 2025, the BOCC confirmed Senior Director of Planning and Environmental Resources Emily Schemper as the County’s Growth Management Director with responsibility for overseeing not only the Planning and Environmental Resources Department but also the Building and Code Compliance Departments; and

WHEREAS, the term “department head” is currently defined in Section 1-2 of the Monroe County Code to mean a “county employee who has been selected by the county administrator and confirmed by the board as the person responsible for the operations of a county department and supervision of all employees within that department. The term department head applies to all employees selected by the county administrator and confirmed by the board as the employee responsible for the operations of a [single] county department regardless of that employee's actual title;” and

WHEREAS, it is the intention of the Board to clarify the definition of the term “department head” to allow for such an employee to supervise one or more departments but not have the same level of responsibility as an Assistant County Administrator; and

WHEREAS, it is the intention of the Board to conform the Monroe County Code to this clarified definition of the term “department head” so as to eliminate any doubt of the designated department head’s authority to supervise all employees within all departments assigned to which the department head has been assigned to supervise; and

WHEREAS, the County Administrator currently has over twenty (20) departments and offices which report to her; and

WHEREAS, the Board finds that having more than twenty (20) direct reports to the County Administrator is an inefficient method of management; and

WHEREAS, in 1988, the Board enacted Ordinance 029-1988, which is currently codified at Section 2-211 of the County Code, which mandates that the head of the Veterans Affairs Department report directly to the County Administrator; and

WHEREAS, while Section 2-211(b) of the Code currently reads that “any proposed change concerning the transfer of the veterans affairs department to another department or removal of the same from the direct jurisdiction of the county administrator occurs, it will require three duly noticed public hearings, and only after such public hearings may any such proposed change be made,” that language conflicts with the principle¹ that a legislative body may not bind the hands of a future legislative body by prohibiting or proscribing amendments to an enactment; and

WHEREAS, in 2019, the Board enacted Ordinance 035-2019, which is currently codified at Section 11-3 of the County Code, which mandates that the Emergency Management Department directly report to the County Administrator; and

WHEREAS, there is no known basis in state or federal law which mandates that either position report directly to the County Administrator; and

WHEREAS, the Board finds that mandating by ordinance which department heads directly report to the County Administrator conflicts with the Board’s statutory authority to approve the reorganization of County departments pursuant to F.S. 125.74(1)(j); and

WHEREAS, the Board finds the ordinance amendment procedure set forth in Section 2-221(b) of the Code conflicts with the ordinance adoption procedure set forth in F.S. 125.66.

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

[Proposed Text Changes are presented: in strikethrough to indicate deletions and underline to indicate additions.]

¹ See, e.g., *Neu v. Miami Herald Pub. Co.*, 462 So.2d 821, 824 (Fla. 1985); *Fernandez v. Dept of Health*, 223 So.3d 1055, 1058 n.3 (Fla. 1st DCA 2017); and *Florida Carry, Inc. v. University of Florida*, 180 So.3d 137, 146 (Fla. 1st DCA 2015).

Section 1. Section 1-2 of the County Code is hereby amended to read as follows:

Department head. The term "department head" means the county employee who has been selected by the county administrator and confirmed by the board as the person responsible for the operations of at least one county department and supervision of all employees within the ~~that~~ assigned departments. The term department head applies to all employees selected by the county administrator and confirmed by the board as the employee responsible for the operations of at least one county department regardless of that employee's actual title. A department head assigned to supervise more than one department shall be subordinate to the county administrator and/or an assistant county administrator on the organizational table approved by the Board.

Section 2. Section 2-211 of the County Code is hereby amended to read as follows:

~~(a) The veterans affairs office department of the county shall be is hereby confirmed to be under the direct jurisdiction and administrative control of the county administrator. Nothing herein prohibits the Board from approving an organizational table that places the veterans affairs department under the supervision of an assistant county administrator.~~

~~(b) If any proposed change concerning the transfer of the veterans affairs department to another department or removal of the same from the direct jurisdiction of the county administrator occurs, it will require three duly noticed public hearings, and only after such public hearings may any such proposed change be made.~~

Section 3. Section 11-3(b) of the County Code is hereby amended to read as follows:

(a) The county shall employ an emergency management director who shall meet the requirements set forth in [F.S.] ch. 252 and county policy. The emergency management director shall be hired by the county administrator subject to confirmation of the board.

(b) The emergency management director shall:

- (1) Report directly ~~to the county administrator and~~, during a declared emergency, to the mayor or to the mayor pro tem in the absence of the mayor;
- (2) Supervise the emergency management department;

- (3) Have the authority to direct the work of other department heads and other county personnel in the preparation of emergency management plans regardless of whether operating under a declaration of emergency;
- (4) During a declared emergency, direct and supervise all operations of county government including but not limited to:
 - a. Issuing directives having the force and effect of law;
 - b. Enter into contracts and purchase orders on behalf of the county having a value less than \$1,000,000.00; purchases of \$1,000,000.00 and greater shall require concurrent approval of the county administrator;
 - c. Hire and fire temporary personnel needed to carry out the work of the county during the time of the declared emergency, subject to the availability of funds; and
 - d. Suspend county personnel, including department heads, who fail to follow the lawful directives of the emergency management director.
- (5) Coordinate the emergency management department's activities with the fire chief and the fire rescue department

Section 4. Severability.

If any section, paragraph, subdivision, clause, sentence or provision of this ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence, or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

Section 5. Conflicting Provisions.

In the case of direct conflict between any provision of this ordinance and a portion or provision of any appropriate federal, state, or county law, rule, code or regulation, the more restrictive shall apply.

Section 6. Inclusion in the Monroe County Code.

The provisions of this Ordinance shall be included and incorporated in the Code of Ordinances of the County of Monroe, Florida, as an amendment thereto.

Section 7. Filing.

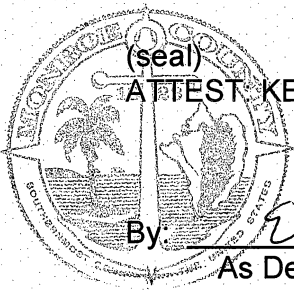
This Ordinance shall be filed with the Department of State and shall be effective as provided in Chapter 125.66(2) Florida Statutes.

Section 8. Effective Date.

This Ordinance shall become effective as provided by law and stated above.

PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS of Monroe County, Florida, at a regular meeting of the Board held on the 16th of April, 2025.

Mayor James K. Scholl	<u>Yes</u>
Mayor <i>Pro Tern</i> Michelle Lincoln	<u>Yes</u>
Commissioner Craig Cates	<u>Yes</u>
Commissioner David Rice	<u>Yes</u>
Commissioner Holly Merrill Raschein	<u>Yes</u>



(seal)
ATTEST KEVIN MADOK, CLERK

By: [Signature]
As Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

[Signature: James K. Scholl]
James K. Scholl, Mayor

Approved as to form and legal sufficiency:

Robert B. Shillinger, Jr. Digitally signed by Robert B. Shillinger, Jr.
Date: 2025.04.21 14:17:43 -04'00'

Robert B. Shillinger, Jr.
Monroe County Attorney

FILED FOR RECORD
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Account: 423273

Ticket: 3956108

PUBLISHER'S AFFIDAVIT

**STATE OF FLORIDA
COUNTY OF MONROE**

Before the undersigned authority personally appeared

_____, Jill Kelli Di Benedetto _____, who on oath says that he or she is

The legal advertising representative of the Key West Citizen, a five day newspaper published in Key West, in Monroe County, Florida; that the attached copy of advertisement, being a legal notice in the matter of NOI Amendments to the Code was published in said newspaper in the issues of:

Saturday, March 29, 2025

Affiant further says that the Key West Citizen is a newspaper published in Key West, in said Monroe County, Florida and that the said newspapers has heretofore been continuously published in said Monroe County, Florida Tuesday thru Saturday weekly, and has been entered as periodicals matter at the post office in Key West, in said Monroe County, Florida, for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Jill Kelli Di Benedetto
(Signature of Affiant)

Affirmed and subscribed before me this 31st day of March 2025

Laura M Robins
(Notary Public Signature)

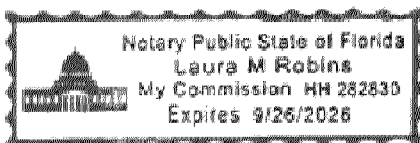
Laura M Robins
(Notary Public Printed Name)

(Notary Seal)

My commission expires _____ 9/26/2026 _____

Personally Known X Produced Identification _____

Type of Identification Produced _____ (Notary Seal) _____



**NOTICE OF INTENTION TO CONSIDER
ADOPTION OF COUNTY ORDINANCE**

NOTICE IS HEREBY GIVEN TO WHOM IT MAY CONCERN that on April 16, 2025, at 9:00 A.M. or as soon thereafter as the matter may be heard, at the Marathon Government Center, 2798 Overseas Highway, Marathon, Florida, the Board of County Commissioners of Monroe County, Florida, intends to consider adopting the following ordinance:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY AMENDING MONROE COUNTY CODE TO REFLECT CHANGES TO THE TABLE OF ORGANIZATION INCLUDING AMENDING SECTION 1-2 TO CLARIFY THE DEFINITION OF THE TERM "DEPARTMENT HEAD" AND TO ELIMINATE THE CURRENT REQUIREMENTS THAT THE VETERANS AFFAIRS DEPARTMENT AND EMERGENCY MANAGEMENT DEPARTMENT HEADS DIRECT REPORT TO THE COUNTY ADMINISTRATOR; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES INCONSISTENT HERewith; PROVIDING FOR INCORPORATION INTO THE MONROE COUNTY CODE; PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE; AND PROVIDING AN EFFECTIVE DATE.

The proposed ordinance may be inspected by the public at the Monroe County website by viewing the agenda packet for the April 16, 2025, meeting, which will be posted beginning on April 11, 2025 at: <http://monroecountyfl.iqm2.com/citizens/default.aspx>. The ordinance may also be viewed at the Monroe County Attorney's office at 1111 12th St. Ste. 408 Key West, FL 33040.

The public can participate in the April 16, 2025, meeting of the Board of County Commissioners of Monroe County, FL by attending in person or via Zoom. The Zoom link can be found in the agenda at <http://monroecountyfl.iqm2.com/citizens/default.aspx>.

ADA ASSISTANCE: If you are a person with a disability who needs special accommodations in order to participate in this proceeding, please contact the County Administrator's Office, by phoning (305) 292-4441, between the hours of 8:30a.m.—5:00p.m., prior to the scheduled meeting; if you are hearing or voice-impaired, call "711". Live Closed-Captioning is available via our web portal @ <http://monroecountyfl.iqm2.com/Citizens/Default.aspx> for meetings of the Monroe County Board

of County Commissioners.

Dated at Key West, Florida, this 29th day of March, 2025.
(SEAL) KEVIN MADOK, Clerk of the Circuit Court and Ex Officio Clerk of the Board of County Commissioners of Monroe County, Florida
03/29/25 - KWC
423273 3956108