



**MONROE COUNTY, FLORIDA
MONROE COUNTY BOARD OF COUNTY COMMISSIONERS
ORDINANCE NO. 025- 2011**

AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTION 138-23, MORATORIUM ON NEW TRANSIENT UNITS, TO REVISE THE DATE ON WHICH THE MORATORIUM SHALL EXPIRE TO BE CONSISTENT WITH POLICY 101.2.6 OF THE MONROE COUNTY COMPREHENSIVE PLAN; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE DEPARTMENT OF COMMUNITY AFFAIRS AND THE SECRETARY OF STATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, language concerning the prohibition on new transient units exists in both the Monroe County 2010 Comprehensive Plan and the Monroe County Code; and

WHEREAS, in 1996, a prohibition on new transient units was enacted by the Board of County Commissioners with the adoption of the Monroe County Year 2010 Comprehensive Plan and Policy 101.2.6 therein. Policy 101.2.6 required the County to adopt a land development regulation by January 4, 1996 prohibiting new transient residential units until December 31, 2001 and also required the County to either extend the prohibition until December 2006 or revise the Rate of Growth Ordinance (ROGO) permit allocation system to allocate a percentage of residential growth to transient units; and

WHEREAS, in order fulfill the requirement of Comprehensive Plan Policy 101.2.6 to adopt a land development regulation prohibiting new transient units, in 1999, the Board of County Commissioners adopted Ordinance #047-1999, thus establishing Monroe County Code Sec. 9.5-120.5, which stated: New transient residential units, such as hotel or motel rooms, or campground, recreational vehicle or travel trailer spaces, shall not be eligible for residential ROGO allocations until January 1, 2002; and

WHEREAS, in 2002, Ordinance #001-2002 amended Sec. 9.5-120.5 to extend the moratorium until December 31, 2006; and

WHEREAS, in 2007, Ordinance #001-2007 amended Sec. 9.5-120.5 to extend the moratorium until December 31, 2007 or until new Land Development Regulations are adopted to permit new transient units; and

WHEREAS, in 2008, Ordinance #003-2008 amended Sec. 9.5-120.5 to extend the moratorium until December 31, 2008 or until new Land Development Regulations are adopted to permit new transient units; and

WHEREAS, in 2009, Sec. 9.5-120.5 was renumbered to Sec. 138-23; and

WHEREAS, in 2009, Ordinance #035-2009 amended Policy 101.2.6 to extend the prohibition's sunset date until July 31, 2010; and

WHEREAS, in 2010, Ordinance #023-2010 amended Sec. 138-23 to extend the moratorium until December 31, 2011; and

WHEREAS, in 2010, the County transmitted to the Florida Department of Community Affairs (DCA), now reorganized as the Florida Department of Economic Opportunity (DEO), a proposed amendment to Policy 101.2.6 which stated: Monroe County shall prohibit new transient residential units including hotel or motel rooms, campground spaces, or spaces for parking a recreational vehicle or travel trailer until December 31, 2011. However, the DCA submitted an Objections, Recommendations, and Comments Report that stated: The Department recommends the County consider extending the moratorium date to be consistent with the due date for the County's EAR-based amendments which would provide the County adequate time to research the issue [May 1, 2014]; and

WHEREAS, as last revised by Ordinance #023-2010, Sec. 138-23 provides a moratorium expiration date of December 31, 2011; and

WHEREAS, the County is currently processing an amendment to the Comprehensive Plan Policy 101.2.6 to meet DCA's request in the Objections, Recommendations, and Comments Report. In accordance with HB 7207, the Monroe County Evaluation and Appraisal Report (EAR) letter is due to be transmitted to the State by May 1, 2013. EAR-based amendments are to be adopted one year after the submittal of the EAR letter, which would be May 1, 2014; and

WHEREAS, Comprehensive Plan Policy 101.2.6 and Monroe County Code Sec. 138-23 have never been amended at the same time to provide the same expiration date, and in order to alleviate confusion and provide consistency, staff is concurrently amending both Policy 101.2.6 and Sec. 138-23 to provide the same new expiration date of May 1, 2014; and

WHEREAS, during a regularly scheduled public hearing held on June 22, 2011, the Planning Commission reviewed the ordinance and recommended approval to the Board of County Commissioners;

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

Section 1. Section 138-23 shall be amended as follows:

Sec. 138-23. Moratorium on new transient units.

New transient residential units, such as hotel or motel rooms, or campground, recreational vehicle or travel trailer spaces, shall not be eligible for residential ROGO allocations until May 1, 2014.

Section 2. 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 3. 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 4. Transmittal.

This ordinance shall be transmitted to the Florida State Land Planning Agency as required by F.S. 380.05 (11) and F.S. 380.0552(9).

Section 5. Filing.

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 Florida State Land Planning Agency or Administration Commission approving the ordinance.

Section 6. Inclusion in the Monroe County Code.

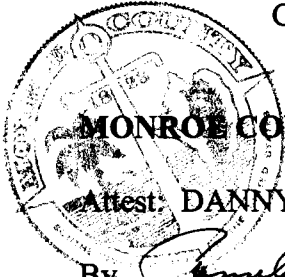
The provisions of this Ordinance shall be included and incorporated in the Code of Ordinances of the County of Monroe, Florida, as an addition to amendment thereto, and shall be appropriately renumbered to conform to the uniform marking system of the Code.

Section 7. Effective Date.

This ordinance shall become effective as provided by law and stated above. This ordinance applies to any permit, and or other development approval application submitted after the effective date.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida at a regular meeting held on the 14th day of December, 2011.

Mayor David Rice	<u>Yes</u>
Mayor <i>Pro Tem</i> Kim Wigington	<u>Yes</u>
Commissioner Heather Carruthers	<u>Yes</u>
Commissioner Sylvia Murphy	<u>Yes</u>
Commissioner George Neugent	<u>Yes</u>



MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

Attest: DANNY L. KOLHAGE, CLERK

By *Samuel Sanchez*
Deputy Clerk

By *David Rice*
Mayor David Rice

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM
Sam Grimsley
Date: 11-28-11

FILED FOR RECORD
2012 JAN -5 AM 11:53
DANNY L. KOLHAGE
CLERK
MONROE COUNTY, FL

MONROE COUNTY COURTHOUSE
500 WHITEHEAD STREET, SUITE 101
KEY WEST, FLORIDA 33040
TEL. (305) 294-4641
FAX (305) 295-3663

BRANCH OFFICE:
MARATHON SUB COURTHOUSE
3117 OVERSEAS HIGHWAY
MARATHON, FLORIDA 33050
TEL. (305) 289-6027
FAX (305) 289-1745



CLERK OF THE CIRCUIT COURT
MONROE COUNTY
www.clerk-of-the-court.com

BRANCH OFFICE:
PLANTATION KEY
GOVERNMENT CENTER
88820 OVERSEAS HIGHWAY
PLANTATION KEY, FLORIDA 33070
TEL. (305) 852-7145
FAX (305) 852-7146

ROTH BUILDING
50 HIGH POINT ROAD
PLANTATION KEY, FLORIDA 33070
TEL. (305) 852-7145
FAX (305) 853-7440

January 5, 2012

Ms. Liz Cloud, Program Administrator
Administrative Code & Weekly
R.A. Gray Building
500 S Bronough Street
Tallahassee FL 32399-0250

Via Certified Mail 7010 1670 0001 0244 7631

Dear Ms. Cloud,

Enclosed please certified copies of the following Ordinances:

Ordinance No. 022-2011 amending Chapter 6, Section 6-27 and Chapter 8, Section 8-37 of the Monroe County Code; Clarifying the definition of unsafe buildings, the definition of physical criteria of unsafe buildings; Providing for notice to owners by the Building Official when a building, structure or system is deemed unsafe and amending the four year bar to prosecution to include an exemption for unsafe buildings, structures or systems; Providing for severability; Providing for repeal of all Ordinances inconsistent herewith; Providing for incorporation into the Monroe County Code of Ordinances; and Providing for transmittal and an effective date.

Ordinance No. 023-2011 to amend Goal 107 and Objective 107.1 of the Monroe County 2010 Comprehensive Plan, refining the definition and application of Sub Area designations which limit the density and intensity allowed within a Future Land Use Map category.

Ordinance No. 024-2011 to amend Policy 101.2.6 of the Monroe County 2010 Comprehensive Plan Future Land Use Element to extend the moratorium of new transient residential units to be consistent with the deadline to transmit and adopt comprehensive plan evaluation and appraisal based amendments.

Ordinance No. 025-2011 to amend Section 138-23 of the Monroe County Code: The ordinance would extend the sunset date for the moratorium on new transient units from December 31, 2011 to May 1, 2014.

These Ordinances were adopted by the Monroe County Board of County Commissioners at a Regular Meeting, held in formal session, on December 14, 2011. Please file for the record. Should you have any questions please feel free to contact me at (305) 295-3130.

Respectfully submitted,

Danny L. Kolhage
Clerk of the Circuit Court
and ex officio Clerk to the
Board of County Commissioners

by: *Pamela G. Hancock, D.C.*

cc: County Attorney *letter only*
Growth Management
File

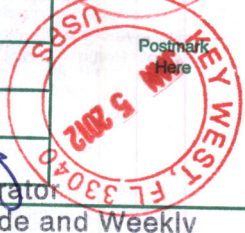
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ORD-022-025

Sent To: Program Administrator
 Administrative Code and Weekly
 R.A. Gray Building
 500 South Bronough Street
 Tallahassee, Florida 32399-0250

SENDER: COMPLETE THIS SECTION

COMPLETE THIS SECTION ON DELIVERY

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Program Administrator
 Administrative Code and Weekly
 B.A. Gray Building
 500 South Bronough Street
 Tallahassee, Florida 32399-0250

Ordinances 022, 023, 024 & 025

A. Signature

X DEPT. OF STATE

- Agent
 Addressee

B. Received by (Printed Name)

JAN 11 2012

C. Date of Delivery

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

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4. Restricted Delivery? (Extra Fee)

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2. Article Number

(Transfer from service label)

7010 1670 0001 0244 7631



FLORIDA DEPARTMENT of STATE

RICK SCOTT
Governor

DIVISION OF LIBRARY AND INFORMATION SERVICES

KURT S. BROWNING
Secretary of State

January 18, 2012

Honorable Danny L. Kolhage
Clerk of the Circuit Court
Monroe County
500 Whitehead Street, Suite 101
Key West, Florida 33040

Attention: Ms. Pamela G. Hancock, Deputy Clerk

Dear Mr. Kolhage:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated January 5, 2012 and certified copies of Monroe County Ordinance Nos. 022-2011 through 025-2011, which were filed in this office on January 11, 2012.

Sincerely,

Liz Cloud
Program Administrator

LC/srd

FILED FOR RECORD
2012 JAN 23 AM 10:00
DANNY L. KOLHAGE
CLERK OF CIRCUIT COURT
MONROE COUNTY, FL



R. A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250

Telephone: 850.245.6600 • Facsimile: 850.245.6282 • <http://info.florida.gov>
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Pam Hancock

From: <ords@municode.com>
To: <phancock@monroe-clerk.com>; <grimsley-susan@monroecounty-fl.gov>
Sent: Thursday, May 24, 2012 12:57 PM
Subject: Monroe County, FL Code of Ordinances - 2008 (14298) Supplement 7 Update 1

****THIS IS AN AUTOMATICALLY GENERATED EMAIL****

Below, you will find the material that we have received/recorded to your account. This material is being considered for inclusion in your next/current update, Supplement 7 Update 1

Document	Adopted Date	Recorded	Recorded Format
Ordinance No. 003-2012	2/15/2012	4/24/2012	Word
Ordinance No. 007-2012	4/18/2012	5/22/2012	Hard Copy
Ordinance No. 008-2012	4/18/2012	5/22/2012	Hard Copy
Ordinance No. 009-2012	5/16/2012	5/24/2012	PDF
Ordinance No. 025-2011	12/14/2011	4/24/2012	Word



Update the internet version of your Code more often than a printed supplement. We can update the Internet quarterly, monthly, even weekly.



We can post newly enacted ordinances in the online Code after each meeting.

STATE OF FLORIDA
DEPARTMENT OF ECONOMIC OPPORTUNITY

Received
MAR 16 2012

Finance Dept.

In re: MONROE COUNTY LAND
DEVELOPMENT REGULATIONS
ADOPTED BY MONROE COUNTY
ORDINANCE NO. 025-2011

FINAL ORDER

The Department of Economic Opportunity (the "Department") hereby issues its Final Order, pursuant to §§ 380.05(6), Fla. Stat., and § 380.0552(9), Fla. Stat. (2010), approving a land development regulation adopted by a local government within the Florida Keys Area of Critical State Concern as set forth below.

FINDINGS OF FACT

1. The Florida Keys Area is a statutorily designated area of critical state concern, and Monroe County is a local government within the Florida Keys Area.
2. On January 23, 2012, the Department received for review Monroe County Ordinance No. 025-2011 ("Ord. 025-2011"), adopted by Monroe County on December 14, 2011.
3. The purpose of Ord. 025-2011 is to amend Monroe County Code Section 138-23, Moratorium on New Transient Units to revise the date on which the moratorium shall expire to May 1, 2014, to be consistent with Policy 101.2.6 of the Monroe County Comprehensive Plan.

CONCLUSIONS OF LAW

4. The Department is required to approve or reject land development regulations that are enacted, amended, or rescinded by any local government in the Florida Keys Area of Critical State Concern. § 380.05(6), Fla. Stat., and § 380.0552(9), Fla. Stat. (2010).
5. Monroe County is a local government within the Florida Keys Area of Critical State Concern. § 380.0552, Fla. Stat. (2010) and Rule 28-29.002 (superseding Chapter 27F-8), Fla. Admin. Code.
6. "Land development regulations" include local zoning, subdivision, building, and other

regulations controlling the development of land. § 380.031(8), Fla. Stat. (2010). The regulations adopted by Ord. 025-2011 are land development regulations.

7. All land development regulations enacted, amended, or rescinded within an area of critical state concern must be consistent with the Principles for Guiding Development (the "Principles") as set forth in § 380.0552(7), Fla. Stat. See *Rathkamp v. Department of Community Affairs*, 21 F.A.L.R. 1902 (Dec. 4, 1998), *aff'd*, 740 So. 2d 1209 (Fla. 3d DCA 1999). The Principles are construed as a whole and no specific provision is construed or applied in isolation from the other provisions.

8. Ord. 025-2011 is consistent with and furthers the following Principles:

(a) To strengthen a local government's capabilities for managing land use and development so that the local government is able to achieve these objectives without continuing the area of critical state concern designation.

(j) To make available adequate affordable housing for all sectors of the population of the Florida Keys.

(l) To protect the public health, safety, and welfare of the citizens of the Florida Keys and maintaining the Florida Keys as a unique Florida resource.

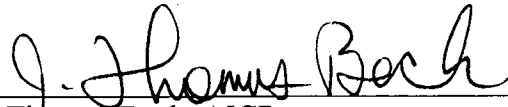
9. Ord. 025-2011 is consistent with the Principles for Guiding Development as a whole.

10. Ord. 025-2011 furthers the Monroe County Comprehensive Plan Objective 101.2; Policy 101.2.3; Policy 101.2.6; and Policy 101.2.13.

WHEREFORE, IT IS ORDERED that Ord. 025-2011 is found to be consistent with the Principles for Guiding Development of the Florida Keys Area of Critical State Concern, and is hereby APPROVED.

This Order becomes effective 21 days after publication in the Florida Administrative Weekly unless a petition is filed as described below.

DONE AND ORDERED in Tallahassee, Florida.



J. Thomas Beck, AICP
Director, Division of Community Planning
Department of Economic Opportunity
107 East Madison Street, MSC 110
Tallahassee, Florida 32399-4128

NOTICE OF ADMINISTRATIVE RIGHTS

ANY PERSON WHOSE SUBSTANTIAL INTERESTS ARE AFFECTED BY THIS ORDER HAS THE OPPORTUNITY FOR AN ADMINISTRATIVE PROCEEDING ACTION. DEPENDING UPON WHETHER YOU ALLEGE ANY DISPUTED ISSUE OF MATERIAL FACT IN YOUR PETITION REQUESTING AN ADMINISTRATIVE PROCEEDING, YOU ARE ENTITLED TO EITHER AN INFORMAL PROCEEDING OR A FORMAL HEARING.

IF YOUR PETITION FOR HEARING DOES NOT ALLEGE ANY DISPUTED ISSUE OF MATERIAL FACT CONTAINED IN THE DEPARTMENT'S ACTION, THEN THE ADMINISTRATIVE PROCEEDING WILL BE AN INFORMAL ONE, CONDUCTED PURSUANT TO SECTIONS 120.569 AND 120.57(2) FLORIDA STATUTES, AND CHAPTER 28-106, PARTS I AND III, FLORIDA ADMINISTRATIVE CODE. IN AN INFORMAL ADMINISTRATIVE PROCEEDING, YOU MAY BE REPRESENTED BY COUNSEL OR BY A QUALIFIED REPRESENTATIVE, AND YOU MAY PRESENT WRITTEN OR ORAL EVIDENCE IN OPPOSITION TO THE DEPARTMENT'S ACTION OR REFUSAL TO ACT; OR YOU MAY EXERCISE THE OPTION TO PRESENT A WRITTEN STATEMENT CHALLENGING THE GROUNDS UPON WHICH THE DEPARTMENT HAS CHOSEN TO JUSTIFY ITS ACTION OR INACTION.

IF YOU DISPUTE ANY ISSUE OF MATERIAL FACT STATED IN THE AGENCY ACTION, THEN YOU MAY FILE A PETITION REQUESTING A FORMAL ADMINISTRATIVE HEARING BEFORE AN ADMINISTRATIVE LAW JUDGE OF THE DIVISION OF ADMINISTRATIVE HEARINGS, PURSUANT TO SECTIONS 120.569 AND 120.57(1), FLORIDA STATUTES, AND CHAPTER 28-106, PARTS I AND II, FLORIDA ADMINISTRATIVE CODE. AT A FORMAL ADMINISTRATIVE HEARING, YOU MAY BE REPRESENTED BY COUNSEL OR OTHER QUALIFIED REPRESENTATIVE, AND YOU WILL HAVE THE OPPORTUNITY TO PRESENT EVIDENCE AND ARGUMENT ON ALL THE ISSUES INVOLVED, TO CONDUCT CROSS-EXAMINATION AND SUBMIT REBUTTAL EVIDENCE, TO SUBMIT PROPOSED FINDINGS OF FACT AND ORDERS, AND TO FILE EXCEPTIONS TO ANY RECOMMENDED ORDER.

IF YOU DESIRE EITHER AN INFORMAL PROCEEDING OR A FORMAL HEARING, YOU MUST FILE WITH THE AGENCY CLERK OF THE DEPARTMENT OF ECONOMIC OPPORTUNITY A WRITTEN PLEADING ENTITLED, "PETITION FOR ADMINISTRATIVE PROCEEDINGS" WITHIN 21 CALENDAR DAYS OF PUBLICATION OF THIS NOTICE. A PETITION IS FILED WHEN IT IS RECEIVED BY THE AGENCY CLERK, IN THE DEPARTMENT'S OFFICE OF GENERAL COUNSEL, 107 EAST

MADISON STREET, CALDWELL BUILDING MSC 160, TALLAHASSEE, FLORIDA
32399-2100.

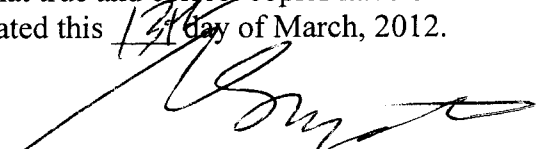
THE PETITION MUST MEET THE FILING REQUIREMENTS IN RULE 28-106.104(2), FLORIDA ADMINISTRATIVE CODE. IF AN INFORMAL PROCEEDING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH RULE 28-106.301, FLORIDA ADMINISTRATIVE CODE. IF A FORMAL HEARING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH RULE 28-106.201(2), FLORIDA ADMINISTRATIVE CODE.

A PERSON WHO HAS FILED A PETITION MAY REQUEST MEDIATION. A REQUEST FOR MEDIATION MUST INCLUDE THE INFORMATION REQUIRED BY RULE 28-106.402, FLORIDA ADMINISTRATIVE CODE. CHOOSING MEDIATION DOES NOT AFFECT THE RIGHT TO AN ADMINISTRATIVE HEARING.

YOU WAIVE THE RIGHT TO AN INFORMAL ADMINISTRATIVE PROCEEDING OR A FORMAL HEARING IF YOU DO NOT FILE A PETITION WITH THE AGENCY CLERK WITHIN 21 DAYS OF PUBLICATION OF THIS FINAL ORDER.

CERTIFICATE OF FILING AND SERVICE

I HEREBY CERTIFY that the original of the foregoing Final Order has been filed with the undersigned designated Agency Clerk, and that true and correct copies have been furnished to the persons listed below by the method indicated this 13th day of March, 2012.



Miriam Snipes, Agency Clerk

By U.S. Mail:

Honorable David Rice
Mayor of Monroe County
2798 Overseas Highway, Suite 400
Marathon, Florida 33050

Danny L. Kolhage
Clerk to the Board of County Commissioners
500 Whitehead Street
Key West, Florida 33040

Christine Hurley
Growth Management Director
2798 Overseas Highway, Suite 400
Marathon, Florida 33050

By Hand Delivery or Interagency Mail:

Rebecca Jetton, ACSC Administrator, DCA Tallahassee
Richard E. Shine, Assistant General Counsel, DCA Tallahassee