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MONROE COUNTY, FLORIDA
MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

ORDINANCE NO. -2024

AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY LAND DEVELOPMENT CODE SECTION 139-1(F) NONRESIDENTIAL INCLUSIONARY HOUSING REQUIREMENTS, TO REVISE THE LIST OF EXEMPTIONS AND WAIVERS FROM APPROVED AND ADOPTED NON-RESIDENTIAL INCLUSIONARY HOUSING REQUIREMENTS, INCLUDING BUT NOT LIMITED TO PROVIDE FOR LIMITED EXEMPTIONS TO THE NONRESIDENTIAL INCLUSIONARY HOUSING REQUIREMENT(S); 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 INCLUSION IN THE MONROE COUNTY CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on February 17, 2021, the Board Of County Commissioners (“Monroe County”, the “County”, “BOCC”, or “Board”) passed and adopted BOCC Ordinance No. 001-2021 adopting amendments to the Monroe County Land Development Code (“LDC” or “Code”) to amend Section 101-1 affordable housing definitions by creating a definition for area median income, workforce and workforce housing; and amendments to LDC Chapter 139-1 to clarify the affordable and employee housing administration, to incorporate nonresidential and transient inclusionary housing requirements by providing regulations regarding the provision of affordable housing for the development and redevelopment of nonresidential and transient uses; modifying the linkage provisions; amending and/or adding for consistency purpose related provisions; and

WHEREAS, on July 19, 2023, the BOCC directed the Planning and Environmental Resources Department to amend Land Development Code Section 139-1(f) to provide for limited exemptions to the nonresidential inclusionary housing requirement; and

WHEREAS, a community meeting was duly held on November 9, 2023, to provide for public input in accordance with LDC Section 102-159(b)(3); and

WHEREAS, the Monroe County Development Review Committee (“DRC”) considered the proposed text amendment at a regularly scheduled meeting held on the 19th day of December, 2023; and

WHEREAS, execution of DRC Resolution No. 23-23 followed on December 21, 2023, which recommended **APPROVAL** of amendment to Land Development Code Section 139-1(f) to provide for limited exemptions to the nonresidential inclusionary housing requirement(s); and

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

- 11 a. *New Development*. Each new development project not exempted by subsection (4), shall
12 mitigate 50% of the workforce housing demand created by the proposed development
13 by one or a combination of the methods identified in subsection (5).
14
- 15 b. *Redevelopment With An Expansion*. Each redevelopment project not exempted by
16 subsection (4), shall mitigate 50% of the workforce housing demand created by the
17 proposed redevelopment by one or a combination of the methods identified in subsection
18 (5). The workforce housing required for nonresidential development when an existing
19 use is expanded shall be calculated based on the incremental increase in size of the
20 existing use (net additional square footage).
21
- 22 c. *Redevelopment With A Change In Use Increasing Housing Demand*. Each redevelopment
23 project with a change of use increasing housing demand, not exempted by subsection
24 (4), shall mitigate 50% of the workforce housing demand created by the proposed
25 redevelopment by one or a combination of the methods identified in subsection (5). The
26 workforce housing required for nonresidential development when a new use replaces an
27 existing use and increasing housing demand (for example from an industrial use to an
28 office use) shall be calculated based on the square footage proposed for conversion
29 and/or based on the incremental increase in size of the new uses (if any).
30
- 31 d. *Unspecified Use*. If a proposed development project does not fall within one of the
32 specific use categories in the table within subsection (5), then the Planning Director shall
33 determine whether the use is comparable to a use category listed and assign a category
34 or may allow the applicant to conduct an independent calculation to determine the
35 appropriate affordable workforce housing inclusionary requirement. If the applicant
36 chooses to propose an independent calculation, the following applies:
37 1. An independent calculation shall require a public meeting with the Board of County
38 Commissioners to determine if there is a mutually agreeable approach to the calculation
39 prior to the application proceeding to the Development Review Committee for review.
40 The review of the independent calculation will not be scheduled as a public hearing, but
41 as a public meeting during which the BOCC may offer their input and direction and the
42 public may have input on the proposed methodology and calculation.
43 2. The applicant shall use generally accepted principles and methods and verifiable local
44 information and data, and other appropriate materials to support the employee generation
45 data and housing demand calculated.
46 3. The BOCC may agree or disagree with the independent calculation for mitigation
47 based on generally recognized principles and methodologies of impact analysis and the

1 accuracy of the data, information, and assumptions used to prepare the independent
2 calculation.

3 4. Each development project subject to an independent calculation and not exempted by
4 subsection (4), shall mitigate 50% of the demand for workforce housing created by the
5 development.
6

7 (4) **Exemptions and waivers.**

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

- 10 1. Affordable housing developments; and
- 11 2. Residential developments; and
- 12 3. Nursing homes, assisted care living facilities, and retirement homes; and
- 13 4. Mobile home and manufactured home parks and subdivisions; and
- 14 5. Public facilities and public uses limited to home parks and subdivisions; and
- 15 6. Airport uses; and
- 16 ~~7. Agricultural uses; and~~

17 ~~8. 7. The new development, redevelopment, remodeling, repair, change to a different use~~
18 ~~category or cumulative expansion of a lawfully established nonresidential use that does~~
19 ~~not establish or increase the area of the nonresidential use by more than 1,000 square feet~~
20 ~~of gross floor area or area of use and the use is not changed to a different use category.~~
21 ~~This exemption is not required to be utilized in whole or limited to a single building~~
22 ~~permit application; however cumulatively, an individual property shall not receive an~~
23 ~~exemption for any more than 1,000 square feet of gross floor area or area of use after~~
24 ~~April 17, 2024.~~

25 *****

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28 **Section 1.** **Title, Recitals, Legislative Purpose and Intent.** The foregoing title, recitals, findings of
29 fact, and conclusions of law are true and correct and are hereby incorporated as if fully
30 set forth herein.

31
32 **Section 2.** The Monroe County Board of County Commissioners (“BOCC”) hereby accepts,
33 approves, and adopts all of the analysis, findings of fact, conclusions of law, and
34 recommendation(s) in the April 2, 2024-dated Monroe County Planning and
35 Environmental Resources Department professional staff report accompanying this BOCC
36 agenda item, prepared by Monroe County Planning and Environmental Resources
37 Department Assistant Director of Planning Cheryl Cioffari, A.I.C.P., Monroe County
38 Planning and Environmental Resources Department Planning and Development Review
39 Manager Devin Tolpin, A.I.C.P., C.F.M., jointly with Monroe County Planning and
40 Environmental Resources Department Senior Director Emily Schemper, A.I.C.P., and
41 hereby accepts, approves, adopts, and incorporates by reference that Department
42 professional staff report, inclusive of its determinations of fact and law and its
43 recommended text amendment, as if fully set forth herein.
44

45 **Section 3.** **Construction and Interpretation.** The interpretation of this Ordinance, and all
46 provisions of the Monroe County Codes, Comprehensive Plan, floodplain management
47 regulations, Florida Statutes, and Florida Building Code whose interpretation arises out
48 of, relates to, or is interpreted in connection with this Ordinance, these being necessary

1 for the health, safety, and welfare of the residents of and visitors to unincorporated
2 Monroe County, shall be liberally construed in favor of Monroe County, and such
3 interpretations shall be entitled to great weight in adversarial administrative proceedings,
4 at trial, and on appeal.
5

6 **Section 4.** **Severability.** If any provision of this Ordinance, or any part or portion thereof, is held to
7 be invalid or unenforceable by any administrative hearing officer or court of competent
8 jurisdiction, the invalidity or unenforceability of such provision, or any part or portion
9 thereof, shall neither limit nor impair the operation, enforceability, or validity of any other
10 provision of this Ordinance, or any remaining part(s) or portion(s) thereof. All other
11 provisions of this Ordinance, and remaining part(s) or portion(s) thereof, shall continue
12 unimpaired in full force and effect.
13

14 **Section 5.** **Repeal of Inconsistent Provisions.** All ordinances in conflict with this Ordinance are
15 hereby repealed to the extent of said conflict. The repeal of an ordinance herein shall not
16 repeal the repealing clause of such ordinance or revive any ordinance which has been
17 repealed thereby.
18

19 **Section 6.** **Transmittal.** This Ordinance shall be transmitted to the Florida State Land Planning
20 Agency pursuant to Chapter 163 and 380, Florida Statutes.
21

22 **Section 7.** **Filing and Effective Date.** This Ordinance shall be filed in the Office of the Secretary
23 of State of Florida, but shall not become effective until a notice is issued by the Florida
24 State Land Planning Agency or Administration Commission finding the amendment in
25 compliance with Chapter 163, Florida Statutes, and if challenged until such challenge is
26 resolved.
27

28 **Section 8.** **Effective Date.** This Ordinance shall become effective as provided by law and stated
29 above.
30

31 **PASSED AND ADOPTED** by the Board of County Commissioners of Monroe County, Florida,
32 at a regular meeting held on the 17th day of April, 2024.
33

34 Mayor Holly Merrill Raschein _____
35 Mayor *Pro Tem* James K. Scholl _____
36 Commissioner Craig Cates _____
37 Commissioner Michelle Lincoln _____
38 Commissioner David Rice _____
39

40 BOARD OF COUNTY COMMISSIONERS
41 OF MONROE COUNTY, FLORIDA
42

43 By: _____
44 MAYOR HOLLY MERRILL RASCHEIN

45 (SEAL)
46 ATTEST: KEVIN MADOK, CLERK
47

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM



PETER MORRIS
ASSISTANT COUNTY ATTORNEY

Date: 4/2/24

49 By: _____
50 AS DEPUTY CLERK