

CHAPTER 28-18
LAND PLANNING REGULATIONS FOR THE FLORIDA KEYS AREA OF CRITICAL STATE CONCERN –
CITY OF MARATHON

28-18.300	Purpose and Effect
28-18.400	Comprehensive Plan

28-18.300 Purpose and Effect.

As provided in Sections 380.05(10) and 380.0552(7), F.S., the Comprehensive Plan of the City of Marathon shall be superseded by amendments which are proposed by Marathon and approved by the Department of Economic Opportunity pursuant to Sections 380.05(6) and 380.0552(9), F.S.

Rulemaking Authority 380.0552(9), 380.05(22) FS. Law Implemented 380.0552 FS. History--New 6-17-11.

28-18.400 Comprehensive Plan.

(1) The Comprehensive Plan of the City of Marathon, as the same exists on January 1, 2011, is hereby amended to read as follows:

(2) Policy 1-3.5.18 Marathon Work Program Conditions and Objectives.

(a) The number of allocations issued annually for residential development under the Residential Building Permit Allocation System (BPAS) shall not exceed a total annual unit cap of 30, plus any available unused BPAS allocations from a previous year. Unused BPAS allocations may be retained and made available only for affordable housing and Administrative Relief from BPAS year to BPAS year. Unused market rate allocations shall be available for Administrative Relief. Any unused affordable allocations will roll over to affordable housing. This BPAS allocation represents the total number of allocations for development that may be issued during a year. A BPAS year means the twelve-month period beginning on July 13. Policy 1-3.5.18 supersedes Policy 1-3.5.2 of the City of Marathon Comprehensive Plan.

(b) No exemptions or increases in the number of allocations may be allowed, other than that which may be expressly provided for in the comprehensive plan or for which there is an existing agreement as of September 27, 2005, for affordable housing between the Department and the local government in the critical areas.

(c) Through the Permit Allocation Systems, Marathon shall direct new growth and redevelopment to areas served by a central sewer system by 2015 that has committed or planned funding sources. Committed or planned funding is funding that is financially feasible and reflected in a Capital Improvements Element approved by the Department of Economic Opportunity. Prior to the ranking and approval of awards for an allocation authorizing development of new principal structures, Marathon shall coordinate with the central wastewater facility provider and shall increase an applicant's score by four points for parcels served by a collection line within a central wastewater facility service area where a central wastewater treatment facility has been constructed that meets the treatment standards of Sections 381.0065(4)(l) and 403.086(10), F.S., and where treatment capacity is available. The points shall only be awarded if a construction permit has been issued for the collection system and the parcel lies within the service area of the wastewater treatment facility.

(3) Reporting and Oversight.

(a) Beginning November 30, 2011, Marathon and the Department of Economic Opportunity shall annually report to the Administration Commission documenting the degree to which the work program objectives for the work program year have been achieved. The Commission shall consider the findings and recommendations provided in those reports and shall determine whether progress has been achieved toward accomplishing the tasks of the work program. If the Commission determines that progress has not been made, the unit cap for residential development shall be reduced by 20 percent for the following year.

(b) If the Commission determines that progress has been made for the work program year, then the Commission shall restore the unit cap for residential development for the following year up to a maximum of 30 allocations per BPAS year.

(c) Notwithstanding any other date set forth in this plan, the dates set forth in the work program shall control where conflicts exist.

(d) Wastewater treatment and disposal in Marathon is governed by the requirements of Sections 381.0065(4)(l) and 403.086(10), F.S., as amended. Nothing in this rule shall be construed to limit the authority of the Department of Environmental Protection or Department of Health to enforce Sections 381.0065(4)(l) and 403.086(10), F.S., as amended.

(4) Policy 1-2.2.4 Hurricane Modeling.

For hurricane evacuation clearance time modeling purposes, clearance time shall begin when the Monroe County Emergency Management Coordinator issues the evacuation order for the permanent population for a hurricane that is classified as a Category 3-5 wind event or Category C-E surge event. The termination point shall be the intersection of U.S. Highway One and the Florida Turnpike in Homestead/Florida City.

(5) WORK PROGRAM.

(a) Carrying Capacity Study Implementation.

1. By July 1, 2011, and each July thereafter, Marathon shall evaluate its land acquisition needs and state and federal funding opportunities and apply annually to at least one state or federal land acquisition funding opportunity.

2. By July 1, 2012, Marathon shall enter into a memorandum of understanding with the Department of Economic Opportunity, Division of Emergency Management, Monroe County, Islamorada, Key West, Key Colony Beach, and Layton after a notice and comment period of at least 30 days for interested parties. The memorandum of understanding shall stipulate, based on professionally acceptable data and analysis, the input variables and assumptions, including regional considerations, for utilizing the Florida Keys Hurricane Evacuation Model or other models acceptable to the Department of Economic Opportunity to accurately depict evacuation clearance times for the population of the Florida Keys.

3. By July 1, 2012, the Florida Keys Hurricane Evacuation Model shall be run with the agreed upon variables from the memorandum of understanding. Marathon and the Department of Economic Opportunity shall update the data for the Florida Keys Hurricane Evacuation Model as professionally acceptable sources of information are released (such as the Census, American Communities Survey, Bureau of Business and Economic Research, and other studies). The City shall also evaluate and address appropriate adjustments to the hurricane evacuation model within each Evaluation and Appraisal Report.

4. By December 1, 2012, Marathon shall complete an analysis of maximum build-out capacity for the Florida Keys Area of Critical State Concern, consistent with the requirement to maintain a 24-hour evacuation clearance time and the Florida Keys Carrying Capacity Study constraints. This analysis shall be prepared in coordination with the Department of Economic Opportunity, Monroe County and each municipality in the Keys.

5. By December 1, 2012, the Department of Economic Opportunity shall apply the derived clearance time to assess and determine the remaining allocations for the Florida Keys Areas of Critical State Concern. The Department will recommend appropriate revisions to the Administration Commission regarding the allocation rates and distribution of allocations to Monroe County, Marathon, Islamorada, Key West, Layton and Key Colony Beach or identify alternative evacuation strategies that support the 24-hour hurricane evacuation clearance time. If necessary, the Department of Economic Opportunity shall work with each local government to amend the respective Comprehensive Plans to reflect revised allocation rates and distributions or propose rule making to the Administration Commission.

6. By July 1, 2013, based on the Department of Economic Opportunity's recommendations, Marathon shall amend the current building permit allocation system (BPAS in the Comprehensive Plan and Land Development Regulations) based on infrastructure availability, level of service standards, environmental carrying capacity, and hurricane evacuation clearance time.

(b) Wastewater Implementation.

1. By July 1, 2011 and each July 1 thereafter, Marathon shall annually evaluate and allocate funding for wastewater implementation. Marathon shall identify any funding in the annual update to the Capital Improvements Element of the Comprehensive Plan.

2. By July 1, 2011, Marathon shall evaluate its wastewater needs and state and federal funding opportunities and apply annually to at least one state or federal funding opportunity for wastewater projects and connections.

(c) Canal Restoration Implementation

1. By December 30, 2020, Marathon and its partners shall update the 2013 Canal Management Master Plan (CCMP) to include any updated water quality assessment of canals, a methodology to prioritize need for water quality improvement, appropriate restoration options and revised canal rankings based on new information.

2. By December 30, 2020, Marathon shall develop and adopt guidelines to select canals for restoration, including a process to evaluate the feasibility of the project, the proposed restoration design (evaluate long-term cost-effective solutions) and associated funding needs.

3. By December 30, 2020, and each year thereafter until 2030, the Department of Economic Opportunity shall work with each stakeholder, including but not limited to each local government, Environmental Protection Agency (EPA), United States Army Corps of Engineers (ACOE), Florida Department of Environmental Protection (DEP), National Oceanic and Atmospheric

Administration (NOAA), Florida Keys National Marine Sanctuary (FKNMS), and the South Florida Water Management District (SFWMD) to facilitate intergovernmental coordination and expedite review of canal restoration projects within the Florida Keys.

4. By July 1, 2021, Marathon shall identify and evaluate funding sources for the implementation of canal restoration projects and the continual operation and maintenance of canals post restoration.

5. By July 1, 2021, and each year thereafter until 2030, Marathon shall identify canal restoration projects and implementation plans for each canal project. Marathon shall provide a list of selected canal restoration projects to the Department of Economic Opportunity by October 1st of each year to be completed during the following work program reporting period.

6. By July 1, 2021, and each year thereafter until 2030, Marathon shall evaluate its canal restoration needs and state and federal funding opportunities and apply annually to at least one state or federal funding opportunity for canal restoration projects.

7. By July 1, 2021 and each year thereafter until 2030, Marathon shall annually evaluate and allocate funding for canal restoration implementation. Marathon shall identify any funding in the annual update to the Capital Improvements Element (CIE) of the Comprehensive Plan.

8. By July 1, 2021, the Department of Economic Opportunity shall work with each stakeholder, including but not limited to each local government, EPA, ACOE, DEP, NOAA/FKNMS, SFWMD, to facilitate intergovernmental coordination and review of alternative solutions, including reduced regulatory costs, for canal systems that are susceptible to receiving large inputs of seagrass and other accumulated organic material from near shore waters.

9. By July 1, 2022, and each year thereafter until 2030, Marathon shall report which canal restoration projects have been initiated and projects that were completed during the reporting period to the Department of Economic Opportunity for submission to the Administration Commission.

10. By July 1, 2022, the Department of Economic Opportunity shall work with each stakeholder, including but not limited to each local government, EPA, ACOE, DEP, NOAA/FKNMS, SFWMD, to facilitate the permitting approval of the alternative solutions identified for canal systems with accumulated organic material issues to substantially reduce those inputs to levels that do not contribute to eutrophication, hypoxia, or other water and sediment quality issues within the canals.

11. By July 1, 2023, Marathon shall submit a plan to assess the effectiveness of completed canal restoration projects. The plan shall describe the methods, timeframes and potential funding sources to monitor the effectiveness of restoration projects based on water quality and ecological response factors. Marathon shall consult with the DEP Division of Environmental Assessment and Restoration to develop a cost-effective plan. The Department of Economic Opportunity will coordinate review of the completed plan with the DEP. Marathon shall account for agency review comments and modify the plan as necessary.

12. Beginning July 1, 2024, and annually thereafter until 2030, Marathon shall assess the effectiveness of canal restoration in accordance with the plan identified in subparagraph (5)(c)11. The DEP will make monitoring information related to Keys water quality available to Marathon to inform the assessment.

CHAPTER 28-19
LAND PLANNING REGULATIONS FOR THE FLORIDA KEYS AREA OF CRITICAL STATE CONCERN,
ISLAMORADA, VILLAGE OF ISLANDS

28-19.100	Purpose and Effect
28-19.200	Comprehensive Plan (Repealed)
28-19.310	Comprehensive Plan

28-19.100 Purpose and Effect.

(1) The purpose of this Chapter is to amend the Transitional Comprehensive Plan of Islamorada, Village of Islands, within the Florida Keys Area of Critical State Concern, pursuant to Section 380.0552(9), F.S.

(2) In order to provide an accurate record of the amendments approved by this chapter, each set of amendments is set forth in a separate rule section. If any provision of the comprehensive plan is amended by two rule sections, the latest amendment shall control.

(3) As provided in Sections 380.05(10) and 380.0552(7), F.S., the Transitional Comprehensive Plan of the Village adopted herein shall be superseded by amendments which are proposed by the Village and approved by the Department of Economic Opportunity pursuant to Sections 380.05(6) and 380.0552(9), F.S. The Village Transitional Comprehensive Plan shall be superseded by the new Village Comprehensive Plan upon approval by the Department of Economic Opportunity pursuant to Sections 380.05(6) and 380.0552(9), F.S.

Rulemaking Authority 380.0552(9) FS. Law Implemented 380.0552 FS. History—New 7-26-99.

28-19.200 Comprehensive Plan.

Rulemaking Authority 380.0552(9) FS. Law Implemented 380.0552 FS. History—New 7-26-99, Repealed 1-12-14.

28-19.310 Comprehensive Plan.

(1) The Comprehensive Plan of Islamorada, Village of Islands, as the same exists on January 1, 2011, is hereby amended to read as follows:

(2) Policy 1-3.1.1 Islamorada Work Program Conditions and Objectives.

(a) The number of permits issued annually for residential development under the Residential Building Permit Allocation System (BPAS) shall not exceed a total annual unit cap of 22 market rate units and 6 affordable housing units, plus any available unused BPAS allocations from the previous BPAS year. Unused BPAS allocations may be retained and made available only for affordable housing and Administrative Relief from BPAS year to BPAS year. Unused market rate allocations shall be available for Administrative Relief. Any unused affordable allocations will roll over to affordable housing. This BPAS allocation represents the total number of allocations for development that may be issued during a year. A BPAS year means the twelve-month period beginning on July 13.

(b) Beginning November 30, 2011, the Village and the Department of Economic Opportunity shall annually report to the Administration Commission documenting the degree to which the work program objectives for the work program year have been achieved. The Commission shall consider the findings and recommendations provided in those reports and shall determine whether progress has been achieved toward accomplishing the tasks of the work program. If the Commission determines that progress has not been made, the unit cap for residential development shall be reduced by 20 percent for the following year.

(3) Policy 2-1. 2.10 Hurricane Modeling.

For hurricane evacuation clearance time modeling purposes, clearance time shall begin when the Monroe County Emergency Management Coordinator issues the evacuation order for the permanent population for a hurricane that is classified as a Category 3-5 wind event or Category C-E surge event. The termination point shall be the intersection of U.S. Highway One and the Florida Turnpike in Homestead/Florida City.

(4) Reporting and Oversight.

(a) Through the Permit Allocation Systems, Islamorada shall direct new growth and redevelopment to areas served by or that would be served a central sewer system by December 2015, that has committed funding or planned funding sources. Committed or planned funding is funding that is financially feasible and reflected in a Capital Improvements Element approved by the Department

of Economic Opportunity. Prior to the ranking and approval of awards for an allocation authorizing development of new principal structures, the Village of Islamorada shall coordinate with the central wastewater facility provider and shall increase an applicant's score by two points for parcels served by a collection line within a central wastewater facility service area where a central wastewater treatment facility has been constructed that meets the treatment standards of Sections 381.0065(4)(1) and 403.086(10), F.S., and where treatment capacity is available. The points shall only be awarded if a construction permit has been issued for the collection system and the parcel lies within the service area of the wastewater treatment facility.

(b) If the Commission determines that progress has been made for the work program year, then the Commission shall restore the unit cap for residential development for the following year up to a maximum of 28 allocations per BPAS year.

(c) Wastewater treatment and disposal in Islamorada is governed by the requirements of Sections 381.0065(4)(1) and 403.086(10), F.S. Nothing in this rule shall be construed to limit the authority of the Department of Environmental Protection or Department of Health to enforce Sections 381.0065(4)(1) and 403.086(10), F.S.

(d) Notwithstanding any other date set forth in this plan, the dates set forth in the work program shall control where conflicts exist.

(5) WORK PROGRAM.

(a) Carrying Capacity Implementation.

1. By July 1, 2011 and each July 1 thereafter, Islamorada shall evaluate its land acquisition needs and state and federal funding opportunities and apply to at least one state or federal land acquisition funding opportunity.

2. By July 1, 2012, Islamorada shall enter into a memorandum of understanding with the Department of Economic Opportunity, Division of Emergency Management, Marathon, Monroe, Key West, Key Colony Beach, and Layton after a notice, public workshop and comment period of at least 30 days for interested parties. The memorandum of understanding shall stipulate, based on professionally acceptable data and analysis, the input variables and assumptions, including regional considerations, for utilizing the Florida Keys Hurricane Evacuation Model or other models acceptable to the Department to accurately depict evacuation clearance times for the population of the Florida Keys.

3. By July 1, 2012, the Florida Keys Hurricane Evacuation Model shall be run with the agreed upon variables from the memorandum of understanding. Islamorada and the Department of Economic Opportunity shall update the data for the Florida Keys Hurricane Evacuation Model as professionally acceptable sources of information are released (such as the Census, American Communities Survey, Bureau of Business and Economic Research, and other studies). Islamorada shall also evaluate and address appropriate adjustments to the hurricane evacuation model within each Evaluation and Appraisal Report.

4. By July 1, 2012, Islamorada shall complete an analysis of maximum build-out capacity for the Florida Keys Area of Critical State Concern, consistent with the requirement to maintain a 24-hour evacuation clearance time and the Florida Keys Carrying Capacity Study constraints. This analysis shall be prepared in coordination with the Department of Economic Opportunity, Monroe County and each municipality in the Keys.

5. By July 1, 2012, the Department of Economic Opportunity shall apply the derived clearance time to assess and determine the remaining allocations for the Florida Keys Areas of Critical State Concern. The Department will recommend appropriate revisions to the Administration Commission regarding the allocation rates and distribution of allocations to Monroe County, Marathon, Islamorada, Key West, Layton and Key Colony Beach or identify alternative evacuation strategies that support the 24-hour evacuation clearance time. If necessary, Department of Economic Opportunity shall work with each local government to amend the Comprehensive Plans to reflect revised allocation rates and distributions or propose rule making to the Administration Commission.

6. By July 1, 2013, based on the Department of Economic Opportunity's recommendations, Islamorada shall amend the current building permit allocation system (BPAS in the Comprehensive Plan and Land Development Regulations) based on infrastructure availability, level of service standards, environmental carrying capacity constraints, and hurricane evacuation clearance time.

(b) Wastewater Implementation.

1. Beginning July 1, 2011 and each July 1 thereafter, Islamorada shall identify any funding for wastewater implementation. Islamorada shall identify any funding in the annual update to the Capital Improvements Element of the Comprehensive Plan.

2. By July 1, 2011 and by July 1 of each year thereafter, Islamorada shall evaluate its wastewater needs and state and federal funding opportunities and apply annually to at least one state or federal funding opportunity for wastewater projects and connections.

(c) Canal Restoration Implementation.

1. By December 30, 2020, Islamorada and its partners shall update the 2013 Canal Management Master Plan (CCMP) to include

any updated water quality assessment of canals, a methodology to prioritize need for water quality improvement, appropriate restoration options and revised canal rankings based on new information.

2. By December 30, 2020, Islamorada shall develop and adopt guidelines to select canals for restoration, including a process to evaluate the feasibility of the project, the proposed restoration design (evaluate long-term cost-effective solutions) and associated funding needs.

3. By December 30, 2020, and each year thereafter until 2030, the Department of Economic Opportunity shall work with each stakeholder, including but not limited to each local government, Environmental Protection Agency (EPA), United States Army Corps of Engineers (ACOE), Florida Department of Environmental Protection (DEP), National Oceanic and Atmospheric Administration (NOAA), Florida Keys National Marine Sanctuary (FKNMS), and the South Florida Water Management District to facilitate intergovernmental coordination and expedite review of canal restoration projects within the Florida Keys.

4. By July 1, 2021, Islamorada shall identify and evaluate funding sources for the implementation of canal restoration projects and the continual operation and maintenance of canals post restoration.

5. By July 1, 2021, and each year thereafter until 2030, Islamorada shall identify canal restoration projects and implementation plans for each canal project. Islamorada shall provide a list of selected canal restoration projects to the Department of Economic Opportunity by October 1st of each year to be completed during the following work program reporting period.

6. By July 1, 2021, and each year thereafter until 2030, Islamorada shall evaluate its canal restoration needs and state and federal funding opportunities and apply annually to at least one state or federal funding opportunity for canal restoration projects.

7. By July 1, 2021 and each year thereafter until 2030, Islamorada shall annually evaluate and allocate funding for canal restoration implementation. Islamorada shall identify any funding in the annual update to the Capital Improvements Element (CIE) of the Comprehensive Plan.

8. By July 1, 2021, the Department of Economic Opportunity shall work with each stakeholder, including but not limited to each local government, EPA, ACOE, DEP, NOAA/FKNMS, SFWMD, to facilitate intergovernmental coordination and review of alternative solutions, including reduced regulatory costs, for canal systems that are susceptible to receiving large inputs of seagrass and other accumulated organic matter from near shore waters.

9. By July 1, 2022, and each year thereafter until 2030, Islamorada shall report which canal restoration projects have been initiated and projects that were completed during the reporting period to the Department of Economic Opportunity for submission to the Administration Commission.

10. By July 1, 2022, the Department of Economic Opportunity shall work with each stakeholder, including but not limited to each local government, EPA, ACOE, DEP, NOAA/FKNMS, SFWMD, to facilitate the permitting approval of the alternative solutions identified for canal systems with accumulated organic matter issues to substantially reduce those inputs to levels that do not contribute to eutrophication, hypoxia, or other water and sediment quality issues within the canals.

11. By July 1, 2023, Islamorada shall submit a plan to assess the effectiveness of completed canal restoration projects. The plan shall describe the methods, timeframes and potential funding sources to monitor the effectiveness of restoration projects based on water quality and ecological response factors. Islamorada shall consult with the DEP Division of Environmental Assessment and Restoration to develop a cost-effective plan. The Department of Economic Opportunity will coordinate review of the completed plan with the DEP. Islamorada shall account for agency review comments and modify the plan as necessary.

12. Beginning July 1, 2024, and annually thereafter until 2030, Islamorada shall assess the effectiveness of canal restoration in accordance with the plan identified in subparagraph (5)(c)11. The DEP will make monitoring information related to Keys water quality available to Islamorada to inform the assessment.

CHAPTER 28-20
LAND PLANNING REGULATIONS FOR THE FLORIDA KEYS AREA OF CRITICAL STATE CONCERN –
MONROE COUNTY

28-20.019	Purpose and Effect
28-20.020	Comprehensive Plan (Repealed)
28-20.021	Land Development Regulations (Repealed)
28-20.022	Second Administration Commission Amendments to the Comprehensive Plan (Repealed)
28-20.023	Second Administration Commission Amendments to Land Development Regulations (Repealed)
28-20.024	Third Administration Commission Amendments to Land Development Regulations (Repealed)
28-20.025	Land Development Regulations (Repealed)
28-20.100	Comprehensive Plan (Repealed)
28-20.110	Comprehensive Plan (Repealed)
28-20.120	Land Development Regulations (Repealed)
28-20.140	Comprehensive Plan

28-20.019 Purpose and Effect.

(1) The purpose of this Chapter is to establish land development regulations and a local comprehensive plan applicable within the Florida Keys Area of Critical State Concern, pursuant to Section 380.05(8), F.S. It is the intent of the Administration Commission that this rule shall supplement those land development regulations and those portions of the comprehensive plan approved by the Department of Economic Opportunity in Chapter 9J-14, F.A.C. This chapter and Chapter 9J-14, F.A.C., comprise the comprehensive plan and land development regulations for the Florida Keys Area of Critical State Concern. To the extent that existing ordinances are not adopted in this rule or approved in Chapter 9J-14, F.A.C., such ordinances are not deemed to be “land development regulations” within the definition of Section 380.031(8), F.S.

(2) In order to provide an accurate record of the amendments approved by this chapter, each set of amendments is set forth in a separate rule section. If any provision of the comprehensive plan or the land development regulations is amended by two rule sections, the latest amendment shall control.

(3) As provided in Section 380.05(10), F.S., the comprehensive plan and land development regulations adopted herein shall be superseded by regulations or amendments which are proposed by Monroe County and approved by the Department of Economic Opportunity under the procedures found in Section 380.05(6), F.S.

(4) Land Development Regulations, including Official Land Use District Maps, shall be construed to implement the provisions of Chapter 163, F.S. (1985) and Chapter 86-170, Laws of Florida (1986).

(5) All development, in addition to being consistent with the provisions of these land development regulations which include the official land use district maps, shall be consistent with the goals, policies and objectives of the comprehensive plan. All land use decisions based upon the map designations must be consistent with the text of volumes I and II.

(6) The purpose of Part II of this chapter is to adopt amendments to the Monroe County Comprehensive Plan adopted by Monroe County Ordinance No. 016-1993, and approved by the Department of Economic Opportunity in Rules 9J-14.020-.023, F.A.C., including maps, consistent with the Principles for Guiding Development for the Florida Keys Area of Critical State Concern, pursuant to Sections 380.0552(7) and (9), F.S. The Monroe County Comprehensive Plan adopted by Ordinance 016-1993 and approved by the Department of Economic Opportunity in Rules 9J-14.020-.023, F.A.C., supersedes the Comprehensive Plan addressed in Part I of this chapter.

Rulemaking Authority 380.05(8), 380.0552(9) FS. Law Implemented 380.0552 FS. History—New 9-15-86, Amended 10-5-89, 1-2-96.

28-20.020 Comprehensive Plan.

Rulemaking Authority 380.05(8) FS. Law Implemented 380.05(8), 380.0552(4) FS. History—New 9-15-86, Repealed 1-12-14.

28-20.021 Land Development Regulations.

Rulemaking Authority 380.05(8) FS. Law Implemented 380.05(8), 380.0552(4) FS. History—New 9-15-86, Repealed 1-12-14.

28-20.022 Second Administration Commission Amendments to the Comprehensive Plan.

Rulemaking Authority 380.0552(9) FS. Law Implemented 380.0552 FS. History—New 10-5-89, Repealed 1-12-14.

28-20.023 Second Administration Commission Amendments to Land Development Regulations.

Rulemaking Authority 380.0552(9) FS. Law Implemented 380.0552 FS. History—New 10-5-89, Repealed 1-12-14.

28-20.024 Third Administration Commission Amendments to Land Development Regulations.

Rulemaking Authority 380.0552(9) FS. Law Implemented 380.0552 FS. History—New 8-12-92, Repealed 1-12-14.

28-20.025 Land Development Regulations.

Rulemaking Authority 380.0552(9) FS. Law Implemented 380.0552 FS. History—New 1-2-96, Repealed 1-12-14.

28-20.100 Comprehensive Plan.

Rulemaking Authority 380.05(8), 380.0552(9) FS. Law Implemented 380.0552 FS. History—New 1-2-96, Amended 7-17-97, 7-26-99, 10-29-02, Repealed 1-12-14.

28-20.110 Comprehensive Plan.

Rulemaking Authority 380.0552(9) FS. Law Implemented 380.0552 FS. History—New 9-27-05, Repealed 1-12-14.

28-20.120 Land Development Regulations.

Rulemaking Authority 380.0552(9) FS. Law Implemented 380.0552 FS. History—New 9-27-05, Repealed 1-12-14.

28-20.140 Comprehensive Plan.

(1) The Monroe County Comprehensive Plan Policy Document, as the same exists on January 1, 2011, is hereby amended to read as follows:

(2) Policy 101.2.13 Monroe County Work Program Conditions and Objectives.

(a) Monroe County shall establish and maintain a Permit Allocation System for new residential development. The Permit Allocation System shall supersede Policy 101.2.1.

(b) The number of permits issued annually for residential development under the Rate of Growth Ordinance shall not exceed a total annual unit cap of 197, plus any available unused ROGO allocations from a previous ROGO year. Each year's ROGO allocation of 197 units shall be split with a minimum of 71 units allocated for affordable housing in perpetuity and market rate allocations not to exceed 126 residential units per year. Unused ROGO allocations may be retained and made available only for affordable housing and Administrative Relief from ROGO year to ROGO year. Unused allocations for market rate shall be available for Administrative Relief. Any unused affordable allocations will roll over to affordable housing. A ROGO year means the twelve-month period beginning on July 13.

(c) This allocation represents the total number of allocations for development that may be issued during a ROGO year. No exemptions or increases in the number of allocations may be allowed, other than that which may be expressly provided for in the comprehensive plan or for which there is an existing agreement as of September 27, 2005, for affordable housing between the Department and the local government in the critical areas.

(d) Through the Permit Allocation Systems, Monroe County shall direct new growth and redevelopment to areas served or that would be served by a central sewer system by December 2015 that has committed or planned funding. Committed or planned funding is funding that is financially feasible and reflected in a Capital Improvements Element approved by the Department of Economic Opportunity. Prior to the ranking and approval of awards for an allocation authorizing development of new principal structures, Monroe County, shall coordinate with the central wastewater facility provider and shall increase an applicant's score by four points for parcels served by a collection line within a central wastewater facility service area where a central wastewater treatment facility has been constructed that meets the treatment standards of Section 403.086(10), F.S., and where treatment capacity is available. The points shall only be awarded if a construction permit has been issued for the collection system and the parcel lies

within the service area of the wastewater treatment facility.

(3) Reporting and Oversight.

(a) Beginning November 30, 2011, Monroe County and the Department of Economic Opportunity shall annually report to the Administration Commission documenting the degree to which the work program objectives for the work program year have been achieved. The Commission shall consider the findings and recommendations provided in those reports and shall determine whether progress has been achieved. If the Commission determines that progress has not been made, the unit cap for residential development shall be reduced by 20 percent for the following ROGO year.

(b) If the Commission determines that progress has been made for the work program year, then the Commission may restore the unit cap for residential development for the following year up to a maximum of 197 allocations per ROGO year.

(c) Notwithstanding any other date set forth in this plan, the dates set forth in the work program shall control where conflicts exist.

(d) Wastewater treatment and disposal in Monroe County is governed by the requirements of Sections 381.0065(4) and 403.086(10), F.S. Nothing in this rule shall be construed to limit the authority of the Department of Environmental Protection or the Department of Health to enforce Sections 381.0065(4) and 403.086(10), F.S.

(4) Policy 216.1.19. Hurricane Modeling.

For the purposes of hurricane evacuation clearance time modeling purposes, clearance time shall begin when the Monroe County Emergency Management Coordinator issues the evacuation order for permanent residents for a hurricane that is classified as a Category 3-5 wind event or Category C-E surge event. The termination point shall be U.S. Highway One and the Florida Turnpike in Homestead/Florida City.

(5) WORK PROGRAM.

(a) Carrying Capacity Study Implementation.

1. Prior to the County adopting a resolution recommending the removal of the designation of Monroe County as an Area of Critical State Concern, pursuant to Section 380.0552(4)(b)3., F.S., Monroe County shall adopt the conservation planning mapping (the Tier Zoning Overlay Maps and System) into the Comprehensive Plan as an overlay to the Future Land Use Map.

2. By July 1, 2012 and each July thereafter, Monroe County and the Monroe County Land Authority shall submit a report annually to the Administration Commission on the land acquisition funding and efforts in the Florida Keys to purchase Tier I and Big Pine Key Tier II lands and the purchase of parcels where a Monroe County building permit allocation has been denied for four (4) years or more. The report shall include an identification of all sources of funds and assessment of fund balances within those sources available to the County and the Monroe County Land Authority.

3. By July 1, 2011, Monroe County shall evaluate its land acquisition needs and state and federal funding opportunities and apply annually to at least one state or federal land acquisition funding opportunity.

4. By July 1, 2012, Monroe County shall enter into a memorandum of understanding with the Department of Economic Opportunity, Division of Emergency Management, Marathon, Islamorada, Key West, Key Colony Beach and Layton after a notice and comment period of at least 30 days for interested parties. The memorandum of understanding shall stipulate, based on professionally acceptable data and analysis, the input variables and assumptions, including regional considerations, for utilizing the Florida Keys Hurricane Evacuation Model or other models acceptable to the Department to accurately depict evacuation clearance times for the population of the Florida Keys.

5. By July 1, 2012, the Florida Keys Hurricane Evacuation Model shall be run with the agreed upon variables from the memorandum of understanding to complete an analysis of maximum build-out capacity for the Florida Keys Area of Critical State Concern, consistent with the requirement to maintain a 24-hour evacuation clearance time and the Florida Keys Carrying Capacity Study constraints. This analysis shall be prepared in coordination with the Department of Economic Opportunity and each municipality in the Keys.

6. By July 1, 2012, the County and the Department of Economic Opportunity shall update the data for the Florida Keys Hurricane Evacuation Model as professionally acceptable sources of information are released (such as the Census, American Communities Survey, Bureau of Economic and Business Research, and other studies). The County shall also evaluate and address appropriate adjustments to the hurricane evacuation model within each Evaluation and Appraisal Report.

7. By July 1, 2012, the Department of Economic Opportunity shall apply the derived clearance time to assess and determine the remaining allocations for the Florida Keys Areas of Critical State Concern. The Department will recommend appropriate revisions to the Administration Commission regarding the allocation rates and distribution of allocations to Monroe County, Marathon,

Islamorada, Key West, Layton and Key Colony Beach or identify alternative evacuation strategies that support the 24 hour evacuation clearance time. If necessary, the Department of Economic Opportunity shall work with each local government to amend the Comprehensive Plans to reflect revised allocation rates and distributions or propose rulemaking to the Administration Commission.

8. By July 1, 2013, if necessary, the Department of Economic Opportunity shall work with each local government to amend the Comprehensive Plan to reflect revised allocation rates and distribution or propose rule making to the Administration Commission.

(b) Wastewater Implementation.

1. By July 1, 2011, Monroe County shall annually evaluate and allocate funding for wastewater implementation. Monroe County shall identify any funding in the annual update to the Capital Improvements Element of the Comprehensive Plan.

2. By July 1, 2011, Monroe County shall evaluate its wastewater needs and state and federal funding opportunities and apply annually to at least one state or federal funding opportunity for wastewater projects and connections.

(c) Wastewater Project Implementation.

1. Key Largo Wastewater Treatment Facility. Key Largo Wastewater Treatment District is responsible for wastewater treatment in its service area and the completion of the Key Largo Wastewater Treatment Facility.

2. Hawk's Cay, Duck Key and Conch Key Wastewater Treatment Facility.

By July 1, 2014, Monroe County shall complete all remaining connections to Hawk's Cay WWTP.

3. South Lower Keys Wastewater Treatment Facility (Big Coppitt Regional System).

By July 1, 2013, Monroe County shall complete all remaining connections to the South Lower Keys WWTP.

4. Cudjoe Regional Wastewater Treatment Facility.

By December 1, 2015, Monroe County shall complete remaining hook-ups to Cudjoe Regional WWTP.

(d) Canal Restoration Implementation.

1. By December 30, 2020, Monroe County and its partners shall update the 2013 Canal Management Master Plan (CCMP) to include any updated water quality assessment of canals, a methodology to prioritize need for water quality improvement, appropriate restoration options and revised canal rankings based on new information.

2. By December 30, 2020, Monroe County shall develop and adopt guidelines to select canals for restoration, including a process to evaluate the feasibility of the project, the proposed restoration design (evaluate long-term cost-effective solutions) and associated funding needs.

3. By December 30, 2020, and each year thereafter until 2030, the Department of Economic Opportunity shall work with each stakeholder, including but not limited to each local government, Environmental Protection Agency (EPA), United States Army Corps of Engineers (ACOE), Florida Department of Environmental Protection (DEP), National Oceanic and Atmospheric Administration (NOAA), Florida Keys National Marine Sanctuary (FKNMS), and the South Florida Water Management District (SFWMD) to facilitate intergovernmental coordination and expedite review of canal restoration projects within the Florida Keys.

4. By July 1, 2021, Monroe County shall identify and evaluate funding sources for the implementation of canal restoration projects and the continual operation and maintenance of canals post restoration.

5. By July 1, 2021, and each year thereafter until 2030, Monroe County shall identify canal restoration projects and implementation plans for each canal project. Monroe County shall provide a list of selected canal restoration projects to the Department of Economic Opportunity by October 1st of each year to be completed during the following work program reporting period.

6. By July 1, 2021, and each year thereafter until 2030, Monroe County shall evaluate its canal restoration needs and state and federal funding opportunities and apply annually to at least one state or federal funding opportunity for canal restoration projects.

7. By July 1, 2021 and each year thereafter until 2030, Monroe County shall annually evaluate and allocate funding for canal restoration implementation. Monroe County shall identify any funding in the annual update to the Capital Improvements Element (CIE) of the Comprehensive Plan.

8. By July 1, 2021, the Department of Economic Opportunity shall work with each stakeholder, including but not limited to each local government, EPA, ACOE, DEP, NOAA/FKNMS, SFWMD, to facilitate intergovernmental coordination and review of alternative solutions, including reduced regulatory costs, for canal systems that are susceptible to receiving large inputs of seagrass and other accumulated organic material from near shore waters.

9. By July 1, 2022, and each year thereafter until 2030, Monroe County shall report which canal restoration projects have been initiated and projects that were completed during the reporting period to the Department of Economic Opportunity for submission to

the Administration Commission.

10. By July 1, 2022, the Department of Economic Opportunity shall work with each stakeholder, including but not limited to each local government, EPA, ACOE, DEP, NOAA/FKNMS, SFWMD, to facilitate the permitting approval of the alternative solutions identified for canal systems with accumulated organic material issues to substantially reduce those inputs to levels that do not contribute to eutrophication, hypoxia, or other water and sediment quality issues within the canals.

11. By July 1, 2023, Monroe County shall submit a plan to assess the effectiveness of completed canal restoration projects. The plan shall describe the methods, timeframes and potential funding sources to monitor the effectiveness of restoration projects based on water quality and ecological response factors. Monroe County shall consult with the DEP Division of Environmental Assessment and Restoration to develop a cost-effective plan. The Department of Economic Opportunity will coordinate review of the completed plan with the DEP. Monroe County shall account for agency review comments and modify the plan as necessary.

12. Beginning July 1, 2024, and annually thereafter until 2030, Monroe County shall assess the effectiveness of canal restoration in accordance with the plan identified in subparagraph (5)(c)11. The DEP will make monitoring information related to Keys water quality available to Monroe County to inform the assessment.

Rulemaking Authority 380.0552(9), 380.05(22) FS. Law Implemented 380.0552 FS. History—New 6-17-11, Amended 11-26-20.