

ORDINANCE NO. _____

AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADOPTING A TEXT AND MAP AMENDMENT TO THE MONROE COUNTY CODE BY CREATING A NEW SECTION 9.5-260.3 “BIG PINE AND NO NAME KEYS FORMULA RETAIL OVERLAY DISTRICT” OF DIVISION 2, ARTICLE VII, CHAPTER 9.5; AND ADOPTING BY REFERENCE THE “BIG PINE AND NO NAME KEYS FORMULA RETAIL OVERLAY DISTRICT MAP;” PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR INCLUSION IN THE MONROE COUNTY CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF COMMUNITY AFFAIRS; AND PROVIDING FOR AN EFFECTIVE DATE UPON APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF COMMUNITY AFFAIRS.

WHEREAS, Big Pine and No Name Keys are unique island communities consisting predominantly of small scale residential and commercial uses, and a nationally significant natural environment which provides habitat for several threatened and endangered plant and animal species; and

WHEREAS, Goal 101 of the Comprehensive Plan mandates Monroe County to manage future growth to enhance the quality of life, ensure the safety of County residents and visitors, and protect valuable natural resources; and

WHEREAS, residents of Big Pine and No Name Keys have undertaken a community-driven planning effort to establish a vision of their future growth and development designed to enhance quality of life and protect valuable natural resources; and

WHEREAS, the planning process sought to define public’s interest in promoting its general welfare by preserving the rural community character and economic viability of locally owned and operated businesses by determining the appropriate amount, type, and location of additional commercial development; and

WHEREAS, the debates took place at many public workshops and solicited community input through citizen surveys, design charrettes, and news letters mailed to residents; and

LDR Amendment DRAFT
Big Pine and No Name Keys Formula Retail Overlay District

WHEREAS, the residents of Big Pine and No Name Keys envisioned for themselves a rural community character with a small town atmosphere and way of life that takes advantage of local goods and services; and

WHEREAS, Federal and State law grants power to Monroe County to regulate and restrict the use of land and buildings, in order to promote the safety and general welfare of its citizens; and

WHEREAS, Monroe County has adopted land use goals, policies, and objectives in a comprehensive plan to guide building and land use regulations, and to promote health, safety, and general welfare; and

WHEREAS, Objective 101.20 of Monroe County Comprehensive Plan mandates that Monroe County address local community needs while balancing the needs of all Monroe County communities, and that these efforts shall focus on the human crafted environment and shall be undertaken through the Livable CommuniKeys Planning Program; and

WHEREAS, Policy 101.20.1 of the Monroe County Comprehensive Plan states that Monroe County shall develop a series of Community Master Plans through the Livable CommuniKeys Program, which will be developed in accordance with, among other principles, the following principle:

“8. Each Community Master Plan will include a community character element that will address the protection and enhancement of existing residential areas and the preservation of community character through site and building guidelines. Design guidelines for public spaces, landscaping, streetscaping, buildings, parking lots, and other areas will be developed through collaborative efforts of citizens, the Planning Department, and design professionals reinforcing the character of the local community context;” and

WHEREAS, through the Livable CommuniKeys Program the residents of Big Pine and No Name Keys established an objective in their Master Plan for Future Development of Big Pine and No Name Key which promotes redevelopment and expansion of existing businesses, but limit new commercial uses in order to preserve community character as a unique Florida Keys resource and protect the economic viability of locally owned businesses that would be adversely affected by formula retail businesses and restaurants; and

WHEREAS, citizen debates culminated in a Master Plan for Future Development of Big Pine and No Name Key, which sets forth specific action items that must be implemented to achieve the community vision and promote general welfare; and

WHEREAS, the citizens of Big Pine and No Name Keys have determined that a proliferation of new commercial development poses a potential threat to their general welfare by destroying the unique rural character of the community, by deterring

accomplishment of their goals of beautification, and by adversely affecting the economic viability of locally owned businesses; and

WHEREAS, the citizens of Big Pine and No Name Keys have perceived that certain types of commercial development pose the potential to diminish the small town atmosphere and way of life of Big Pine and No Name Keys; and

WHEREAS, Action Item 12.2.4 of the Master Plan for Future Development of Big Pine and No Name Key adopted by the Monroe County Board of County Commissioners prohibits new formula retail businesses and restaurants on Big Pine and No Name Keys through the development and adoption of Land Development Regulations; and

WHEREAS, the provisions of this ordinance are consistent with the Master Plan for Future Development of Big Pine and No Name Key; and

WHEREAS, the provisions of this ordinance are consistent with principle (1) of the Principles for Guiding Development in the Florida Keys Area of Critical State Concern:

Principle (1) To protect the public health, safety, and welfare of the citizens of the Florida Keys and maintain the Florida Keys as a unique Florida resource; and

WHEREAS, the provisions of this ordinance are consistent with the Monroe County Comprehensive Plan; and

WHEREAS, the Monroe County Board of County Commissioners has adopted the Master Plan for Future Development of Big Pine and No Name Key as an addendum to the Monroe County Comprehensive Plan.

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

Section 1. The Board adopts the preceding Findings of Fact in support of its decision to amend the text and land use district maps of the Monroe County Code, Division 2, Article VII, by creating Section 9.5-260.3 **BIG PINE AND NO NAME KEYS FORMULA RETAIL OVERLAY DISTRICT** and adopting by reference the **BIG PINE AND NO NAME KEYS FORMULA RETAIL OVERLAY DISTRICT MAP**.

Section 2. Text Amendment. Section 9.5-260.3 of the Monroe County Land Development Regulations is hereby created to read as follows:

Section 9.5-260.3. Big Pine and No Name Keys Formula Retail Overlay District

(a) Purpose: The purpose of the Big Pine and No Name Keys Formula Retail Overlay District is to implement Action Item 12.2.4 of the Master Plan for Future Development of Big Pine and No Name Keys, adopted as an addendum to the

Monroe County Comprehensive Plan, which prohibits new formula retail businesses and restaurants in an effort to maintain the rural and unique character of the community.

(b) Application: The Big Pine and No Name Keys Formula Retail Overlay District shall be overlaid on all land use districts of the Monroe County Land Use District Maps on Big Pine and No Name Keys.

(c) Definitions: Throughout this section, the following words and phrases shall have the meanings indicated:

i. *Eating place* means any business primarily engaged in the on-site preparation and sale of food and beverages for consumption either on- or off-premises, except that grocery stores are not classified as eating places.

ii. *Fast food restaurant* means an eating place primarily engaged in the sale of pre-prepared or quickly prepared food and beverages usually in disposable containers and wrappers, selected by patrons from a limited line of specialized items such as hamburgers, chicken, pizza, tacos, hot dogs, ice cream or yogurt, for example, for consumption either on- or off-premises, in a facility in which a major portion of the sales to patrons is at a stand-up type counter.

iii. *Formula restaurant* means an eating place that is one of a franchise, chain or group of three or more existing establishments and which satisfies at least two of the following three descriptions:

(1) Has the same or similar name, trade name, or trademark as others in the chain or group;

(2) Offers any of the following characteristics in a style which is distinctive to and standardized among the franchise, chain or group:

- a. Exterior design or architecture;
- b. Uniforms, except that a personal identification or simple logo will not render the clothing a uniform; or
- c. Has a standardized menu; or

(3) Is a fast food restaurant.

iv. *Formula retail* means a type of retail sales activity of retail sales establishment (other than a "formula restaurant") that is required by contractual or other arrangement to maintain any one or more of the following: standardized array of services or merchandise, trademark, logo, service mark, symbol, decor, architecture, layout, uniform, or similar standardized feature.

- v. *Professional service* means any service which may lawfully be rendered only by certified public accountants, public accountants, architects, attorneys, podiatrists, chiropractors, dentists, pharmacists, professional engineers, land surveyors, registered professional nurses, optometrists, physicians and surgeons, physician assistants, psychologists, veterinarians, and all other professionals licensed, registered, certified, or otherwise authorized and permitted to practice independently under the laws of the state.
- vi. *Restaurant, general*, means an eating place which prepares and sells food which is ordered from a menu, and served by a waiter or waitress, or selected in a cafeteria or from a buffet with food, and primarily consumed on the premises, and which contains permanent seating facilities and counters and tables, adequate to accommodate the customers served.
- vii. *Retail* means the selling of goods, wares, or merchandise directly to the ultimate consumer or persons without a resale license.

(d) Regulation of drive-in and drive-through facilities: Any drive-in or drive-through facility for the purpose of retail sales shall be approved only as a major conditional use. Drive-through or drive-in lanes with carryout service windows shall not be permitted in or at any eating place, restaurant, food service operation, or beverage or liquor store.

(e) Formula restaurants prohibited: New formula restaurants for which building permits have not been issued prior to the effective date of this ordinance shall not be permitted in any zoning district of Big Pine and No Name Keys.

(f) Formula retail regulations: A formula retail establishment shall be approved only as a major conditional use and shall also be subject to the following criteria:

- (1) Shall not have a street level business frontage of greater than 50 linear feet on any street; and
- (2) Shall not exceed 2,500 square feet of floor area.

(g) Exemptions:

(1) Professional service exemption. A professional service use shall be exempt from the provisions of this section. The professional service exemption provided in this subsection shall not apply to:

- (i) Any professional service use which provides retail sales, in whole or in part, and meets the definition of either formula retail or formula restaurant; or

- (ii) Any professional service use that is accessed from within either a formula retail or formula restaurant.
 - (iii) Any cooperative buying group unless the establishment maintains the standardized features described in section (c)(iv) above.
- (2) Continuation of existing formula retail uses: An existing formula retail use may be replaced with another formula retail use in the same footprint. Examples include, but are not limited to: replacement of a formula retail gas station by another formula retail gas station, or replacement of a formula retail drug store by another formula retail drug store, or replacement of a formula retail grocery store by another formula retail grocery store, or the replacement of a formula retail hardware store with another formula retail hardware store of the same type use.

Section 3. Map Amendment. The Monroe County land use district maps for Big Pine and No Name Keys shall be amended to include the Big Pine and No Name Keys Overlay District Map hereby incorporated by reference and attached hereto as EXHIBIT A.

Section 4. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Repeal of Conflicting Provisions. The provisions of the Monroe County Code and all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 6. Inclusion in the Code. The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of Monroe County, Florida as an addition or amendment thereto, and shall be appropriately numbered to conform to the uniform number system of the Code.

Section 7. Approval by the State Department of Community Affairs. The provisions of this Ordinance constitute a "land development regulation" as State law defines that term. Accordingly, the Monroe County Clerk is authorized to forward a copy of this Ordinance to the State Department of Community Affairs for approval pursuant to Sections 380.05(6) and (11), Florida Statutes.

Section 8. Effective Date. This Ordinance shall be effective immediately upon approval by the State Department of Community Affairs pursuant to Chapter 380., Florida Statutes.

PASSED AND ADOPTED by the Monroe County Board of County Commissioners at a regular meeting held on the ____ day of _____, 2005.

Mayor Charles "Sonny McCoy"	_____
Mayor Pro Tem Murray Nelson	_____
Commissioner George Neugent	_____
Commissioner David Rice	_____
Commissioner Dixie Spehar	_____

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

BY _____
Mayor Charles "Sonny McCoy"

ATTEST: DANNY KOHAGE, CLERK
