



Islamorada, Village of Islands

LOCAL PLANNING AGENCY MEETING

February 13, 2023 - 9:00 AM
Founders Park Community Center
87000 Overseas Highway
Islamorada, FL 33036

AGENDA

I. CALL TO ORDER / ROLL CALL

II. PLEDGE OF ALLEGIANCE

III. AGENDA: Requests for Deletion / Emergency Additions

IV. PUBLIC COMMENT

(This is general public comment. It provides an opportunity for the public to speak about matters not scheduled elsewhere on the agenda. The chair opens public comment on agenda items throughout the meeting.)

V. CONSENT AGENDA

(All items on the Consent Agenda are considered routine by the LPA and will be approved by one motion. There will be no separate discussion of these items unless a committee member so requests, in which event, the item will be moved to the Main Agenda.)

- A.** Approval of Meeting Summary Minutes from October 10, 2022 LPA meeting.

VI. PUBLIC HEARINGS

- A.** Miscellaneous Land Development Regulation Amendments (Daniel J. Gulizio, Director of Development Services)

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30, ARTICLE VI, DIVISION 11 (ALCOHOLIC BEVERAGE USE PERMIT), ARTICLE V, DIVISION 2 (MULTIFAMILY ZONING DISTRICT), ARTICLE VI, DIVISION 9 (OUTDOOR SEATING), ARTICLE II (RULES OF CONSTRUCTION AND DEFINITIONS), ARTICLE VI, DIVISION 6 (HOME OCCUPATIONS), ARTICLE IV, DIVISION 2 (VARIANCES IN GENERAL), ARTICLE V, DIVISION 2 (TOURIST COMMERCIAL ZONING DISTRICT), ARTICLE II, RULES OF CONSTRUCTION AND DEFINITIONS (FARMERS MARKETS, FLEA MARKETS, AND FAIRS), ARTICLE V, DIVISION 2 (ZONING DISTRICTS) HIGHWAY COMMERCIAL ZONING DISTRICT, NEIGHBORHOOD COMMERCIAL ZONING DISTRICT, AND VILLAGE CENTER ZONING

DISTRICT (FARMERS MARKETS, FLEA MARKETS, AND FAIRS), ARTICLE IV, DIVISION 2 (PUBLIC HEARING AND NOTICE), AND ARTICLE IV, DIVISION 3 (QUASIJUDICIAL PROCEDURES), GENERAL PROCEDURES, ARTICLE IV, DIVISION 12 (TRANSFER OF DEVELOPMENT RIGHTS, AND ARTICLE IV, DIVISION 11 (BUILDING PERMIT ALLOCATION SYSTEM – BPAS); PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THE PROVISIONS OF THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY.

VII. CHAIR AND LOCAL PLANNING AGENCY MEMBERS

VIII. FUTURE AGENDA ITEMS

IX. DEVELOPMENT SERVICES DIRECTOR / VILLAGE MANAGER

A. Building Permit Allocation System (BPAS) Discussion

- Introduction and Summary
- Recommendations
- Next Steps
- Discussion

B. Transfer of Development Rights (TDR)

- Introduction and Summary
- Recommendations
- Next Steps
- Discussion

C. Village Land Development Regulations (LDR)

- Introduction and Summary
- Recommendations
- Next Steps
- Discussion

X. VILLAGE ATTORNEY

XI. MOTIONS

A. Ordinance concerning appointment to Village Boards, Committee, and Commissions (John Quick, Interim Village Attorney)

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 2 “ADMINISTRATION” CREATING A NEW ARTICLE V TO BE ENTITLED “VILLAGE BOARDS, COMMITTEES AND COMMISSIONS”, SECTIONS 2-329 THROUGH 2-335; AMENDING CHAPTER 30 “LAND DEVELOPMENT REGULATIONS”, ARTICLE III “DECISION MAKING AND OTHER ADMINISTRATIVE BODIES”, DIVISION 3 “LOCAL PLANNING AGENCY”, SECTION 30-103 OF THE VILLAGE CODE RELATING TO APPOINTMENT, REMOVAL, TERMS, AND VACANCIES; AMENDING CHAPTER 30 “LAND DEVELOPMENT REGULATIONS”, ARTICLE

VII “ENVIRONMENTAL REGULATIONS”, DIVISION 7 “HISTORIC AND ARCHAEOLOGICAL SITES”, SECTION 30-1693 RELATING TO THE HISTORIC PRESERVATION COMMISSION; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE

XII. OTHER BUSINESS

XIII. ADJOURNMENT

Options for Viewing the Village Council Meeting:

The public is encouraged to watch the meeting on Monroe County’s MCTV Comcast Channel 77. Alternatively, the public may view the meeting streamed live on the Village website from their personal computer, tablet or phone via the following link:

<https://islamoradafl.portal.civicclerk.com/>

Option 1: Email your comments.

1. Public comment should be submitted via email to: public.comment@islamorada.fl.us
2. The email should contain “Public Comment” in the subject line.
3. The name and address of the submitter shall be included in the email.
4. Public comment should be submitted by 9 a.m. the day before the meeting. Public comment will be sent to the LPA members for consideration prior to the meeting. Public comments will not be read during the meeting.

Option 2: During the Meeting.

If watching online via Zoom: Open the Zoom webinar link:

<https://us06web.zoom.us/j/89955326384>

and follow the prompts to join the webinar. When the Chair opens public comment, use the “raise your hand” feature to be recognized by the meeting monitor. Public comments will be heard in the order in which they are received.

ADA Assistance:

These meetings are open to the public. In accordance with the Americans with Disabilities Act of 1990, all persons who are disabled and who need special accommodations to participate in this meeting because of that disability should contact the ADA Coordinator at (305) 664-6448 or by email at ADA@islamorada.fl.us at least 48 hours before the scheduled meeting

**Summary Minutes
Islamorada Village of Islands
Local Planning Agency Meeting Minutes**

Monday, October 10, 2022

At 5:30 PM

Founder's Park Community Center

87000 Overseas Highway

Islamorada, FL 33036

I. CALL TO ORDER

Roll Call

Chair Deb Gillis called the meeting to order at 5:30 PM. Present were Chair Deb Gillis, Vice Chair Lorie LaLonde, Mirna Hormechea, Susan Raffanello, Stanley Zuba, Richard Russell, and Tony Hammon (via Zoom). Present Village staff included Director of Planning and Development Services Daniel Gulizio and Recording Secretary Jamie Terry.

II. PLEDGE OF ALLEGIANCE

Dan Gulizio led the Pledge of Allegiance.

III. AGENDA: Request for Deletions/Emergency Additions

None.

IV. PUBLIC COMMENT

None.

V. CONSENT AGENDA

Chair Deb Gillis asked for the approval of the Local Planning Agency meeting minutes of Monday, July 11, 2002. Lorie LaLonde made a motion to accept with correction, Stanley Zuba seconded the motion, and the members approved the minutes with the noted correction.

VI. PUBLIC HEARINGS

None.

VII. CHAIR AND LOCAL PLANNING AGENCY MEMBERS

None.

VIII. FUTURE AGENDA ITEMS

None.

IX. DIRECTOR OF PLANNING / VILLAGE MANAGER

Planning Director, Dan Gulizio, presented an overview of planning and zoning issues on the horizon and how best to approach any changes needed to achieve the Goals and Objectives of the Comprehensive Plans. The presentation can be requested by contacting Jamie Terry via email at jamie.terry@islamorada.fl.us.

The committee made brief comments in appreciation for the presentation and the work the Planning department is doing to provide information to the committee.

There was additional discussion among the committee members regarding processes and public engagement in any of the proposed future changes.

Chair Gillis opened public comment.

The mayor addressed the committee in support of upcoming necessary changes to the code and encouraging public participation.

Joan Scholz provided public comment in support of staff and the information provided in the presentation.

X. VILLAGE ATTORNEY

None.

XI. MOTIONS

None.

XII. OTHER BUSINESS

None.

XIII. ADJOURNMENT

Susan Raffanello made a motion to adjourn which was seconded by Stanley Zuba all ayes and the meeting adjourned at 7:00 PM.

Chairperson

Recording Secretary



Local Planning Agency Communication

To: Local Planning Agency Chair and Agency Members
From: Daniel J. Gulizio, Director of Development Services
Date: February 13, 2023
Subject: **Miscellaneous Land Development Regulation Amendments**

Background:

Village Code Section 30-101 outlines the powers and duties of the Local Planning Agency (LPA). Sec. 30-101 specifically states that the Local Planning Agency shall have the powers and duties as provided in F.S. § 163.3174, including but not limited, to:

- (1) To hear, review, and make recommendations to the village council regarding the adoption or amendment of the comprehensive plan;
- (2) To monitor and oversee the effectiveness and status of the comprehensive plan and recommend to the village council such changes in the comprehensive plan as may from time to time be required, including preparation of the periodic reports required by F.S. § 163.3191;
- (3) To review and make recommendations to the village council in regard to proposed land development regulations and changes to the official zoning map and make recommendations to the village council as to the consistency of the regulation or change with the comprehensive plan;
- (4) To make its special knowledge and expertise available upon reasonably written request and authorization of the village council to any official, department, board, commission, or agency of the village, county, state or federal government; and
- (5) To adopt such rules of procedure necessary for the administration of their responsibilities not inconsistent with this article to govern the village council's proceedings.

F.S. § 163.3174 (4)(c) authorizes the LPA to “Review proposed land development regulations, land development codes, or amendments thereto, and make recommendations to the governing body as to the consistency of the proposal with the adopted comprehensive plan, or

element or portion thereof, when the local planning agency is serving as the land development regulation commission or the local government requires review by both the local planning agency and the land development regulation commission.”

F.S. § 163.3201, entitled “Relationship of comprehensive plan to exercise of land development regulatory authority,” provides further guidance on the relationship between Village Land Development Regulations and the Comprehensive plan. It states:

“It is the intent of this act that adopted comprehensive plans or elements thereof shall be implemented, in part, by the adoption and enforcement of appropriate local regulations on the development of lands and waters within an area. It is the intent of this act that the adoption and enforcement by a governing body of regulations for the development of land or the adoption and enforcement by a governing body of a land development code for an area shall be based on, be related to, and be a means of implementation for an adopted comprehensive plan as required by this act.”

F.S. § 163.3202, entitled, “Land development regulations,” provides specific standards on the content of Land Development Regulations and their purpose. This includes the following guidelines:

- (1) Within 1 year after submission of its comprehensive plan or revised comprehensive plan for review pursuant to s. 163.3191, each county and each municipality shall adopt or amend and enforce land development regulations that are consistent with and implement their adopted comprehensive plan.
- (2) Local land development regulations shall contain specific and detailed provisions necessary or desirable to implement the adopted comprehensive plan and shall at a minimum:
 - (a) Regulate the subdivision of land.
 - (b) Regulate the use of land and water for those land use categories included in the land use element and ensure the compatibility of adjacent uses and provide for open space.
 - (c) Provide for protection of potable water wellfields.
 - (d) Regulate areas subject to seasonal and periodic flooding and provide for drainage and stormwater management.
 - (e) Ensure the protection of environmentally sensitive lands designated in the comprehensive plan.
 - (f) Regulate signage.
 - (g) Provide that public facilities and services meet or exceed the standards established in the capital improvements element required by s. 163.3177 and are available when needed for the development, or that development orders and permits are conditioned on the availability of these public facilities and services necessary to serve the proposed development. A local government may not issue a development order or permit that results in a reduction in the level of services for the affected public facilities below the level of services provided in the local government’s comprehensive plan.
 - (h) Ensure safe and convenient onsite traffic flow, considering needed vehicle parking.
 - (i) Maintain the existing density of residential properties or recreational vehicle parks if the properties are intended for residential use and are located in the unincorporated areas that have sufficient infrastructure, as determined by a local governing authority, and are not located within a coastal high-hazard area under s. 163.3178.
 - (j) Incorporate preexisting development orders identified pursuant to s. 163.3167(3).
- (3) This section shall be construed to encourage the use of innovative land development

regulations which include provisions such as transfer of development rights, incentive and inclusionary zoning, planned unit development, impact fees, and performance zoning. These and all other such regulations shall be combined and compiled into a single land development code for the jurisdiction. A general zoning code shall not be required if a local government's adopted land development regulations meet the requirements of this section.

(4) The state land planning agency may require a local government to submit one or more land development regulations if it has reasonable grounds to believe that a local government has totally failed to adopt any one or more of the land development regulations required by this section. Once the state land planning agency determines after review and consultation with local government whether the local government has adopted regulations required by this section, the state land planning agency shall notify the local government in writing within 30 calendar days after receipt of the regulations from the local government. If the state land planning agency determines that the local government has failed to adopt regulations required by this section, it may institute an action in circuit court to require adoption of these regulations. This action shall not review compliance of adopted regulations with this section or consistency with locally adopted plans.

(5)(a) Land development regulations relating to building design elements may not be applied to a single-family or two-family dwelling unless:

1. The dwelling is listed in the National Register of Historic Places, as defined in s. 267.021(5); is located in a National Register Historic District; or is designated as a historic property or located in a historic district, under the terms of a local preservation ordinance;
2. The regulations are adopted in order to implement the National Flood Insurance Program;
3. The regulations are adopted pursuant to and in compliance with chapter 553;
4. The dwelling is located in a community redevelopment area, as defined in s. 163.340(10);
5. The regulations are required to ensure protection of coastal wildlife in compliance with s. 161.052, s. 161.053, s. 161.0531, s. 161.085, s. 161.163, or chapter 373;
6. The dwelling is located in a planned unit development or master planned community created pursuant to a local ordinance, resolution, or other final action approved by the local governing body; or
7. The dwelling is located within the jurisdiction of a local government that has a design review board or architectural review board.

In this context, the Village Comprehensive Plan serves as both a blueprint for development and as a basis for evaluating the effectiveness of the Land Development Regulations. Put another way, the Land Development Regulations are designed to implement the Goals and Objectives of the Comprehensive Plan.

The Comprehensive Plan is divided into ten (10) chapters or "elements" including (1) Future Land Use, (2) Transportation, (3) Housing, (4) Public Facilities, (5) Coastal Management, (6) Conservation, (7) Recreation and Open Space, (8) Intergovernmental Coordination, (9) Capital Improvements, and (10) Monitoring and Review Criteria.

Each Chapter or Element of the Comprehensive Plan contains a series of Goals, Objectives, and Policies, including a total of 19 Goals and 102 Objectives. A copy of the Goals and Objectives for each of the ten (10) Comprehensive Plan Elements is attached.

The proposed amendments to the Land Development Regulations include a wide variety of topics including (1) Alcoholic Beverage Use Permit, (2) Multifamily Zoning District, (3) Outdoor Seating, (4) Principal, Accessory Uses, and Home Occupations, (5) Lot Area Variances, (6)

Tourist Commercial District – Boat Dealerships, (7) Farmers’ Markets, Flea Markets, and Fairs, and (8) Public Hearing and Notice provisions. The amendments are intended as housekeeping items, needed to update the Code consistent with emerging trends and changing development patterns. A more substantive overhaul of the Code is under review, while the changes recommended below are intended to provide clarity, address existing regulatory gaps, and improve consistency.

In addition, staff has prepared a discussion on the Village Building Permit Allocation System (BPAS) and Transferable Development Rights (TDR) Ordinances. Finally, staff has included a brief discussion on the status of the Village’s Mobile Vending Pilot Program. A brief summary of these issues follows.

Analysis:

Chapter 30 – Article VI, Division 11 (Alcoholic Beverage Use Permit) –

Currently, the state of Florida regulates the sale and consumption of alcoholic beverages through a State licensing program. In addition, the Village currently requires a separate Alcoholic Beverage Use Permit. Individual establishments, which involve the sale and/or consumption of alcoholic beverages are also regulated by the Village through Minor and Major conditional Use provisions contained within a variety of individual zoning districts. Since the Village has complete control over the approval process for establishments that engage in the sale and/or consumption of alcoholic beverages and the State already licenses such establishments, the administration of a second alcoholic beverage use licensing program accomplishes little.

The repeal of the Village Alcoholic Beverage Use Permit process would not appear to be inconsistent with any Goals and Objectives contained within the Comprehensive Plan.

Chapter 30 – Article V, Division 2 (Multifamily Zoning District) –

Sec. 30-689 (b), (c), and (d) detail Permitted, Minor Conditional, and Major Conditional Uses within the Village Multifamily (MF) Zoning District. Permitted uses include the following:

- (1) Two to four dwelling units;
- (2) Accessory uses and structures, excluding docking facilities and guest houses; and
- (3) Collocation on existing wireless facility.

The code does not currently permit single-family residences within the MF District. In addition, the term “Two to four dwelling units” is somewhat confusing and inconsistent with standard terminology contained in most Land Development Regulations. The proposed amendment includes the addition of single-family residences as a permitted use within the MF District. In addition, the proposed amendment replaces the term “two to four dwelling units” with two-family dwelling units and multi-family dwelling units consistent with standard terminology.

The proposed amendments do not conflict with any Comprehensive Plan Goals or Objectives.

Chapter 30 – Article VI, Division 9 (Outdoor Seating) –

Sec. 30-1401 of the Village Code establishes standards for the operation of outdoor seating areas associated with “any lawfully established restaurant, café, bar or similar establishment that sells food and beverages for on-site consumption.”

These regulatory controls do not capture establishments that involve similar outdoor entertainment areas which do not include seating. Outdoor entertainment areas, without

outdoor seating, have the potential to adversely impact surrounding residential uses to an equal or greater degree than those outdoor plazas that contain seating. The proposed amendment simply closes an existing loophole which failed to capture the full spectrum of outdoor entertainment areas.

The proposed amendment does not conflict with any Goal or Objective within the Comprehensive Plan.

Chapter 30 – Article II (Rules of Construction and Definitions), Article VI, Division 3 (Home Occupations) –

Principal and Accessory Uses –

The Land Development Regulations currently define an Accessory Use as:

Accessory use and accessory structure mean a use or structure that:

- (1) Is subordinate to and serves a principal use or structure;
- (2) Is subordinate in area, extent and purpose to the principal use or structure served;
- (3) Contributes to the comfort, convenience or necessity of occupants of the principal use or structure served; and
- (4) Is located on the same lot or on contiguous lots under the same ownership as the principal use or structure, except as otherwise provided for in section 30-766 (c) and (d). Accessory uses include the utilization of yards for home gardens, provided that the produce of the garden is for noncommercial purpose; however, in no event shall an accessory use or structure be construed to authorize a use or structure not otherwise permitted in the district in which it is located, and in no event shall an accessory use or structure be established prior to the principal use to which it is accessory. Home occupations are separately regulated in article VI, division 3 of this chapter, and shall not be considered accessory uses or structures. Accessory uses and structures may not, in the aggregate, exceed 99 of the square footage of the combined principal uses and structures to which they relate.

Sec. 30-32 of the Village Code defines an “Addition (to an existing building)” as “any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common loadbearing wall other than a firewall. Any walled and roofed addition that is connected by a firewall or is separated by independent perimeter loadbearing walls is considered new construction.”

The ability to construct an accessory structure up to 99% of the size of the principal structure raises a number of concerns including potential changes to the character of existing neighborhoods, unwarranted increases in the intensity of development associated with a single-family residential lot, and the potential for the improper conversion of detached accessory structures to habitable space.

Objective 3-1.7 of the Comprehensive Plan specifically speaks to the need to Preserve Neighborhood Quality and Existing Housing Stock. The current code, which allows for the construction of detached accessory structures up to 99% of the size of the principal structures has the potential to significantly alter the character of existing communities, inconsistent with the Comprehensive Plan.

The proposed amendments reduce the maximum permitted size of a detached accessory structure to twenty-five percent (25%) of the size of the principal structure. It also provides greater clarity on the spectrum of uses permitted within a detached accessory structure.

Home Occupations –

The regulation of Home Occupations is governed by Article VI, Division 3 of the Land Development Regulations. The current approach fails to include a definition for Home Occupations, allows for the operation of multiple home occupations within a single residence, permits up to 50% of the residence to be occupied by the Home Occupation use, and fails to restrict the type of Home Occupation permitted. As a result, under the current Code, a Home Occupation can involve virtually any use(s) including a wide variety of uses that have the potential to adversely impact surrounding residential development.

The proposed amendments provide reasonable safeguards which properly balance the right of a homeowner to maintain a home occupation with the protection of surrounding neighbors. These measures are consistent with the Goals and Objectives of the Comprehensive Plan.

Chapter 30 – Article IV, Division 2 (Variances in general) –

Article IV, Division 2 of the Village Land Development Regulations establishes guidelines for the review of a variance application. Sec. 30-221, entitled “Variances in general” authorizes variances in connection with height, setbacks, parking, loading, and landscaping requirements. There is currently no authorization for the issuance of a variance related to minimum lot area requirements.

The proposed amendment would authorize the issuance of a minor lot area variance of up to five percent (5%) of the minimum required lot area or 250 square feet – whichever is less. The lot area variance, like all other variances, would be subject to the Variance Criteria contained within Sec. 30-221 (Variances in general):

(d) When considering an application for a variance, the director and village council shall consider the following factors, and no variance shall be approved which fails to meet any standard below. Failure to comply with any standard shall be deemed adverse to the public interest.

(1) Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;

(2) The special conditions and circumstances do not result from the actions of the applicant;

(3) Literal interpretation of the provisions of this chapter deprives the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter and works unnecessary and undue hardship on the applicant;

(4) Granting the variance requested conveys the same treatment to the individual owner as to the owner of other lands, buildings, or structures in the same zoning district;

(5) The variance, if granted, is the minimum variance that makes possible the reasonable use of the land, building, or structure; and

(6) The grant of the variance is in harmony with the general intent and purpose of this chapter, and is not injurious to the neighborhood, or otherwise detrimental to the public welfare.

The proposed amendment will not adversely impact the character of existing residential or

commercial development patterns and is deemed to be consistent with the Goals and Objectives contained within the Comprehensive Plan.

Chapter 30 – Article V, Division 2 (Tourist Commercial Zoning District) –

The proposed amendment seeks to add “boat dealerships” as a Major Conditional Use within the Tourist Commercial (TC) District. As a Major Conditional Use, boat dealerships would be subject to a public hearing process before the Village Council. In addition, similar to every other Major Conditional Use, boat dealerships would be subject to both the Quasijudicial Procedures contained within Article V, Division 3 and Major Conditional Use provisions contained within Article IV, Division 2 (Development Review) of the Village Code.

The proposed amendment would not appear to impact any of the Goals or Objectives contained within the Comprehensive Plan.

Chapter 30 – Article II, Rules of Construction and Definitions (Farmers Markets, Flea Markets, and Fairs), Article V, Division 2 (Zoning Districts) Highway Commercial Zoning District, Neighborhood Commercial Zoning District, and Village Center Zoning District (Farmers Markets, Flea Markets, and Fairs) –

The proposed amendment seeks to establish consistent guidelines for the regulation of Farmers’ Markets, Flea Markets, and Fairs. Currently, the code permits Farmers’ Markets as of right within a Highway Commercial (HC) District, while at the same time requiring the issuance of a Temporary Use Permit within Sec. 30-882 of the Village Code. The proposed amendments would clarify this ambiguity and establish a Temporary Use Permit process for all Farmers’ Markets, Flea Markets, and Fairs. The modifications to the Village Code would provide reasonable guidelines governing the operation of Farmers’ Markets, Flea Markets, and Fairs which properly balance the rights of local vendors with the need to protect existing communities.

The amendments appear consistent with existing Goals and Objectives within the Comprehensive Plan.

Chapter 30 – Article IV, Division 2 (Public Hearing and Notice), Article IV, Division 3 (Quasijudicial Procedures), General Procedures –

The current Code provides differing Public Notice standards across the spectrum of application types. The proposed amendment seeks to standardize Public Notice provisions across all application types. This includes providing notice through (1) Publication, (2) Direct Mailings, and (3) Property Posting. The proposed changes also seek to standardize the time frame for notice with fifteen (15) days notice as a standard. Finally, the proposed changes seek to shift the responsibility for notice to the applicant consistent with most jurisdictions.

Improving public notice and ensuring consistent application of notice provisions across all application types is consistent with good planning practice and the Goals and Objectives of the Comprehensive Plan.

Discussion Items –

(1) Chapter 30 – Article IV, Division 11. (Building Permit Allocation System)

The Village is scheduled to exhaust its Market Rate Allocations and Affordable Housing Allocations in 2023. In addition, while there is approximately 30,000 square feet of commercial space available in the current BPAS queue, additional commercial square footage allocations are also scheduled to cease in 2023.

The status of the Village's BPAS process will be discussed including the acceptance of new applications, the status of Administrative Relief credits, and remaining development potential.

(2) Chapter 30 – Article IV, Division 12. (Transferable Development Rights)

The Village Land Development Regulations provide guidelines for the transfer of development rights (TDRs). Current regulations include standards related to:

- (1) Zoning
- (2) Habitat Classification
- (3) Shoreline vs. Non-shoreline

Discussion will include recommended changes to the current TDR Ordinance consistent with emerging housing trends and development patterns.

(3) Chapter 30 – Article VI, Division 14. (Mobile Food Vendors)

The Village established a Pilot Program to regulate Mobile Food Vendors (Food Trucks) on March 5, 2020 for a period of two (2) years. The Pilot Program expired in March, 2022.

Discussion will include the establishment of a permanent Ordinance to address Mobile Food Vendors.

Budget Impact:

None.

Staff Impact:

None.

Recommendation:

Staff respectfully requests the Local Planning Agency recommend approval of the various outlined Village Code Amendments.

Attachments:

- 1. ORDINANCE_Farmers_Markets_01-19-2023
- 2. ORDINANCE_Lot_Area_Variance_01-19-2023
- 3. 45S3905-ORDINANCE_Principal_Accessory_Uses_Updated (1)
- 4. ORDINANCE_Outdoor_Seating_01-19-2023 (2)
- 5. ORDINANCE_MF_01-19-2023 (1)
- 6. ORDINANCE_Boat_Dealerships_01-19-2023 (1)
- 7. ORDINANCE_Alcoholic_Beverage_Use_Permit_-1-19-2023 (1)
- 8. ORDINANCE_Public_Notice_01-19-2023 (1)

ORDINANCE NO.

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30, LAND DEVELOPMENT REGULATIONS TO ESTABLISH REGULATIONS RELATED TO FARMER'S MARKETS, FLEA MARKETS, AND FAIRS; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON APPROVAL OF THIS ORDINANCE BY THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY.

WHEREAS, farmers' markets, flea markets, and fairs currently operate within Islamorada, Village of Islands; and

WHEREAS, the Village Code currently fails to provide adequate regulations governing such uses; and

WHEREAS, it is in the best interest of public health, safety, and welfare to provide adequate and proper regulations governing such uses; and

NOW, THEREFORE BE IT ORDAINED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA AS FOLLOWS:

Section 1. **Recitals.** The above recitals are true and correct and incorporated herein by this reference.

Section 2. Chapter 30, is hereby modified as follows:

Additional text is shown as <u>underlined</u> ;	deleted text is shown as strikethrough
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Sec. 30-32. - Specific definitions.

Words as used in this chapter shall have the meanings described below, unless otherwise defined in another article, division, section, or paragraph of this chapter:

Farmers' Market means an occasional or periodic sales activity held in an outdoor open area, possibly under tents, where groups or individual sellers offer fresh produce, and other related goods for sale to the public. A farmers' market does not include private rummage sales, similar activities held by places of worship, flea markets and fairs.

Flea Market means a building or open area in which stalls or sales areas are set aside, and rented or otherwise provided, and which are intended for use by various unrelated individuals to sell articles that are either homemade, homegrown, handcrafted, old obsolete, or antique, and may include the selling of new or used goods at retail by businesses or individuals who are generally engaged in retail trade. Rummage sales and garage sales are not considered flea markets.

Fair means a gathering of people for various cultural, entertainment, or commercial activities, which may include the gathering of sellers and buyers at a particular time and place for trade.

Sec. 30-696. - Highway Commercial (HC) zoning district.

(a) Purpose and intent.

(1) The purpose of the highway commercial (HC) zoning district is to accommodate existing businesses along U.S. 1 and to provide opportunities for new commercial retail shops and services that typically are auto dependent and are used by people on less than a weekly basis, or to accommodate the building and service trades. Single-family or multifamily residential uses and educational uses are an option to commercial use.

(2) This zoning district is established within the Mixed Use (MU) FLUM category.

(b) Permitted uses. The following uses are permitted uses if they do not contain a drive-in or drive-through component.

(1) Single family dwelling unit on vacant parcels in lieu of non-residential development pursuant to comprehensive plan policy 1-2.4.3;

(2) Deed restricted affordable dwelling unit developments of 25 dwelling units or less, except the conversion of existing hotels or motels to dwelling units is not permitted;

(3) Accessory uses and structures, excluding guest houses;

(4) Brewpubs less than 1,500 square feet;

(5) Restaurants less than 1,500 square feet;

(6) Microbrewery less than 3,000 square feet;

(7) Low/medium intensity office, retail and service establishments, less than 3,000 square feet, limited to:

- a. Animal hospital;
- b. Bakery;
- c. Boat sales and service;
- d. Bowling center;
- e. Building supply store;
- f. Carwash;
- g. Commercial recreational facility;
- h. Courier service;
- i. Cultural or community center;
- j. Day care center;
- k. Delicatessen (no tables);
- l. Dive shop;
- m. Electronics store;
- n. Exterminator service;
- o. Farmers' Market, Flea Market, or Fair; subject to the issuance of a Temporary Use permit pursuant to Chapter 30 (Land Development Regulations), Division 8 (Temporary Uses Including Public Assemblies). Farmers' Markets, Flea Markets, and Fairs are subject to compliance with Article VI – Specific Use Restrictions, Division 13 – Farmers Markets, Flea Markets or Fairs.

Sec. 30-697. - Neighborhood Commercial (NC) zoning district.

(a) Purpose and intent.

(1) The purpose of the neighborhood commercial (NC) zoning district is to provide a compact commercial area designed and intended to allow for a mix of residential, office and local retail sales servicing the daily needs of local residents within convenient traveling distance.

(2) This zoning district is established within the Mixed Use (MU) FLUM category.

(b) Permitted uses. The following uses are permitted uses if they do not contain a drive-in or drive-through component.

- (1) Single-family dwelling unit;
- (2) Attached deed restricted affordable dwelling units;
- (3) Accessory uses and structures, excluding guesthouses;
- (4) Low/medium intensity retail, service and office uses, 2,500 square feet or less, limited to:
 - a. Medical office;
 - b. Professional services including accountant, administrative and management services, architect, engineer, counselor, interior designer, investment agent, lawyer, and other similar professions;
 - c. Studio school including art, sculpture, dance, drama and like instruction;
 - d. Bakery;
 - e. Day care center;
 - f. Delicatessen (no tables);
 - g. Drugstore;
 - h. Fishing, diving and sailing shop/instruction;
 - i. Florist;
 - j. Food store;
 - k. Gym;
 - l. Interior decorator;
 - m. Laundry;

- n. Liquor store;
- o. Office supply and service; and
- p. Salon.
- q. Farmers' Market, Flea Market, or Fair; subject to the issuance of a Temporary Use permit pursuant to Chapter 30 (Land Development Regulations), Division 8 (Temporary Uses Including Public Assemblies). Farmers' Market, Flea Markets, and Fairs are subject to compliance with Article VI – Specific Use Restrictions, Division 13 – Farmers Markets, Flea Markets, or Fairs.

Sec. 30-692. - Village Center (VC) zoning district.

(a) Purpose and intent.

(1) The purpose of the village center (VC) zoning district is to recognize and enhance the vitality of the core, mixed use business centers. In this zoning district, integrated business and residential uses shall be permitted, while requiring bufferyards and other mitigation techniques to ensure a smooth transition where these parcels interface with residential land uses. Businesses in this district promote walk-up traffic and are conducive to enhancing pedestrian-related facilities.

(2) This zoning district is established within the Mixed Use (MU) FLUM category.

(b) Permitted uses. The following uses are permitted uses if they do not contain a drive-in or drive-through component.

- (1) Single-family dwelling units of 25 dwelling units or less, except the conversion of existing hotels or motels to single-family dwelling units is not permitted;
- (2) Multifamily attached dwelling units of 25 dwelling units or less, except the conversion of existing hotels or motels to multifamily attached dwelling units is not permitted;
- (3) Deed restricted affordable dwelling units of 25 dwelling units or less, except the conversion of existing hotels or motels to dwelling units is not permitted;
- (4) Accessory uses and structures, excluding guesthouses;

- (5) Brewpub less than 1,500 square feet;
- (6) Community center;
- (7) Fire station;
- (8) Library;
- (9) Municipal parking;
- (10) Police station;
- (11) Restaurants less than 1,500 square feet;
- (12) Hotels or motels of 25 rooms or less;
- (13) Collocation on existing wireless facility;
- (14) Outdoor storage and display areas on vacant lots fronting US1 pursuant to article VI, division 8 of this chapter.
- (15) Farmers' market, Flea Market, or Fair; subject to the issuance of a Temporary Use permit pursuant to Chapter 30 (Land Development Regulations), Division 8 (Temporary Uses Including Public Assemblies). Farmers' Markets, Flea Markets, and Fairs are subject to compliance with Article VI – Specific Use Restrictions, Division 13 – Farmers Markets, Flea Markets, or Fairs.
- (16) Low/medium intensity office, retail, and service use 3,000 square feet or less, limited to:

DIVISION 13. – FARMERS' MARKETS, FLEA MARKETS, AND FAIRS.

Sec. 30-1481. – Definitions.

Farmers' Market means an occasional or periodic sales activity held in an outdoor open area, possibly under tents, where groups or individual sellers offer fresh produce, and other related goods for sale to the public. A farmers' market does not include private rummage sales, similar activities held by places of worship, flea markets and fairs.

Flea Market means a building or open area in which stalls or sales areas are set aside, and rented or otherwise provided, and which are intended for use by various unrelated individuals to sell articles that are either homemade, homegrown, handcrafted, old obsolete, or antique, and may

include the selling of new or used goods at retail by businesses or individuals who are generally engaged in retail trade. Rummage sales and garage sales are not considered flea markets.

Fair means a gathering of people for various cultural, entertainment, or commercial activities, which may include the gathering of sellers and buyers at a particular time and place for trade.

Sec. 30-1482. – Intent.

The intent of the provisions contained herein is to provide commercial opportunities for vendors associated with Farmers' Markets, Flea Markets, and Fairs to promote and sell fresh produce and locally produced products. A local product is defined as one that is produced in the State of Florida and is not a processed product distributed widely outside the state. Vendors must certify on their application that all of the products offered for sale are either fresh produce or local products as defined herein.

Sec. 30-1483. – Application.

Farmers' Markets, Flea Markets, and Fairs shall be required to obtain a Temporary Use Permit pursuant to Article V – Division 8 (Temporary Uses Including Public Assemblies).

Sec. 30-1484. – Hours of operation, days, and set-up time.

A. Hours of Operation. Farmers' Markets, Flea Markets, and Fairs may operate between the hours of 9:00 am and 4:00 pm.

B. Days. A farmers' market, flea market, or fair may operate on a Saturday or Sunday, but not on both days.

C. Set Up Time. The set up and close up of a farmers' market, flea market, or fair shall take place no more than two (2) hours before and after the hours of operation noted above.

Sec. 30-1485. – Site plan required.

A site plan application shall be submitted in connection with any application for a farmers' market, flea market, or fair. All site plans shall be submitted in accordance with Village of Islamorada Land Development Regulations.

Sec. 30-1486. – Farmers' Markets – Permitted products.

A minimum of fifty-one percent (51%) of all products shall be local fruits, vegetables, and plants. Farmers' market sales shall be limited to the following:

A. Edible farm products including, but not limited to, fruits and vegetables that are locally grown.

A *locally grown* product is one which originates from the State of Florida.

B. Locally grown plants.

C. Locally prepared food such as jams, jellies, honey, breads, cakes and similar products as determined by the Village of Islamorada.

D. Locally grown teas and spices.

E. The on-site preparation of juices, smoothies, coffee, and similar items as determined by the Village of Islamorada.

F. Additional uses, consistent with the above, may be considered by the Village Council pursuant to the recommendation of the Village Manager.

Sec. 30-1487. Flea Markets and Fairs – Permitted products.

Flea market products shall consist primarily of articles that are either homemade, homegrown, handcrafted, old obsolete, or antique, and may include the selling of new or used goods at retail by businesses or individuals who are generally engaged in retail trade.

Sec. 30-1488. – Prohibitions.

The following products and sales shall be prohibited with farmers' markets and flea markets:

A. Alcoholic beverages.

B. Processed foods, packed or prepared at home if not approved or inspected by Federal, State, or Municipal health authorities.

Sec. 30-1489. – Standards.

A. Minimum Lot Size. The minimum lot size shall be one (1) acre.

B. Where Permitted. Farmers' markets, flea markets and fairs are permitted in the Highway Commercial (HC), Neighborhood Commercial (NC) and Village Center (VC) zoning districts.

C. Proximity to Other Farmers' Markets, Flea Markets and/or Fairs. A farmers' market, flea market, or fair shall not be located within one (1) mile of another farmers' market, flea market, or fair without the review and approval of the Village Council and a determination from the Department of Planning and Development Services Department that the location of the two uses will not result in any adverse traffic, parking, or similar public safety concerns.

D. Health Department Compliance Required. The sale of any and all food and beverage products shall comply in all respects with applicable Federal, State, County, and local health requirements.

E. Minimum Required Setbacks. All vendors shall maintain a minimum setback of twenty-five (25) feet from all roadways, unless a greater setback is required by the underlying zoning district. A minimum setback of ten (10) feet shall be provided from any adjacent property line unless a greater setback is required by the underlying zoning district.

F. Building and Fire Prevention Code Compliance Required. The operation of a farmers' market, flea market, or fair shall comply in all respects with any and all applicable Building and Fire Prevention Code regulations.

G. Maximum Number of Vendors. The maximum number of vendors permitted in connection with a farmers' market, flea market, or fair shall be thirty (30). However, the Village Manager and/or Village Council reserve the right to reduce the maximum number of vendors based upon lot size, parking availability, traffic safety concerns, the proximity of residential development or any other public safety consideration. All vendors shall comply with the above-referenced minimum required setbacks.

H. Restroom Facilities Required. All farmers' markets, flea markets, and fairs shall include either on-site access to restroom facilities or the provision of portable toilets. The number and location of portable toilets shall be determined through site plan review.

I. Signage. A maximum of one (1) advertising sign associated with the farmers' market, flea market, or fair shall be permitted on site. Said sign shall comply in all respects with the Islamorada Village Code.

J. Parking. A farmers' market, flea market, or fair must contain all parking on-site. The proposed use must be located outside of existing parking areas unless surplus parking exists. Surplus parking is defined as parking in excess of minimum code requirements. A minimum of one parking space per vendor shall be required in connection with a farmers' market, flea market or fair.

K. Market Manager. A farmers' market, flea market, or fair shall have a designated market manager who shall oversee the operation of the market and the enforcement of all applicable health and safety regulations and permit requirements. The market manager shall also be responsible for maintaining a vendor log, including copies of vendor licenses and permit requirements. This information shall be available upon request by Village personnel at all times before, during, and

after the operation of the market. The market manager shall provide their telephone number, address, and email address to the Village prior to the event occurring.

The market manager shall obtain a notarized letter from the property owner stating that the market has permission to operate a farmers' market on the property.

Sec. 30-1489. – Indemnification.

The owner of the site and operator of the farmers' market, flea market, or fair shall enter into an agreement with the Village of Islamorada to indemnify and hold harmless the Village from any and all actions arising from the operation of the farmers' market, flea market or fair. Said indemnification and hold harmless agreement shall be prepared pursuant to the satisfaction of the Village Attorney.

Sec. 30-1490. – Enforcement.

A violation of the provisions of this Code or any condition of approval shall result in the revocation of the permit and the issuance of a Code violation in accordance with the Code of the Village of Islamorada.

Sec. 30-1491. – Outstanding Violations. A Temporary Use Permit for a farmers' market, flea market, or fair shall not be issued in the event there are any outstanding violations for the site on which the market is located.

Sec. 30-1492. – Severability.

If any portion of this code shall be adjudged by a court of competent jurisdiction to be invalid or unconstitutional, such portion thereof shall be deemed inoperative and the balance of said code shall be deemed to be in full force and effect.

Section 3. **Transmittal.** The Village Clerk is authorized to forward a copy of this Ordinance to the State Department of Economic Opportunity (the "DEO") for approval pursuant to section 380.05, Florida Statutes.

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. **Effective Date.** This Ordinance shall not be effective immediately upon adoption. The Amendment shall not take effect until the date a final order is issued by the DEO. The DEO notice of intent to find the Amendment in compliance shall be deemed to be the final order if no timely petition challenging the Amendment is filed.

The foregoing Ordinance was offered by _____, who moved for its adoption on first reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED on the first reading this ____ day of _____, 2022.

The foregoing Ordinance was offered by _____, who moved for its adoption on second reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED AND ADOPTED on the second reading this ____ day of _____, 2023.

JOSEPH B. PINDER, MAYOR

ATTEST:

MARNE MCGRATH, VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF
ISLAMORADA, VILLAGE OF ISLANDS ONLY

JOHN J. QUICK, INTERIM VILLAGE ATTORNEY

ORDINANCE NO. 23-

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30, LAND DEVELOPMENT REGULATIONS RELATED TO VARINCES TO PERMIT A MINOR RELAXATION OF MINIMUM LOT AREA REQUIREMENTS NOT TO EXCEED FIVE PERCENT (5%) OF THE MINIMUM REQUIRED LOT AREA OR 250 SQUARE FEET, WHICHEVER IS LESS; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON APPROVAL OF THIS ORDINANCE BY THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY.

WHEREAS, Islamorada, Village of Islands has established Land Development Regulations to properly guide development and protect public health, safety, and welfare; and

WHEREAS, Village Land Development Regulations include provisions for the obtaining of a variance in order to provide relief from strict application of the Land Development Regulations that would result in undue hardship; and

WHEREAS, the establishment of minor relief from the strict application of Village minimum lot area requirements would provide reasonable relief to property owners while protecting the health, safety, and welfare of the public.

NOW, THEREFORE BE IT ORDAINED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA AS FOLLOWS:

Section 1. **Recitals.** The above recitals are true and correct and incorporated herein by this reference.

Section 2. Chapter 30, Article IV, Division 2 (Variances in general) is hereby modified as follows:

Additional text is shown as underlined;

deleted text is shown as ~~strikethrough~~

Sec. 30-221. - Variances in general.

(a) A variance is a relaxation of the terms of this chapter where such action will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of this chapter would result in unnecessary and undue hardship on the property. As used in this section, a variance is authorized only for height, setbacks, parking, ~~and~~ loading requirements, ~~and~~ landscaping, and lot area unless otherwise specified in this chapter. A lot area variance shall be limited to a maximum of five percent (5%) of the minimum required lot area or 250 square feet, whichever is less. Under no circumstances shall the director of planning and development services or the village council grant a Floor Area Ratio (FAR) variance ~~to permit a floor area ratio or authorize~~ a use not permitted under the terms of this chapter.

Section 3. Transmittal. The Village Clerk is authorized to forward a copy of this Ordinance to the State Department of Economic Opportunity (the "DEO") for approval pursuant to section 380.05, Florida Statutes.

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. Effective Date. This Ordinance shall not be effective immediately upon adoption. The Amendment shall not take effect until the date a final order is issued by the DEO.

The DEO notice of intent to find the Amendment in compliance shall be deemed to be the final order if no timely petition challenging the Amendment is filed.

The foregoing Ordinance was offered by _____, who moved for its adoption on first reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED on the first reading this ____ day of _____, 2023.

The foregoing Ordinance was offered by _____, who moved for its adoption on second reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED AND ADOPTED on the second reading this ____ day of _____, 2023.

JOSEPH B. PINDER, MAYOR

ATTEST:

MARNE MCGRATH, VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF
ISLAMORADA, VILLAGE OF ISLANDS ONLY

JOHN J. QUICK, INTERIM VILLAGE ATTORNEY

ORDINANCE NO. 23

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30, LAND DEVELOPMENT REGULATIONS RELATED TO THE DEFINITION OF ACCESSORY, STRUCTURES, PRINCIPAL STRUCTURES, AND THE OPERATION OF HOME OCCUPATIONS; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON APPROVAL OF THIS ORDINANCE BY THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY.

WHEREAS, Islamorada, Village of Islands has established Land Development Regulations to properly guide development and protect the health, safety, and welfare of the public; and

WHEREAS, as development trends, economic conditions, and community needs evolve it is imperative to update existing regulatory controls to safeguard the public interest; and

WHEREAS, demographic trends and housing preferences have increasingly conflicted with existing regulatory controls related to single-family residential development; and

WHEREAS, it is in the public interest to adjust the manner in which the Village regulates and defines single-family residential development including the definition of principal and accessory structures along with home occupations.

NOW, THEREFORE BE IT ORDAINED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA AS FOLLOWS:

Section 1. **Recitals.** The above recitals are true and correct and incorporated herein by this reference.

Section 2. Chapter 30, is hereby modified as follows:

Additional text is shown as underlined;

deleted text is shown as ~~strikethrough~~

Sec. 30-32. – Specific definitions.

Principal Use and Structure mean a use or structure that is the primary use or structure of the lot. In the case of a single-family home, there may be a maximum of one (1) indoor kitchen and one (1) outdoor cooking area subject to compliance with all other applicable requirements. All bedrooms, bathrooms, and habitable space shall be located within the principal structure or attached to same via a roof structure. A maximum of 25% or 1,000 square feet of gross floor area of the principal structure may be attached via a roofed-over breezeway.

Accessory use and *accessory structure* mean a use or structure that:

- (1) Is subordinate to and serves a principal use or structure;
- (2) Is subordinate in area, extent and purpose to the principal use or structure served;
- (3) Contributes to the comfort, convenience or necessity of occupants of the principal use or structure served; and
- (4) Is located on the same lot or on contiguous lots under the same ownership as the principal use or structure, except as otherwise provided for in section 30-766 (c) and (d). Accessory uses include the utilization of yards for home gardens, provided that the produce of the garden is for noncommercial purpose; however, in no event shall an accessory use or structure be construed to authorize a use or structure not otherwise permitted in the district in which it is located, and in no event shall an accessory use or structure be established prior to the principal use to which it is accessory. Home occupations are separately regulated in article VI, division 3 of this chapter, and shall not be considered accessory uses or structures. Accessory uses and structures may not, in the aggregate, exceed ~~99~~ twenty-five percent (25%) of the gross floor area of the principal structure ~~square footage of the combined principal uses and structures to which they relate.~~

(5) Accessory uses and structures shall not be used for habitable space, including living, sleeping, eating, and cooking.

Addition (to an existing building) means any walled and/or roofed expansion to the perimeter or height of a building in which the addition is connected by a common loadbearing wall other than a firewall. Any walled and roofed addition that is connected by a firewall or is separated by independent perimeter loadbearing walls is considered new construction.

DIVISION 3. - HOME OCCUPATIONS

Home Occupation means an office activity conducted within a single-family residence in a single-family residential district by the residents thereof as an accessory use within the main dwelling that does not change the character of the building as a residence or the character of the site as a residential plot. The home occupation shall not occupy more than 25% of the gross floor area of the structure or 500 square feet, whichever is less. Parking for the home occupation use shall be installed, landbanked or screened from view pursuant to the direction of the Director of Planning and Development Services or their designee. The following uses shall be considered home occupations: the office of a single physician, dentist, chiropractor, lawyer, architect, engineer, surveyor, accountant, financial planner, insurance agent or tutor, provided that instruction is limited to a single pupil at one time. Other similar uses, which do not alter the character of the house as a residence, may only be permitted after the review and approval of the Village Council. In no case shall the following uses be deemed permitted home occupations; bars, taverns, nightclubs, restaurants, minor restaurants, fast-food restaurants, convenience markets, veterinarian, dance studio, real estate broker, musical instruction groups, art or photo galleries, funeral parlor/home, barbershops, beauty parlors, adult homes, nursing homes, tattoo parlor, any use involving outside storage, including the outside storage of registered vehicles, outside display or any retail use.

Sec. 30-1191. - Intent and purpose.

It is the intent and purpose of this division to allow homes to be used for low intensity business purposes under limited circumstances. It is intended that this division will permit persons to use their homes to conduct businesses as long as the residential nature of the neighborhood is not disturbed by substantial traffic, parking or nuisance impacts.

(Ord. No. 01-13, § 2(6.2.1), 7-24-2001)

Sec. 30-1192. - Home occupations permitted in residential dwelling units located in residential and commercial zoning districts.

Notwithstanding any other provision of this chapter to the contrary, a single home occupation ~~one or more home occupations~~ shall be a permitted use in any lawfully established residential dwelling unit provided the home occupation meets the criteria set forth in this division.

(Ord. No. 01-13, § 2(6.2.2), 7-24-2001)

Sec. 30-1193. - Criteria for home occupations.

A home occupation permit may be issued to the owner, tenant, lessee, or occupant of a lawfully established residential dwelling unit, when the home is used only as a location for one business ~~or more businesses~~ conducted for the gain or support of the occupant of the residence. The planning and development services department may permit home occupations provided the proposed use meets the following criteria:

(1) The home occupation employs no more than two persons at the residence who are not occupants of the residential dwelling unit.

(2) The use of the residential dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and shall not change the essential residential character of the property. The combined area of principal and accessory use space devoted to the home occupation shall not exceed twenty-five percent (25%) or five

hundred (500) square feet, whichever is less, 50 percent of the floor area of the principal use structure.

(3) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation, including outside storage or signs pertaining to the home occupation. ~~Notwithstanding the foregoing, nothing contained in this division shall prohibit the lawful storage of boats, boat trailers, and associated equipment used in the normal course of business of fishing guide services.~~

~~(4) Stock in trade may be displayed or sold on the premises; however, the display or storage area shall not exceed the maximum floor area restriction set forth in subsection (2) of this section. In no event, however, shall the property owner display or store the stock in trade outside the dwelling unit or accessory structure. The stock in trade shall not be visible from outside the dwelling unit or accessory structure.~~

(5) Vehicular traffic shall not exceed the authorized average daily trips for the underlying residential use. No more than two additional parking spaces shall be provided to service the needs of the home occupation, which parking spaces shall be located on-site and shall meet all design regulations for residential parking otherwise applicable under this chapter. ~~All vehicles kept on the premises or parked overnight in connection with the home occupation, including commercial vehicles for delivery, must comply with off-street parking and driveway standards of this chapter. Any signage on commercial vehicles shall conform to the provisions of the sign regulations of this chapter.~~ Parking of commercial vehicles which have greater than 2½ tons of gross load weight shall be prohibited.

(6) The home occupation use shall not generate traffic, noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the applicable zoning district. No home occupation shall be conducted which requires manufacturing, assembly or construction which

by its nature or character disrupts, disturbs or adversely alters, changes or modifies the residential nature or character of the neighborhood.

(Ord. No. 01-13, § 2(6.2.3), 7-24-2001)

Sec. 30-1194. - Permit.

(a) The applicant shall submit a completed application for a home occupation permit to the planning and development services department. An application fee, as established by resolution of the village council, shall be submitted in conjunction with the home occupation permit application. Upon a determination that the criteria contained in this division have been met, the director of planning and development services department may issue a home occupation permit to the applicant in accordance with the procedure set forth in section 30-1195. The following information shall be required of all persons making application for a home occupation permit:

(1) Name and address of applicant.

(2) Name and address of the homeowner or occupant if different than the applicant.

(3) Legal description of the property where the home occupation is to be conducted.

(4) Sketch plan of the property where the home occupation is to be conducted, and the location of the home occupation use within the principal and accessory structures.

(5) Nature and type of business or businesses to be conducted.

(6) Printed address labels for notification of the owners of all adjacent properties, as indicated by the current county property tax roll, including property separated by canals and roadways. If adjacent property is in condominium ownership, the condominium association may be substituted for all property owners.

(b) In issuing a home occupation permit, the director of planning and development services or designee may prescribe appropriate conditions and safeguards as are necessary to protect the public interest and ensure harmony with the intent and purpose of this division. If an applicant fails to meet such conditions, the home occupation permit may be revoked by the director upon providing the applicant with written notice of the revocation. The applicant may appeal the revocation of the home occupation permit to the village planning commission. No home occupation permit issued pursuant to this division shall be transferable, assignable, or otherwise alienable.

(Ord. No. 01-13, § 2(6.2.4), 7-24-2001)

Sec. 30-1195. - Procedure for issuance of permits.

A home occupation permit shall only be granted based on a written determination by the director of planning and development services or designee that the proposed use meets all of the criteria set forth in this division, and all other applicable requirements contained in this chapter. Prior to issuance of the home occupation permit, the director of planning and development services or designee shall give the applicant and adjacent property owners notice by certified U.S. mail, return receipt requested, of the village's intent to issue the permit. Within 30 days of the date of the mailing of the notice of intent, a public hearing on the home occupation permit may be requested in writing to the director of planning and development services or designee, by the applicant or an adjacent property owner. If a public hearing is requested, the village shall schedule a public hearing of the planning commission. The hearing shall be conducted in accordance with section 30-281. The director of planning and development services or designee shall issue the home occupation permit if a public hearing is not requested in accordance with this section.

(Ord. No. 01-13, § 2(6.2.5), 7-24-2001)

Secs. 30-1196—30-1220. - Reserved.

Section 3. **Transmittal.** The Village Clerk is authorized to forward a copy of this Ordinance to the State Department of Economic Opportunity (the "DEO") for approval pursuant to section 380.05, Florida Statutes.

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. **Effective Date.** This Ordinance shall not be effective immediately upon adoption. The Amendment shall not take effect until the date a final order is issued by the DEO. The DEO notice of intent to find the Amendment in compliance shall be deemed to be the final order if no timely petition challenging the Amendment is filed.

The foregoing Ordinance was offered by _____, who moved for its adoption on first reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED on the first reading this ____ day of _____, 2023.

The foregoing Ordinance was offered by _____, who moved for its adoption on second reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED AND ADOPTED on the second reading this ____ day of _____, 2023.

JOSEPH B. PINDER, MAYOR

ATTEST:

MARNE MCGRATH, VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF
ISLAMORADA, VILLAGE OF ISLANDS ONLY

JOHN J. QUICK, INTERIM VILLAGE ATTORNEY

ORDINANCE NO. 23-

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30, LAND DEVELOPMENT REGULATIONS RELATED TO OUTDOOR SEATING AND OUTDOOR PLAZAS; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON APPROVAL OF THIS ORDINANCE BY THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY.

WHEREAS, Islamorada, Village of Islands has established Land Development Regulations to properly guide development and protect the health, safety, and welfare of the public; and

WHEREAS, the establishment of outdoor seating areas and outdoor plazas can enhance the quality of life for the residents of the Village while helping to increase the economic vitality of Village activity centers; and

WHEREAS, the Village currently regulates the operation of outdoor seating areas as an accessory use to establishments that serve food and beverages; and

WHEREAS, certain establishments that serve food and beverages include the use of outdoor plazas or entertainment areas without seating; and

WHEREAS, it is important for the protection of public health, safety, and welfare that proper and reasonable standards be enacted to address all outdoor entertainment areas associated with establishments that serve food and beverages.

NOW, THEREFORE BE IT ORDAINED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and incorporated herein by this reference.

Section 2. Chapter 30, is hereby modified as follows:

Additional text is shown as <u>underlined</u> ;	deleted text is shown as strikethrough
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DIVISION 9. - OUTDOOR PLAZA SEATING AREAS

Sec. 30-1401. - Intent and purpose.

It is the intent and purpose of this division to allow outdoor plaza areas with or without seating areas in connection with any lawfully established restaurant, café, bar or similar establishment that sells food and/or beverages for on-site consumption.

(Ord. No. 02-01, § 2(6.8.1), 1-10-2002)

Sec. 30-1402. - Development standards for new outdoor seating areas.

(a) The director of the planning and development services department shall review proposed outdoor plaza seating areas in accordance with the applicable provisions of article IV, division 2 of this chapter. The director and village council, as applicable, may approve, approve with conditions (including hours of operation), or deny the application.

(b) Outdoor plaza seating areas may be authorized in conjunction with a lawfully established commercial business that sells food and beverages for on-site consumption as provided for in article V of this chapter, provided the outdoor plaza seating area complies with each of the development standards set forth herein and in this chapter. The maximum permitted occupancy and maximum number of seats for the proposed outdoor plaza seating area, ~~and maximum number of seats~~ shall be delineated on the required site plan. Failure to comply with any of the standards enumerated below shall be deemed adverse to the public interest:

(1) The maximum permitted occupancy and maximum number of allowable outdoor seats seating shall not exceed the allowable intensity of use of the property as provided for in Article V of this chapter. The outdoor plaza seating area shall be considered floor area for purposes of calculating allowable intensity of use, floor area ratio, required bufferyards and landscaping, parking, open space, stormwater drainage requirements, and all other applicable regulations;

(2) The plaza area including any ~~No~~ table, bench, chair, or umbrella shall not include ~~be placed~~ in any area specified on an approved site plan for on-site traffic circulation, landscaping, parking, loading, setback area, stormwater drainage area, or bufferyard;

(3) Outdoor plaza seating areas located on water-dependent structures serving commercial uses shall obtain a special approval and comply with the shoreline environmental and development criteria set forth in article VII, division 2 of this chapter. A Class D bufferyard shall be installed in the setback area if the outdoor plaza seating area is adjacent to an unaltered shoreline to ensure compatibility with adjacent properties. A Class B bufferyard shall be installed in the setback area if the outdoor plaza seating area is adjacent to an altered shoreline to ensure compatibility with adjacent properties. The required bufferyard may be reduced 50 percent if the applicant installs a minimum four-foot solid fence on the perimeter of the outdoor plaza seating area;

(4) No permanent food or beverage preparation structures shall be permitted within the proposed outdoor plaza seating area unless all required development permits are obtained;

(5) The restaurant, café, bar or similar establishment that sells food and beverages for on-site consumption complies with:

- a. State department of health (DOH) standards for septic tanks or on-site sewage disposal systems, as may be amended from time to time; or
- b. State department of environmental protection (DEP) standards for package plants or advanced wastewater systems, as may be amended from time to time;

(6) The proposed outdoor plaza seating area complies with the accessibility standards set forth in [42](#) USC 12101 et seq. (Americans with Disabilities Act), and F.S. ch. 553, pt. II (F.S. § 553.501 et seq.) (Florida Americans with Disabilities Accessibility Implementation Act);

(7) Food and beverage service is not provided to persons in parked cars or through the use of a drive-up window;

(8) The proposed outdoor plaza seating area does not impede pedestrian or vehicle movement, nor impede pedestrian ingress and egress from any adjacent structure;

(9) The proposed outdoor plaza seating area is compatible and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development;

(10) The proposed outdoor plaza seating area shall be delineated with decking, concrete, fencing, landscaping, overhangs, pavers, shade coverings, or other similar treatment approved in writing by the director;

(11) The design of the proposed outdoor plaza seating area minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands; and

(12) The proposed outdoor plaza seating area minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.

(13) The use of amplified music within the proposed plaza area shall be prohibited after 9:00 pm.

(c) Proposed new outdoor plaza seating areas adjacent to existing residential uses or residential zoning districts, except for existing on-site housing located on the property where the new outdoor plaza seating is proposed, may only be approved by the village council at a public hearing noticed in accordance with subsection [30-213](#)(h). For the purposes of this subsection, "adjacent residential uses or residential zoning districts" shall be considered all residentially used or zoned property that shares a common boundary line with the property subject to the application. If the property subject to the application is located on a canal or fronts on a public right-of-way, the common boundary shall be considered the midpoint of the canal or right-of-way.

(Ord. No. 02-01, § 2(6.8.2), 1-10-2002; Ord. No. 10-01, § 6, 1-14-2010)

Sec. 30-1403. - Existing outdoor plaza seating areas.

(a) Within 180 days of the effective date of this division, the owner of any outdoor plaza seating area that existed on January 25, 2001, shall apply for and obtain approval of the existing outdoor plaza seating area in conformance with the review procedures set forth in this division and this chapter. In the event the existing outdoor plaza seating area cannot be brought into compliance with the provisions of this division and chapter it shall be brought into compliance with the provisions of this division and this chapter to the maximum extent practicable. The director may waive in part the requirements of this division and the applicable provisions of this chapter, excluding lot coverage, open space and unaltered shoreline setback requirements, based on a written determination that the existing outdoor plaza seating area does not cause damage, hazard, nuisance or other detriment to persons or property.

(b) Within 180 days of the effective date of this division, all outdoor plaza seating areas that existed on January 25, 2001, and that are adjacent to existing residential uses or residential zoning districts shall install a Class D bufferyard around the outdoor plaza seating area to ensure compatibility with adjacent properties. For the purposes of this section only, the required bufferyard may be reduced 50 percent if the applicant installs a minimum four-foot solid fence on the perimeter of the outdoor plaza seating area. The director shall have the discretion to decide the configuration and placement of the required bufferyard. For the purposes of this subsection, "adjacent

residential uses or residential zoning districts" shall be considered all residentially used or zoned property that shares a common boundary line with the property subject to the application. If the property subject to the application is located on a canal or fronts on a public right-of-way, the common boundary shall be considered the midpoint of the canal or right-of-way.

(Ord. No. 02-01, § 2(6.8.3), 1-10-2002)

Secs. 30-1404—30-1430. - Reserved.

Section 3. **Transmittal.** The Village Clerk is authorized to forward a copy of this Ordinance to the State Department of Economic Opportunity (the "DEO") for approval pursuant to section 380.05, Florida Statutes.

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. **Effective Date.** This Ordinance shall not be effective immediately upon adoption. The Amendment shall not take effect until the date a final order is issued by the DEO. The DEO notice of intent to find the Amendment in compliance shall be deemed to be the final order if no timely petition challenging the Amendment is filed.

The foregoing Ordinance was offered by _____, who moved for its adoption on first reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED on the first reading this ____ day of _____, 2023.

The foregoing Ordinance was offered by _____, who moved for its adoption on second reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED AND ADOPTED on the second reading this ____ day of _____, 2023.

JOSEPH B. PINDER, MAYOR

ATTEST:

MARNE MCGRATH, VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF
ISLAMORADA, VILLAGE OF ISLANDS ONLY

JOHN J. QUICK, INTERIM VILLAGE ATTORNEY

ORDINANCE NO. 23

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30, MULTIFAMILY HOUSING (MF) ZONING DISTRICT TO ADD SINGLE-FAMILY RESIDENCES TO THE LIST OF PERMITTED USES; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON APPROVAL OF THIS ORDINANCE BY THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY.

WHEREAS, Islamorada, Village of Islands has established Land Development Regulations to properly guide development and protect the health, safety, and welfare of the public; and

WHEREAS, the proper and reasonable regulation of residential development including Multifamily (MF) Development is consistent with the protection of public health, safety, and welfare; and

WHEREAS, the development of single-family residences would be consistent with development patterns within the Village Multifamily (MF) Zoning District; and

WHEREAS, the current regulations within the Village Multifamily (MF) Zoning District do not permit the development of single-family residences; and

WHEREAS, the addition of single-family residences as a permitted use within the Village Multifamily (MF) Zoning District is consistent with the protection of public health, safety, and welfare.

NOW, THEREFORE BE IT ORDAINED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA AS FOLLOWS:

Section 1. **Recitals.** The above recitals are true and correct and incorporated herein by this reference.

Section 2. Chapter 30, is hereby modified as follows:

Additional text is shown as <u>underlined</u> ;	deleted text is shown as strikethrough
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Sec. 30-689. - Multifamily (MF) zoning district.

(a) Purpose and intent.

(1) The purpose of the multifamily (MF) zoning district is to accommodate existing condominiums, townhouses and apartments within the village, and to provide opportunities for new multifamily residential housing.

(2) This zoning district is established within the Residential High (RH) FLUM category.

(b) Permitted uses.

(1) Single-family dwelling units ~~Two to four dwelling units;~~

(2) Two-family dwelling units; ~~Accessory uses and structures, excluding docking facilities and guest houses; and~~

(3) Multi-family dwelling units; ~~Collocation on existing wireless facility~~

(4) Accessory uses and structures, excluding docking facilities and guest houses; and

(5) Collocation on existing wireless facility.

Secs. 30-1404—30-1430. - Reserved.

Section 3. **Transmittal.** The Village Clerk is authorized to forward a copy of this Ordinance to the State Department of Economic Opportunity (the "DEO") for approval pursuant to section 380.05, Florida Statutes.

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. **Effective Date.** This Ordinance shall not be effective immediately upon adoption. The Amendment shall not take effect until the date a final order is issued by the DEO. The DEO notice of intent to find the Amendment in compliance shall be deemed to be the final order if no timely petition challenging the Amendment is filed.

The foregoing Ordinance was offered by _____, who moved for its adoption on first reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED on the first reading this ____ day of _____, 2023.

The foregoing Ordinance was offered by _____, who moved for its adoption on second reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED AND ADOPTED on the second reading this ____ day of _____, 2023.

JOSEPH B. PINDER, MAYOR

ATTEST:

MARNE MCGRATH, VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF
ISLAMORADA, VILLAGE OF ISLANDS ONLY

JOHN J. QUICK, INTERIM VILLAGE ATTORNEY

ORDINANCE NO. 23-

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30, TOURIST COMMERCIAL (TC) DISTRICT TO ALLOW BOAT DEALERSHIPS AS A MAJOR CONDITIONAL USE; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON APPROVAL OF THIS ORDINANCE BY THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY.

WHEREAS, Islamorada, Village of Islands has established Land Development Regulations to properly guide development and protect the health, safety, and welfare of the public; and

WHEREAS, the proper and reasonable regulation of development patterns, including those within the Tourist Commercial (TC) Zoning District is consistent with the goal of protecting public health, safety, and welfare; and

WHEREAS, current regulations do not permit the operation of boat dealerships within the Tourist Commercial (TC) Zoning District; and

WHEREAS, the inclusion of boat dealerships as a Major Conditional Use within the Tourist Commercial (TC) Zoning District is a proper and reasonable regulatory approach and is consistent with historic and current development patterns within the Tourist Commercial (TC) Zoning District; and

NOW, THEREFORE BE IT ORDAINED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA AS FOLLOWS:

Section 1. **Recitals.** The above recitals are true and correct and incorporated herein by this reference.

Section 2. Chapter 30, is hereby modified as follows:

Additional text is shown as underlined;

deleted text is shown as ~~strikethrough~~

Sec. 30-693. - Tourist commercial (TC) zoning district.

(a) Purpose and intent.

- (1) The purpose of the tourist commercial (TC) zoning district is to accommodate existing tourist lodging, tourist attractions and supportive facilities.
- (2) This zoning district is established within the Mixed Use (MU) FLUM category.

(b) Permitted uses. The following uses are permitted uses if they do not contain a drive-in or drive-through component.

- (1) Single family dwelling units of 25 dwelling units or less, except the conversion of existing hotels or motels to single-family dwelling units is not permitted;
- (2) Deed restricted affordable housing dwelling units of 25 dwelling units or less, except the conversion of existing hotels or motels to dwelling units is not permitted;
- (3) Hotels and motels with 25 rooms or less;
- (4) Recreational equipment rental;
- (5) Restaurants less than 1,500 square feet;
- (6) Brewpubs less than 1,500 square feet; and
- (7) Accessory uses and structures, excluding guesthouses.
- (8) Outdoor storage and display areas on ~~vacant~~ lots fronting US1 pursuant to article VI, division 8 of this chapter, as an accessory use to a permitted principal use.

(c) Uses reviewed as a minor conditional use. The following uses are reviewed as minor conditional uses provided that they do not contain a drive-in or drive-through component.

- (1) Any permitted residential use, greater than 25 dwelling units, except that motels and hotels shall not be considered a residential use;

- (2) Bars, taverns and drinking places less than 5,000 square feet;
- (3) Brewpubs of 1,500 to 3,000 square feet;
- (4) Commercial recreational facility less than 5,000 square feet;
- (5) Community pier or public dock;
- (6) Docking facility;
- (7) Hotels or motels having more than 25 rooms and less than 50 rooms;
- (8) Infrastructure and municipal utility facilities;
- (9) Restaurants of 1,500 to 3,000 square feet; and
- (10) Attached wireless facility.

(d) *Uses reviewed as a major conditional use.*

- (1) Hotels or motels having 50 rooms or more;
- (2) Brewpubs of 3,001 to 5,000 square feet;
- (3) Commercial recreational uses of 5,000 square feet or greater;
- (4) Marina redevelopment;
- (5) Restaurants of 3,001 to 5,000 square feet;
- (6) Stealth wireless facility;
- (7) Outdoor storage and display areas on lots not fronting US1 pursuant to article VI, division 8 of this chapter, as an accessory use to a permitted principal use; and
- (8) Any use listed above as a permitted or minor conditional use, or a major conditional use listed herein, provided that the use contains a drive-in or drive-through component.
- (9) Boat Dealership.

Secs. 30-1404—30-1430. - Reserved.

Section 3. **Transmittal.** The Village Clerk is authorized to forward a copy of this Ordinance to the State Department of Economic Opportunity (the "DEO") for approval pursuant to section 380.05, Florida Statutes.

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. **Effective Date.** This Ordinance shall not be effective immediately upon adoption. The Amendment shall not take effect until the date a final order is issued by the DEO. The DEO notice of intent to find the Amendment in compliance shall be deemed to be the final order if no timely petition challenging the Amendment is filed.

The foregoing Ordinance was offered by _____, who moved for its adoption on first reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED on the first reading this ____ day of _____, 2023.

The foregoing Ordinance was offered by _____, who moved for its adoption on second reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED AND ADOPTED on the second reading this ____ day of _____, 2023.

JOSEPH B. PINDER, MAYOR

ATTEST:

MARNE MCGRATH, VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF
ISLAMORADA, VILLAGE OF ISLANDS ONLY

JOHN J. QUICK, INTERIM VILLAGE ATTORNEY

ORDINANCE NO. 23-

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30, BY REPEALING DIVISION 11 – ALCOHOLIC BEVERAGE USE PERMITS; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON APPROVAL OF THIS ORDINANCE BY THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY.

WHEREAS, pursuant to Village Code Chapter 30, Article VI, Division 11 (Alcoholic Beverage Use Permit), Islamorada, Village of Islands regulates the sale and consumption of alcoholic beverages; and

WHEREAS, THE State of Florida already provides for the licensing of businesses which involve the sale and consumption of alcoholic beverages; and

WHEREAS, Islamorada, Village of Islands provides adequate and proper regulation for businesses which involve the sale and/or consumption of alcoholic beverages; and

WHEREAS, the repeal of Chapter 30, Article VI, Division 11 (Alcoholic Beverage Use Permit) is in the public interest.

NOW, THEREFORE BE IT ORDAINED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA AS FOLLOWS:

Section 1. **Recitals.** The above recitals are true and correct and incorporated herein by this reference.

Section 2. Chapter 30, Article VI, Division 11 (Alcoholic Beverage Use Permit) is deleted in its entirety.

Additional text is shown as underlined;

deleted text is shown as ~~strikethrough~~

DIVISION 11. - ~~ALCOHOLIC BEVERAGE USE PERMIT~~^[15]

Footnotes:

~~---(15)---~~

Cross reference—~~Noise permit; alcoholic beverages permit, § 42-42.~~

~~Sec. 30-1461. - Generally.~~

~~(a) *Purpose and intent.* This section is designed and intended to provide for reasonable regulations and control over the production, manufacture, brewing and/or sale of alcoholic beverages within the village by establishing an alcoholic beverage use permit procedure and providing criteria to be utilized to assure that all future proliferation of alcoholic beverage use enterprises within the village are compatible with adjoining and surrounding land uses and the village's comprehensive plan, and that alcoholic beverage use permits not be granted where such uses will have an adverse impact on the health, safety and welfare of the citizens and residents of the village.~~

~~(b) *Permit required.* All persons desiring to produce, manufacture, brew and/or sell alcoholic beverages upon any premises located within the village and who desire to do so upon premises not previously approved for an alcoholic beverage use permit shall~~

obtain an alcoholic beverage use permit utilizing the procedures outlined in subsection (d) of this section.

~~(c) *Classifications.* Corresponding to those alcoholic beverage license classifications adopted by the state, as may be amended from time to time, alcoholic beverage use permits issued pursuant to this division shall be classified as follows:~~

- ~~(1) 1APS: Beer, package sales only.~~
- ~~(2) 1COP: Beer, consumption on-premises and package sales.~~
- ~~(3) 2APS: Beer and wine, package sales only.~~
- ~~(4) 2COP: Beer and wine, consumption on-premises and package sales.~~
- ~~(5) 3BPS: Beer, wine and liquor, package sales only.~~
- ~~(6) 5COP: Beer, wine and liquor, consumption on-premises and package sales.~~
- ~~(7) 5COP SRX: Restaurant, no package sales.~~
- ~~(8) 5COP SR: Restaurant, package sales.~~
- ~~(9) 5COP S: Motel, package sales.~~
- ~~(10) 5COP SBX: Bowling, no package sales.~~
- ~~(11) 5COP SPX: Boat, no package sales.~~
- ~~(12) CMB: Manufacturer/brewer of malt beverages.~~

~~(d) *Procedure.* The following procedures shall be followed on any application for an alcoholic beverage use permit:~~

- ~~(1) Applications for alcoholic beverage use permits shall be submitted in a form specified by the planning and development services department for reviewing the application, and shall be accompanied by a fee as established from time to time by the village council to defray the actual cost of processing the application. After an application is submitted, the director of planning and development services shall determine if the application is complete and includes data necessary to evaluate the application. Applications shall be~~

~~reviewed in accordance with the applicable provisions of article IV, division 2 of this chapter.~~

~~(2) The director of planning and development services shall ensure that the necessary public hearing is scheduled for the decision-making or advisory body reviewing the application and that, except as provided herein, proper notice of the public hearing is provided as set forth herein. All notices for public hearings shall include the information required pursuant to [section 30-213](#).~~

~~(3) The director of planning and development services shall provide written notice to all owners of real property within a radius of 500 feet of the affected premises, posting of the property subject to the application, and by publication pursuant to the procedures provided by [section 30-213](#)(l).~~

~~(4) The public hearing shall be conducted in accordance with article IV, division 3 of this chapter.~~

~~*(e) Proximity to places of worship, schools and child care facilities.*~~

~~(1) No person shall conduct any business involving the production, manufacture, brewing or sale of alcoholic beverages within three hundred feet of any established place of worship, school and/or child care facility. Such distance shall be measured from the nearest point of the property line of the place of business to the property line of the place of worship, school and/or child care facility and used as a part of the place of worship, school and/or child care facility. However, any person or property licensed to conduct and legally conducting a business involving the production, manufacture, brewing or sale of alcoholic beverages as of the effective date of this amendment, shall be governed by the provisions of this section which existed at the time of the original licensure of such business. This prohibition shall not apply to temporary alcohol beverage use permits.~~

~~(2) When considering an application for a variance from the proximity requirement in subsection (1), the director and village council shall consider the following criteria:~~

- ~~a. The license sought is for consumption on-premises only;~~
- ~~b. The extent of conflict between the proposed use and the hours of operation of the facilities described in subsection (1) above;~~
- ~~c. Other nonresidential uses adjacent to or between the property of the proposed alcohol beverage use permit and the facilities described in subsection (1) above; and~~
- ~~d. The property of the proposed alcohol beverage use permit is separated from the facilities described in subsection (1) above by a canal, channel or creek.~~

~~Public notice shall be provided consistent with Code [section 30-213](#)(l).~~

~~(f) *Criteria.* The village council shall give due consideration to the following factors as they may apply to the particular application prior to rendering its decision to grant or deny the requested permit:~~

- ~~(1) The proposed use is compatible and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development as represented by property owners within 500 feet of the premises;~~
- ~~(2) The proposed use is consistent with the purposes, goals, objectives and policies of the comprehensive plan and this chapter, including standards for building and structural intensities and densities, and intensities of use; and the suitability of the premises in regard to its location, site characteristics and intended purpose;~~
- ~~(3) The proposed use complies with article IV, division 5 of this chapter (Concurrency Management); and~~
- ~~(4) The design of the proposed use minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.~~

~~(g) *Approval by village council.* The village council may grant approval based on reasonable conditions considering the criteria outlined herein.~~

~~(h) *Where permitted.* Alcoholic beverage use permits may be granted in the following zoning districts: village center (VC); tourist commercial (TC); marine use (MR); highway commercial (HC); industrial (I) and neighborhood commercial (NC). Notwithstanding the foregoing, alcoholic beverage sales may be permitted at restaurants, hotels, marinas and campgrounds regardless of the zoning district in which they are located. Nothing contained herein shall exempt an application from obtaining a major or minor conditional use approval when such is otherwise required by this chapter.~~

~~(i) *Transferability.* Alcoholic beverage use permits issued by virtue of this section shall be deemed to be a privilege running with the land. The sale of the real property which has been granted an alcoholic beverage use permit shall automatically vest the purchaser thereof with all rights and obligations originally granted or imposed to or on the application. Such privilege may not be separated from the fee simple interest in the realty.~~

~~(j) *Appeals.* The applicant, or any aggrieved person who has opposed the issuance of the alcoholic beverage permit at the scheduled public hearing, may appeal the decision of the village council by filing a petition for writ of certiorari in the circuit court in and for the county, in accordance with the procedure provided by the Florida Rules of Civil Procedure and the Florida Rules of Appellate Procedure, within 30 days of the date of the decision by the village council.~~

~~(Ord. No. 03-05, § 1(6.10.1), 3-27-2003; Ord. No. 15-03, § 2, 2-12-15)~~

Secs. 30-1462—30-1479. - Reserved.

Section 3. Transmittal. The Village Clerk is authorized to forward a copy of this Ordinance to the State Department of Economic Opportunity (the "DEO") for approval pursuant to section 380.05, Florida Statutes.

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. Effective Date. This Ordinance shall not be effective immediately upon adoption. The Amendment shall not take effect until the date a final order is issued by the DEO. The DEO notice of intent to find the Amendment in compliance shall be deemed to be the final order if no timely petition challenging the Amendment is filed.

The foregoing Ordinance was offered by _____, who moved for its adoption on first reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED on the first reading this _____ day of _____, 2023.

The foregoing Ordinance was offered by _____, who moved for its adoption on second reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED AND ADOPTED on the second reading this ____ day of _____, 2023.

JOSEPH B. PINDER, MAYOR

ATTEST:

MARNE MCGRATH, VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF
ISLAMORADA, VILLAGE OF ISLANDS ONLY

JOHN J. QUICK, INTERIM VILLAGE ATTORNEY

ORDINANCE NO. 23-

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30, ARTICLE IV, DIVISION 2 – DEVELOPMENT REVIEW PROCESS BY STANDARDIZING PUBLIC NOTICE PROVISIONS; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON APPROVAL OF THIS ORDINANCE BY THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY.

WHEREAS, Islamorada, Village of Islands has established Land Development Regulations to properly guide development and protect the health, safety, and welfare of the public; and

WHEREAS, as a part of the development review process the Village has established Public Notice provisions associated with various application types; and

WHEREAS, current Public Notice provisions include contrasting and confusing notice provisions for individual application types; and

WHEREAS, the standardization of Public Notice requirements for all application types would provide a clear and understandable set of standards for applicants and members of the community; and

WHEREAS, clear and understandable Public Notice provisions would facilitate increased public participation in the review process and establish a regulatory process that is open, transparent, and inclusive consistent with sound planning practice.

NOW, THEREFORE BE IT ORDAINED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA AS FOLLOWS:

Section 1. **Recitals.** The above recitals are true and correct and incorporated herein by this reference.

Section 2. Chapter 30, is hereby modified as follows:

Additional text is shown as <u>underlined</u> ;	deleted text is shown as strikethrough
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Sec. 30-213. Public hearing and notice.

- (a) When an application for development permit is subject to a public hearing, the director of planning and development services shall ensure that the necessary public hearing is scheduled for the decision-making or advisory body reviewing the application and that, except as provided herein, proper notice of the public hearing is provided as set forth herein. All notices for public hearings shall include the following information:
- (1) Identify the applicant, if other than the village.
 - (2) Indicate the date, time, and place of the public hearing.
 - (3) Describe the property involved by street address or by legal description, and area of the subject property. A map may be substituted for the legal description or as required by state law.
 - (4) Identify the current zoning district designation of the property subject to the application.
 - (5) Describe the nature, scope and purpose of the application proposal being noticed.
 - (6) Identify the village departments where the public may inspect the application, staff report and related materials during normal business hours.
 - (7) Include a statement that affected parties may appear at the public hearing, be heard and submit evidence with respect to the application.

- (b) When the provisions of this chapter require that mailed notice be provided, the applicant shall be responsible for ~~for the cost of village staff~~ preparing the written notice and for mailing the notice. Notice shall be deemed mailed by its deposit in the United States mail, certified/return receipt required, properly addressed, ~~and postage paid~~ and postmarked at least 15 days prior to the public hearing date or upon issuance of the Notice of Intent (NOI). No action taken by the village shall be voided by the failure of any individual property owner to receive such notice.
- (c) When the provisions of this chapter require that notice be published, the applicant shall be responsible for ~~the cost of village staff~~ preparing the content of the notice and publishing the notice in the non-legal section of the local newspaper of general circulation that has been selected by the village. This notice shall be published at least 15 days before the required public hearing or upon issuance of the NOI.
- (d) When the provisions of this chapter require that notice be posted on the property subject to the application, the ~~director of planning and development services~~ Applicant or Representative shall:
- (1) Place the signs on the property that is the subject of the application for at least 15 days prior to a required or requested hearing or upon issuance of the NOI.
 - (2) Place the signs along each street that is adjacent to or runs through the subject property at intervals of not more than 200 feet in a manner that makes them clearly visible to adjacent residents and passersby.
 - (3) Place the signs no more than 25 feet from the street so that the lettering is visible from the street. Where the land does not have frontage on a street, signs shall be erected on the nearest street, with an attached notation indicating generally the direction and distance to the property subject to the application.
- (e) An affidavit and photographic evidence shall be provided by the Applicant or Representative before the public hearing or prior to the issuance of a Notice of Approval (NOA) demonstrating compliance with the applicable notice requirements set forth in this section. Failure to comply with the applicable notice requirements shall result in the postponement

and re-noticing of the public hearing or a restart of the appeal period. All costs of re-noticing the public hearing shall be borne by the party ~~failing to comply with the applicable notice requirements~~ Applicant or Representative.

(f) Notice for public hearings on applications for comprehensive plan text or map amendments shall be noticed as follows:

(1) Text or map amendments initiated by the village shall be noticed by publication in accordance with the provisions of F.S. § 163.3184.

(2) Text or map amendments initiated by a property owner or governmental agency other than the village shall be noticed by publication in accordance with the provisions of F.S. § 163.3184, and by posting of the property subject to the application at least 15 day prior to the public hearing.

(g) Notice for public hearings on applications for amendments to this chapter and the official zoning map shall be noticed as follows:

(1) Text or map amendments initiated by the village shall be noticed by publication in accordance with the provisions of F.S. § 166.041.

(2) Text or map amendments initiated by a property owner or governmental agency other than the village shall be noticed by publication in accordance with the provisions of F.S. § 166.041, and by posting of the property subject to the application at least 15 day prior to the public hearing.

(h) Notice of intent to issue and public hearings on applications for development permit approvals including, but not limited to, certificates of compliance, minor and major conditional uses, administrative appeals, variances, administrative variances, alcohol beverage use permits, development status reports and site plans shall be noticed as follows:

~~(1) Posting of the property subject to the application.~~

~~(2) Mailed notice to the adjacent property owners. For the purpose of this subsection, "adjacent property owners" shall be considered all property owners, including any residents of the property subject to the application, that share a common boundary line~~

~~with the property subject to the application. If the property subject to the application is located on a canal or fronts on a public right-of-way, the common boundary shall be considered the midpoint of the canal or right-of-way. The property owners required to be provided notice by this subsection shall be determined with a copy of the most up-to-date version of the county tax roll.~~

~~(i) Notice of public hearings on applications for major conditional use approvals shall be noticed as follows:~~

- ~~(1) Posting of the property subject to the application.~~
- ~~(2) Mailed notice to all property owners, including any residents of the property subject to the application, located within 300 feet of the property subject to the application postmarked at least 15 days prior to the public hearing or upon issuance of the NOI. The property owners required to be provided notice by this subsection shall be determined with a copy of the most up-to-date version of the county tax roll.~~
- ~~(3) By publication.~~

~~(j) Notice for public hearings on applications for administrative appeals, development permit status reports or variances shall be noticed as follows:~~

- ~~(1) Posting of the property subject to the application.~~
- ~~(2) Mailed notice to all property owners, including any residents of the property subject to the application, located within 300 feet of the property subject to the application. The real property owners required to be provided notice by this subsection shall be determined with a copy of the most up-to-date version of the county tax roll.~~

~~(k) Notice of intent to issue and public hearings on applications for administrative variances shall be noticed as follows:~~

- ~~(1) Posting of the property subject to the application.~~
- ~~(2) Mailed notice to the adjacent property owners. For the purpose of this subsection "adjacent property owners" shall be considered all property owners, including any residents of the property subject to the application, that share a common boundary line~~

with the property subject to the application. If the property subject to the application is located on a canal or fronts on a public right-of-way, the common boundary shall be considered the midpoint of the canal or right-of-way. The property owners required to be provided notice by this subsection shall be determined with a certified copy of the most up-to-date version of the county tax roll.

(l) — Notice of public hearings on applications for alcohol beverage use permits shall be noticed as follows:

(1) — Posting of the property subject to the application.

(2) — Mailed notice to all property owners, including any residents of the property subject to the application, located within 500 feet of the property subject to the application. The real property owners required to be provided notice by this subsection shall be determined with a copy of the most up-to-date version of the county tax roll.

(3) — By publication.

NOTICE REQUIREMENTS

Permit	Notice Section	Posted	Published	Mailed
Certificate of compliance	30-213(h)	15 days after NOI or — prior — to hearing Upon issuance of the NOI	No 15 days prior to public hearing	Adjacent owners Owners within 300 feet
Site plan	30-213(h)	15 days after NOI or — prior — to hearing Upon issuance of the NOI	No 15 days prior to public hearing	Adjacent owners Owners within 300 feet

Administrative variance	30-213(k)	15 days after NOI or — prior — to hearing <u>Upon</u> <u>issuance of the</u> <u>NOI</u>	No <u>15 days prior</u> <u>to public hearing</u>	Adjacent owners <u>Owners within</u> <u>300 feet</u>
Minor conditional	30-213(h)	15 days after NOI or — prior — to hearing <u>Upon</u> <u>issuance of the</u> <u>NOI</u>	No <u>15 days prior</u> <u>to public hearing</u>	Adjacent owners <u>Owners within</u> <u>300 feet</u>
Major conditional	30-213(i)	15 days after NOI or prior to hearing	15 days prior to public hearing	Owners within 300 feet
Administrative appeal	30-213(j)	15 days after NOI or prior to hearing	No <u>15 days prior</u> <u>to public hearing</u>	Owners within 300 feet
Variance	30-213(j)	15 days after NOI or prior to hearing	No <u>15 days prior</u> <u>to public hearing</u>	Owners within 300 feet
Comprehensive plan—Village	30-213(f)(1)	No	F.S. § 163.3184	
Comprehensive plan—Owner	30-213(f)(2)	15 days <u>prior to</u> <u>public hearing</u>	F.S. § 163.3184	
Zoning map and text—Village	30-213(g)(1)	No	F.S. § 166.041	
Zoning map and text—Owner	30-213(g)(2)	15 days <u>prior to</u> <u>public hearing</u>	F.S. § 166.041	

Development permit status report	30-213(j)	15 days prior to public hearing	<u>15 days prior to public hearing</u>	Owners within 300 feet
Alcohol beverage use permit	30-213(l)	15 days prior to public hearing	15 days prior to public hearing	Owners within <u>500-300</u> feet

Sec. 30-255. - General procedures.

(a) Witnesses and evidence. Each party shall have the right to call and examine witnesses, to introduce exhibits, to cross examine opposing witnesses on any relevant matter (subject to the rules contained herein), and to rebut evidence.

(b) Duties of village staff. Staff shall have the responsibility of presenting the case on behalf of the village. The staff report on the application shall be posted on the Village website at least ten (10) made available to the applicant and the council at least 12 working days prior to the quasi-judicial hearing on the application.

(c) Official file. All written communication received by councilmembers or staff concerning an application, the staff report on the application, any petitions or other submissions from the public, and all other documents pertaining to the application upon receipt shall be filed in the official file for the application, which shall be maintained by staff. The comprehensive plan and the village Code shall be deemed to be part of the official file. The official file shall be available for inspection during normal business hours.

(d) Agenda. The printed agenda for the meeting at which the quasi-judicial hearing is scheduled to take place shall briefly explain the procedures and nature of the quasi-judicial hearing.

Secs. 30-1404—30-1430. - Reserved.

Section 3. Transmittal. The Village Clerk is authorized to forward a copy of this Ordinance to the State Department of Economic Opportunity (the "DEO") for approval pursuant to section 380.05, Florida Statutes.

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. Effective Date. This Ordinance shall not be effective immediately upon adoption. The Amendment shall not take effect until the date a final order is issued by the DEO. The DEO notice of intent to find the Amendment in compliance shall be deemed to be the final order if no timely petition challenging the Amendment is filed.

The foregoing Ordinance was offered by _____, who moved for its adoption on first reading.

This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED on the first reading this ____ day of _____, 2023.

The foregoing Ordinance was offered by _____, who moved for its adoption on second reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____
Councilwoman Elizabeth Jolin	_____

PASSED AND ADOPTED on the second reading this ____ day of _____, 2023.

JOSEPH B. PINDER, MAYOR

ATTEST:

MARNE MCGRATH, VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF
ISLAMORADA, VILLAGE OF ISLANDS ONLY

JOHN J. QUICK, INTERIM VILLAGE ATTORNEY

ORDINANCE NO. ____

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 2 "ADMINISTRATION" CREATING A NEW ARTICLE V TO BE ENTITLED "VILLAGE BOARDS, COMMITTEES AND COMMISSIONS", SECTIONS 2-329 THROUGH 2-335; AMENDING CHAPTER 30 "LAND DEVELOPMENT REGULATIONS", ARTICLE III "DECISION MAKING AND OTHER ADMINISTRATIVE BODIES", DIVISION 3 "LOCAL PLANNING AGENCY", SECTION 30-103 OF THE VILLAGE CODE RELATING TO APPOINTMENT, REMOVAL, TERMS, AND VACANCIES; AMENDING CHAPTER 30 "LAND DEVELOPMENT REGULATIONS", ARTICLE VII "ENVIRONMENTAL REGULATIONS", DIVISION 7 "HISTORIC AND ARCHAEOLOGICAL SITES", SECTION 30-1693 RELATING TO THE HISTORIC PRESERVATION COMMISSION; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Village Council of Islamorada, Village of Islands (the "Village Council") has a number of boards, committees and commissions of the Village that requires the Village Council to appoint members periodically; and

WHEREAS, the Village Council desires to provide for a uniform procedure for the appointment, removal and terms of members to various boards, committees and commissions of the Village; and

WHEREAS, the Village currently has boards, committees and commissions, but no uniform process of appointment, removal and terms of such members in the Village Code; and

WHEREAS, the Village Council finds that providing a uniform procedure and amending any inconsistent provisions in the Village Code for the process of appointment, removal and terms of such members is in the best interests of the Village and its residents.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AS FOLLOWS:

Section 1. **Recitals.** The above recitals are true and correct and are incorporated herein by this reference.

Section 2. Amendments to the Code.

(a) Chapter 2 entitled "Administration", is hereby amended to create Article V to be entitled "Village Boards, Committees And Commissions" as follows:

Additional text is shown as <u>underlined</u> ;	deleted text is shown as strikethrough
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ARTICLE V. – Village Board, Committees and Commissions.

Sec. 2-329. General.

The village council may create any board, committee or commission of the village as a governmental entity of the village, vested with the authority to make recommendations to the village council on matters of public interest that affect persons or property within the incorporated area of the village as prescribed in this section.

Sec. 2-330. Application and Selection Process.

Each applicant to a board, committee or commission of the village shall be a resident of the village at the time of appointment and during the appointee's term(s) in office. Appointments shall be made on the basis of civic pride, integrity, experience and interest in the field of concern in which such board, committee or commission shall be advising the village council. The village council shall attempt to nominate neighborhood activists, lawyers or other individuals from the business, financial and other segments of the community who, by virtue of their profession, business or civic involvement, have demonstrated interest in the field of concern of such board, committee or commission to which they seek appointment. Membership on any board, committee or commission should be representative of the community at large and reflect a broad cross section of the community.

Sec. 2-331. Letters of Interest and Presentations.

- (a) Each interested applicant shall submit to the village council, at the time and place, as directed by the village council, a Letter of Interest for the particular board, committee or commission such applicant is interested in being appointed. Such Letter of Interest shall provide information about the applicant setting forth their qualifications, experience and expertise, including, demonstrating their civic pride, integrity, experience and interest in the field of concern in which such board, committee or commission shall be advising the village council.
- (b) Applicants will be provided an opportunity to present their qualifications, experience and expertise to the village council, who may ask questions and further inquire as to the applicant's interest.

Sec. 2-332. Appointment to Board, Committee or Commission.

Each member of a board, committee or commission shall be appointed by a majority vote of the village council.

Sec. 2-333. Terms of Office.

Each member shall serve for a term of two (2) years, with the terms of the members being staggered for each board, committee or commission.

Sec. 2-334. Councilmember Liaison.

The mayor shall annually appoint to each board, committee or commission a councilmember liaison. The councilmember liaison shall provide periodic updates to the village council on their appointed boards, committees and commissions, as requested by the village council.

Sec. 2-335. Removal from Office.

- (a) Any member of any board, committee or commission, may be removed by a majority vote of the village council and shall be automatically removed by the village clerk upon three (3) unexcused absences from regular meetings of such board, committee or commission during a calendar year.
- (b) A member of a village board, committee or commission shall be deemed absent from a meeting when he or she is not present at the meeting at least 75 percent of its duration.
- (c) The provisions of this section may only be waived once by a four-fifths vote of the members of the full village council.
- (d) The provisions of this section shall not apply to those individuals who are members of a village board, committee or commission and who are:
 - 1. Reservists in the United States Armed Forces or members of the Florida National Guard, and have been ordered to active military duty for national, state, or homeland defense and due to such duty cannot attend board meetings; or
 - 2. Employees of agencies whose services are considered essential for national, state, or homeland defense and due to such services cannot attend board meetings.

(b) Chapter 30 entitled "Land Development Regulations", Article III entitled "Decision-Making and Administrative Bodies", Division 3 entitled "Local Planning Agency", Section 30-103 entitled "Membership: appointment, removal, terms, and vacancies" is hereby amended as follows:

DIVISION 3. - LOCAL PLANNING AGENCY**Sec. 30-103. Membership: appointment, removal, terms, and vacancies.**

- (a) The local planning agency shall be comprised of seven voting members. ~~Each member of the village council shall appoint one member to the local planning agency. The remaining two members shall be appointed by the village council based upon a super majority vote (four-fifths votes) of the village council.~~ Local planning agency member appointments shall be made during a regular village council meeting in May of each year and the term of the local planning agency members shall continue until appointments are made at a regular village council meeting in May of the following year. The appointment process shall be conducted in accordance with Article V. In the event that the regular village council meeting in May is cancelled, the term of local planning agency members shall not expire until appointments are made at the next regular village council meeting.
- (b) Where required by state statute, by majority vote the village council may appoint individuals, organizations or their designee to serve in an advisory capacity as nonvoting members of the local planning agency. These nonvoting members may include, but are not limited to, representatives of area schools or the county school board.
- (c) One member of each village established citizens' advisory committee and the Historic Preservation Commission may serve as a voting member of the local planning agency. One or more members of the local planning agency may serve on a village established charter review committee.
- (d) ~~The appointing village council member~~ village council may replace a local planning agency member with or without cause at any regular village council meeting. ~~The two local planning agency members appointed by a super majority vote (four/fifths votes) of the village council may be replaced with or without cause at any regular village council meeting by a super majority vote (four/fifths votes) of the village council.~~ Replacements shall serve the remainder of the original term. Nonvoting members may be removed by majority vote of the village council without cause.
- (e) No voting member shall serve more than three consecutive terms unless the village council votes by super majority (four/fifths votes) to approve re-appointment for additional consecutive terms.
- (f) At an annual organizational meeting, the members of the local planning agency shall elect one of their members as chairman and one as vice-chairman. In the absence of the chairman, the vice-chairman shall act as the chairman and shall have all the powers of the chairman. The chairman shall serve a term of one year. No member shall serve as chairman for more than two consecutive terms unless the local planning agency votes by super majority (majority plus one of voting members present and voting) to approve re-appointment for additional consecutive terms.
- (g) The chairman (or vice-chairman acting in the capacity of chairman) shall serve as the presiding officer of any meeting of the local planning agency. The presiding officer or designee shall be in charge of all proceedings before the local planning agency, and shall take such action as shall be

necessary to preserve order and the integrity of all proceedings before the local planning agency. In the event that the chairman or vice-chairman are unavailable, the voting members of the local planning agency who are present shall by majority vote select a voting member to act as presiding officer for the meeting in question.

- (h) Should any voting member of the local planning agency miss three consecutive meetings without being excused by the chairman, whether regular meetings or special meetings, that person shall be disqualified as a voting member of the local planning agency. Thereafter, the ~~appointing council member~~ village council shall fill the vacancy thereby created as soon as practicable. ~~Should the disqualified member have been appointed by a super majority vote (four-fifths votes) of the village council, then the village council shall fill the vacancy by super majority vote (four-fifths votes) as soon as practicable.~~
- (i) All provisions of Article V entitled "Village Boards, Committees and Commissions" of the Code not inconsistent with the provisions of this section 30-103 shall apply.

(c) Chapter 30 entitled "Land Development Regulations", Article VII entitled "Environmental Regulations", Division 7 entitled "Historic and Archaeological Sites", Section 30-1693 entitled "Historic preservation commission" is hereby amended as follows:

Additional text is shown as <u>underlined</u> ;	deleted text is shown as strikethrough
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DIVISION 7. - HISTORIC AND ARCHAEOLOGICAL SITES

Sec. 30-1693. Historic preservation commission.

- (a) *Historic preservation commission:* The historic preservation commission (HPC) is a governmental agency of the village. The HPC is vested with the authority to make recommendations to the village council on the designation and regulation of village historic structures within a designated historic district and landmarks within the incorporated area of the village as prescribed in this division.
- (b) *Appointment and membership qualifications:* The HPC consists of five members each appointed by a majority vote of the village council. Each member shall be a resident of the village at the time of appointment and during the member's term(s) in office. Appointments shall be made on the basis of civic pride, integrity, experience and interest in the field of historic preservation. The village council shall attempt to nominate architects, realtors, archaeologists, historians, neighborhood activists, lawyers or other individuals from the business, financial and other segments of the community who, by virtue of their profession, business or civic involvement, have demonstrated concern for historic preservation. Membership on the board should be representative of the community at large and reflect a broad cross section of the community.

- (c) *Membership removal, terms, and vacancies:* The HPC members shall serve ~~overlapping~~ staggered terms of ~~three~~ two years. HPC members serve without compensation, but are entitled to the reimbursement of expenses as provided in F.S. § 112.061.
- (d) *Organization and administration:* The members of the HPC shall elect a chairperson and vice chairperson, for a one-year term each. The chairperson or, in the absence of the chairperson, the vice-chairperson, shall preside at all meetings and may vote. The director of planning and development services shall designate staff to advise and provide clerical support to the HPC. The village attorney shall be the attorney to the HPC. The director of planning and development services shall be the custodian of all HPC records. The HPC shall meet at least once per month at a date and time established by the HPC, unless there is no business pending.
- (e) *Notice:* Notice of meetings required under this division shall be given in accordance with section 30-213 of the Village Code.
- (f) *Public hearings:* All hearings required under this division shall be conducted in accordance with section 30-213 of the Village Code.
- (g) *Powers and duties:* The HPC has the following powers and duties:
 - (1) Adoption of its own procedural rules and regulations as necessary for the conduct of its business;
 - (2) Investigate and recommend to the village council the adoption of ordinances designating buildings, structures, sites having special historic, architectural and archaeological value as landmarks or historic districts, and if necessary, recommend rescission of such designations;
 - (3) Investigate and recommend to the village council the adoption of ordinances on whether a substantially damaged designated historic building, structure, object, or site may be reconstructed using the criteria set forth in this division;
 - (4) Conduct surveys of historically, architecturally and archaeologically significant structures and districts within the village;
 - (5) Advise the village council on all matters related to historic preservation policy, including the use, administration, and maintenance of publicly-owned historic landmarks;
 - (6) Make recommendations on nominations of a historic property to the National Register of Historic Places;
 - (7) Increase public awareness of the value of historic and architectural preservation by developing and participating in public education programs;
 - (8) Make recommendations to the village council concerning utilization of state, federal and private funds to promote the preservation of significant structures and historic districts within the village;

- (9) Make recommendations to the village council concerning acquisition of a significant structure where its preservation is essential to the purposes of this act and where private preservation is not feasible;
 - (10) Review applications for special certificates of appropriateness and make recommendations to the village council regarding such applications; and
 - (11) Undertake any other action or activity specifically delegated to it or requested by the village council.
- (h) The HPC shall meet no less than four times per year. At a minimum of one meeting each year, the HPC shall identify those structures within the village which are historically, architecturally or archaeologically significant. The findings of the HPC shall be transmitted to the village council after each meeting of the HPC, for the review and consideration of the village council. The HPC shall otherwise encourage the identification, preservation and protection of historically, architecturally or archaeologically significant structures and sites.
- (i) All provisions of Article V entitled "Village Boards, Committees and Commissions" of the Code not inconsistent with the provisions of this section 30-1693 shall apply.

Section 3. Repeal of Conflicting Provisions. The Provisions of the Village of Islamorada Code and all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 4. Severability. The provisions of this Ordinance are declared to be severable and if any sentence, section, 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 sentences, sections, clauses or phrases of the 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. Inclusion in the Code. It is the intention of the Village Council and it is hereby ordained the provisions of this Ordinance shall become and be made part of the Village of Islamorada Code, that sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 7. **Effective Date.** This Ordinance shall become effective immediately upon adoption.

The foregoing Ordinance was offered by _____, who moved for its adoption on first reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilwoman Elizabeth Jolin	_____
Councilman Henry Rosenthal	_____

PASSED on the first reading this ____day of_____, 2023.

[Remainder of this page intentionally left blank]

The foregoing Ordinance was offered by _____, who moved for its adoption on second reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilwoman Elizabeth Jolin	_____
Councilman Henry Rosenthal	_____

PASSED AND ADOPTED on the second reading this ____ day of _____, 2023.

JOSEPH B. PINDER III, MAYOR

ATTEST:

MARNE MCGRATH, VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF
ISLAMORADA, VILLAGE OF ISLANDS ONLY

JOHN J. QUICK, VILLAGE ATTORNEY