

ORDINANCE NO. 19-14

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30 “LAND DEVELOPMENT REGULATIONS,” ARTICLE IV “ADMINISTRATIVE PROCEDURES,” DIVISION 11 “BUILDING PERMIT ALLOCATION SYSTEM,” SECTION 30-474 “BUILDING PERMIT ALLOCATION” OF THE VILLAGE CODE OF ORDINANCES TO AMEND PROVISIONS RELATED TO THE DEDICATION OF LAND TO THE VILLAGE; ESTABLISHING SECTION 30-478 “EXCHANGE OF VILLAGE OWNED LOTS OR PARCELS RECEIVED THROUGH BPAS LAND DEDICATION” OF THE VILLAGE CODE OF ORDINANCES TO ALLOW FOR THE EXCHANGE OF PARCELS BETWEEN THE VILLAGE AND A PRIVATE PARTY; 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

WHEREAS, Islamorada, Village of Islands (the “Village”) has adopted a comprehensive set of Land Development Regulations (the “LDRs”) to implement the Village Comprehensive Plan (the “Comprehensive Plan”); and

WHEREAS, the Village has established the Building Permit Allocation System (“BPAS”) to regulate the rate of growth and development in order to deter further deterioration of public facility service levels, environmental degradation and potential land use conflicts; and

WHEREAS, the BPAS provides a mechanism for the redevelopment of residential and nonresidential structures, and fosters the development of affordable housing; and

WHEREAS, the BPAS establishes an annual allocation of building permits to ensure that appropriate phasing of new growth and development is consistent with state law and the Comprehensive Plan; and

WHEREAS, the BPAS establishes allocation application procedures, which include, but are not limited to, applicable review fees, time periods, expirations, withdrawals, revisions, and notification to applicants; and

WHEREAS, on May 13, 2019, the Local Planning Agency reviewed this Ordinance in accordance with the requirements of Chapter 163, Florida Statutes; and

WHEREAS, the provisions of this Ordinance are consistent with the Village Comprehensive Plan and the Principles for Guiding Development in the Florida Keys Area of Critical State Concern; and

WHEREAS, the Village Council finds that the provisions of this Ordinance are intended to advance the public health, safety, and welfare of the citizens of the Village.

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

Section 1. **Building Permit Allocation System.** Chapter 30 “Land Development Regulations,” Article IV, “Administrative Procedures”, Division 11, “Building Permit Allocation System” of the Village Code of Ordinances is hereby amended to read as follows¹:

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Section 30-476. Building permit allocation evaluation criteria and award.

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(a) Residential building permit allocation evaluation criteria. Applications shall be evaluated and ranked according to the following point values, which are to be applied cumulatively.

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¹ Additional text is shown as underlined; deleted text is shown as ~~strikethrough~~.

(4) Land dedication. The following points are intended to encourage the voluntary reduction of vacant, buildable land in the village within those areas proposed for acquisition by governmental agencies for the purposes of conservation, resource protection or for affordable housing within the village. Lots or parcels that are dedicated to the Village may be eligible for exchange pursuant to Section 30-478.

Point assignment:	+2 per vacant, legally platted buildable lot or entire acre of unplatted buildable land.
	+2 additional per vacant, legally platted buildable lot or entire acre of unplatted buildable land within those areas proposed for acquisition by governmental agencies.

Criteria: An application which proposes the dedication to the village of one or more vacant, legally platted buildable lots or at least one acre of unplatted buildable land, including those located within areas proposed for acquisition by governmental agencies for the purposes of conservation, resource protection or for affordable housing within the village. Buildable means construction of a dwelling unit could be permitted pursuant to this chapter, as determined by the director of planning and development services. The application shall include but not be limited to an affidavit of ownership of all affected lots, parcels, acreage or land and a statutory warranty deed, subject to the approval of the village council prior to filing in the office of the clerk of the county, which conveys the dedicated property to the village. Such deed must be approved by the village council before any development approval may be issued pursuant to an award. Applications including land dedication shall be evaluated in a category separate from applications without land dedication. A survey shall accompany all dedications of unplatted buildable lands or partial platted lots. Lots or parcels that are dedicated to the Village may be eligible for exchange pursuant to Section 30-478.

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Table 30-476A

Application Score	Point Assignment	Criteria
	+10	Platted subdivision infill. The following points are intended to encourage the infill of legally platted subdivisions served by existing infrastructure.
	+5	Infrastructure availability. The following points are intended to encourage the infill of lots or parcels served by existing infrastructure not within a platted subdivision.
	+3 per contiguous, vacant, legally platted, buildable lot	Lot aggregation. The following points are intended to encourage the voluntary reduction of density through aggregation of contiguous, vacant, legally platted, buildable lots with density allocation by lot.

	+2 per vacant, legally platted buildable lot or entire acre of unplatted buildable land, additional +2 for lots targeted for acquisition by governmental agencies	Land dedication (only applies to applications in the market rate category with land dedication). The following points are intended to encourage the voluntary reduction of vacant, buildable land within those areas proposed for acquisition by governmental agencies for the purposes of conservation, resource protection or affordable housing within the village.
	Between -2 and -10 depending on habitat type/quality	Habitat protection. The following points are intended to discourage the clearing of significant habitat and are based on the type and quality of the existing vegetation located within an area approved for clearing or development as shown on the approved site plan.
	Between -1 and -15. The determination of the quality of a tropical hardwood hammock shall be made through the utilization of the habitat analysis applied pursuant to article VII, division 4 of this chapter (Environmental Standards).	Development clears an area of multiple habitat types/quality types.
	-10	Development is within a known habitat of a documented threatened/endangered animal species.
	-5	Development is within a probable or potential habitat of a threatened/endangered animal species.
	-2	Development is within the habitat of a wide-ranging threatened/endangered animal species or an animal species of special concern.
	-10	Development is within 100 feet of any known sea turtle nesting area, as described in article VII, division 3 of this chapter (Sea Turtle Nesting Protection).
	-10	Development is within 500 feet of any known nesting or resting area of the piping plover.
	-10	Development is within a Florida Forever acquisition area.
	+1	One point per year during the first four successive years an application has spent in the BPAS without receiving an allocation award.

	+2	Two points per year after the fourth year an application has spent in the BPAS without receiving an allocation award.
	-2	Development is within an AE zone as shown on the most recent Federal Emergency Management Agency (FEMA) flood insurance rate map.
	-7	Development is within a VE zone as shown on the most recent FEMA flood insurance rate map.
	-10	Coastal barrier resources system (CBRS). The following points are intended to discourage development of the CBRS.
	+1	Installed air conditioning units have an energy efficient rating of 12 or better.
	+1	Heat recovery unit or solar hot water panel which provides supplemental heating of domestic hot water.
	+1	A concrete cistern with a minimum 2,500 gallons in conjunction with the development.
	+1	Meets a minimum peak wind speed of 160 miles per hour as certified by a qualified engineer or architect.
	+1 additional point	Meets a minimum peak wind speed of 175 miles per hour as certified by a qualified engineer or architect.
	+3	Affordable housing development with four or more new units within the same structure.
	+2	Development is within a central wastewater facility service area where a central wastewater treatment facility has been constructed that meets the treatment standards of F.S. §§ 381.0065(4)(1) and 403.086(10), and where treatment capacity is available. The points shall only be awarded if a construction permit has been issued for the collection system and the parcel lies within the service area of the wastewater treatment facility.
	TOTAL POINTS	

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(b) *Nonresidential building permit allocation evaluation criteria.* Applications shall be evaluated and ranked according to the following point values which are to be applied cumulatively.

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(5) Land dedication. The following points are intended to encourage the voluntary reduction of vacant, buildable land within those areas proposed for acquisition by governmental agencies for the purposes of conservation, resource protection or affordable housing within the village. Lots or parcels that are dedicated to the Village may be eligible for exchange pursuant to Section 30-478.

Point assignment:	+2 per vacant, legally platted buildable lot or entire acre of unplatted buildable land.
	+2 additional per vacant, legally platted buildable lot or entire acre of unplatted buildable land within those areas proposed for acquisition by governmental agencies.

Criteria: An application which proposes the dedication to the village of one or more vacant, legally platted buildable lots or at least one acre of unplatted buildable land, including those located within areas proposed for acquisition by governmental agencies for the purposes of conservation, resource protection or affordable housing within the village. Buildable means construction of a dwelling unit could be permitted pursuant to this chapter, as determined by the director of planning and development services. The application shall include but not be limited to an affidavit of ownership of all affected lots, parcels, acreage or land and a statutory warranty deed, subject to the approval of the village council prior to filing in the office of the clerk of the county, which conveys the dedicated property to the village. Such deed must be approved by the village council before any development approval may be issued pursuant to an award. Applications including land dedication shall be evaluated in a category separate from applications without land dedication. A survey shall accompany all dedications of unplatted buildable lands or partial platted lots. Lots or parcels that are dedicated to the Village may be eligible for exchange pursuant to Section 30-478.

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FIGURE 30-476B. BUILDING PERMIT ALLOCATION SYSTEM (BPAS) SCORING WORKSHEET (NONRESIDENTIAL)

Application Score	Point Assignment	Criteria
	+5	Parcel(s) of land having lawfully existing development, not including fences, grubbing, and clearing.

	+2	Development is within a village activity center (VAC).
	+2	Development does not require additional driveway access onto U.S. 1.
	+2	Parcel(s) connect(s) to a contiguous nonresidential parking lot through a shared access easement agreement approved by the planning and development services director.
	+2	Development deletes an existing driveway access onto U.S. 1.
	Between +1 and -10 depending on habitat type/quality.	Development clears an area of habitat type/quality.
	Between -1 and -15. The determination of the quality of a tropical hardwood hammock shall be made through the utilization of the habitat analysis applied pursuant to article VII, division 4 of this chapter (Environmental Standards).	Development clears an area of multiple habitat types/quality types.
	-10	Development is within a known habitat of a documented threatened/endangered animal species.
	-5	Development is within a probable or potential habitat of a threatened/endangered animal species.
	-2	Development is within the habitat of a wide-ranging threatened/endangered animal species or an animal species of special concern.
	-10	Development is within 100 feet of any known sea turtle nesting area, as described in article VII, division 3 of this chapter (Sea Turtle Nesting Protection).
	-10	Development is within 500 feet of any known nesting or resting area of the piping plover.
	-10	Development is within a Florida Forever acquisition area.
	-2	Development is within an AE zone as shown on the most recent Federal Emergency Management Agency (FEMA) flood insurance rate map.

	-7	Development is within a VE zone as shown on the most recent FEMA flood insurance rate map.
	-10	Development is within units of the coastal barrier resource system as shown on the most recent FEMA flood insurance rate map.
	+1	+1 point per application which proposes permanent increase in the amount of open space by five percent over the required open space ratio with a conservation easement.
	+1 additional point	+1 point per application which proposes permanent increase in the amount of open space by ten percent over the required open space ratio with a conservation easement.
	+1 additional point	+1 point per application which proposes permanent increase in the amount of open space by 15 percent over the required open space ratio with a conservation easement.
	+1	Development incorporates pervious pavers, geoblock, turfblock or other similar technology approved by the director of planning and development services on 20 percent of the required area for parking, loading, access aisles, and driveways for the entire development.
	+1 additional point	Development incorporates pervious pavers, geoblock, turfblock or other similar technology approved by the director of planning and development services on 40 percent of the required area for parking, loading, access aisles, and driveways for the entire development.
	+1 additional point	Development incorporates pervious pavers, geoblock, turfblock or other similar technology approved by the director of planning and development services on 50 percent of the required area for parking, loading, access aisles, and driveways for the entire development.
	+1	Development proposes scenic corridor or major street landscape buffers one Class greater than the required Class.

	+1	Development incorporates parking lot landscaping which exceeds the requirements of article V, division 7 of this chapter by 30 percent.
	+5	Development includes an application for an affordable residential dwelling unit.
	+2 per vacant, legally platted buildable lot or entire acre of unplatted buildable land.	Land dedication.
	+2 per vacant, legally platted buildable lot or entire acre of unplatted buildable land.	Development includes the dedication to the village of one or more vacant, legally platted buildable lots or at least one acre of unplatted buildable land located within areas proposed for acquisition by governmental agencies for the purposes of conservation, resource protection or affordable housing within the village.
	+2	Development is within a central wastewater facility service area where a central wastewater treatment facility has been constructed that meets the treatment standards of F.S. §§ 381.0065(4)(1) and 403.086(10), and where treatment capacity is available. The points shall only be awarded if a construction permit has been issued for the collection system and the parcel lies within the service area of the wastewater treatment facility.
	TOTAL POINTS	

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Code Section 30-478. Exchange of Village Owned Lots Received Through BPAS Land Dedication.

Lots or parcels that are dedicated to the Village pursuant to Section 30-476(a)(4) and Section 30-476(b)(5) may be eligible for exchange when a lot or parcel is dedicated to the Village consistent with the criteria established in subsection (a). The Village shall maintain a list of lots or parcels that have been dedicated to the Village that may be eligible for exchange. Lots that were dedicated to the Village after the adoption of Ordinance 05-06 may be eligible for exchange but must be determined by the Village to not be suitable for the development of affordable housing

(a) Eligibility. A lot or parcel proposed for exchange with a Village owned dedicated lot or parcel shall meet all of the following criteria:

- (1) The lot or parcel proposed for exchange is vacant;
- (2) The lot or parcel proposed for exchange is buildable;
- (3) The proposed exchange does not create a nonconforming use or structure for either lot or parcel;
- (4) The lot or parcel proposed for exchange contains upland habitat as defined in Article VII, Division 4 of this Chapter, that is the same size or larger than the upland habitat of the Village owned lot or parcel;
- (5) The lot or parcel proposed for exchange is equal to or more environmentally sensitive than the Village owned lot or parcel based upon HEI and vegetation survey, consistent with Article VII, Division 4 of this Chapter, completed by a qualified biologist, at the expense of the applicant;
- (6) The lot or parcels proposed for exchange is has a current assessed value according to the Monroe County Property Appraiser that is equal to or more than the current assessed value Village owned lot or parcel.
- (7) Village owned lot(s) or parcel(s) proposed for exchange shall not be adjacent to publicly owned conservation property.
- (8) Village owned lots or parcels that are on or previously were on a governmental acquisition list shall not be eligible for exchange;
- (9) Village owned lot(s) or parcel(s) proposed for exchange within the Residential Medium (RM) or Airport (A) FLUM shall not be eligible for an automatic low-quality hammock classification as referenced in Section 30-1613(i). The open space and clearing limitations of the Village owned lot or parcel proposed for exchange shall be consistent with Article VII, Division 4 of this Chapter;
- (10) The Village owned lot or parcel proposed for exchange shall only be used for accessory uses and structures consistent with Article V, Division 4 of this Chapter, as detailed through a Declaration of Restrictive Covenants that is recorded in the public records with the Monroe County Clerk of the Court, at the expense of the applicant;
- (11) Following an approved exchange, development of the lot or parcel shall comply with the clustering provisions of Section 30-1616;
- (12) If the Village owned lot or parcel proposed for exchange contains hammock, wetlands and/or beach berm, the environmentally sensitive area not permitted for development of accessory uses and structures shall be maintained in its natural state through a Grant of Conservation Easement Agreement (GOCEA), recorded

in the public records with the Monroe County Clerk of the Court, at the expense of the applicant;

- (13) Following an approved exchange, the lot or parcel obtained by the Village shall be placed under a Grant of Conservation Easement Agreement (GOCEA) and a Declaration of Restrictive Covenants to remove all development rights from the lot or parcel to prohibit any future development. Additionally, the lot or parcel owned by the Village shall no longer be eligible for exchange; and
- (14) The applicant shall be responsible for all costs associated with the exchange, including but not limited to, any and all closing costs, recording fees, title work, grant of conservation easements, declarations of restrictive covenants and surveys for both lots or parcels.
- (15) In order to be approved for exchange, the Village owned lot(s) or parcel(s) proposed for exchange must be determined by the Village to be unsuitable or impractical for the development of workforce/affordable housing.

(b) Application. An application for Lot or Parcel Exchange shall be made on a form prescribed by the director and may be filed with the department of planning and development services in accordance with this section, accompanied by a cost recovery fee as established, and as may be amended by resolution, by the Village Council. The application shall contain the information required on a form provided by the director of planning and development services, including but not limited to:

- (1) Documentation of ownership of the lot or parcel proposed for exchange through the form of a deed or other legal documentation as approved by the village attorney;
- (2) A vegetation survey consistent with Article VII, Division 4 of this Chapter, completed by a qualified biologist, at the expense of the applicant for the lot or parcel proposed for exchange;
- (3) For lots or parcels containing hammock, a habitat analysis consistent with Article VII, Division 4 of this Chapter shall be provided for the lot or parcel proposed for exchange; and
- (4) A survey depicting the location, size and flood zone signed and sealed by a Florida licensed professional land surveyor for the lot or parcel proposed for exchange.

(c) After review of the application and compliance with criteria established within this section the director of planning and development services shall approve, approve with conditions or deny an application for lot or parcel Exchange.

Section 3. Repeal of Conflicting Provisions. The provisions of the Village 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 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. Inclusion in the Code. It is the intention of the Village Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Islamorada, Village of Islands, Florida, that the sections of the Ordinance may be renumbered or relettered to accomplish to such intentions, and that the word “Ordinance” shall be changed to “Section” or other appropriate word.

Section 6. Transmittal to the State Department of Economic Opportunity. The provisions of this Ordinance constitute a “land development regulation” as State law defines that term. Accordingly, the Village Clerk is authorized to forward a copy of this Ordinance to the State Department of Economic Opportunity for approval pursuant to Sections 380.05(6) and (11), Florida Statutes.

Section 7. Effective Date. This Ordinance shall be effective immediately upon approval by the State Department of Economic Opportunity pursuant to Chapter 380, Florida Statutes.

The foregoing Ordinance was offered by Vice Mayor Mike Forster, who moved its passage on first reading. This motion was seconded by Mayor Deb Gillis, and upon being put to a vote, the vote was as follows:

Mayor Deb Gillis	YES
Vice Mayor Mike Forster	YES
Councilman Ken Davis	YES
Councilwoman Cheryl Meads	NO
Councilman Jim Mooney	NO

PASSED on first reading this 30th day of May, 2019.

The foregoing Ordinance was offered by Councilman Ken Davis, who moved its passage and adoption on second reading. This motion was seconded by Vice Mayor Mike Forster, and upon being put to a vote, the vote was as follows:

Mayor Deb Gillis	YES
Vice Mayor Mike Forster	YES
Councilman Ken Davis	YES
Councilwoman Cheryl Meads	ABSENT
Councilman Jim Mooney	NO

PASSED AND ADOPTED this 27th day of June, 2019.



DEB GILLIS, MAYOR

ATTEST:



KELLY TOTH, VILLAGE CLERK

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



ROGET V. BRYAN, VILLAGE ATTORNEY