

**ORDINANCE NO. 19-17**

**AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30, LAND DEVELOPMENT REGULATIONS; AMENDING ARTICLE V “SCHEDULE OF DISTRICT USE AND DEVELOPMENT STANDARDS”, TO SPECIFICALLY AMEND AND ADD LANDSCAPE STANDARDS; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; 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 (the “Village”) has adopted a comprehensive set of Land Development Regulations (the “LDRs”) to implement the Village Comprehensive Plan; and

**WHEREAS**, the Village desires to amend Chapter 30 “Land Development Regulations” Article V “Schedule of District Use and Development Standards”, and

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

**WHEREAS**, the Village Council of Islamorada, Village of Islands (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.**     **Recitals.** The above recitals are true, correct and incorporated herein by this reference.

**Section 2.**     **Amending Chapter 30, Article 5, Division 6 “Landscaping Standards.”** Chapter 30 “Land Development Regulations” Article V “Schedule of District Use and Development Standards”, Division 6 entitled “Landscaping Standards”, Sections 30-812, 30-813 and 30-821 of the Code are hereby amended to read as follows:

|   |   |
|---|---|
| Additional text is shown as <u>underlined</u> ; | deleted text is shown as <del>strikethrough</del> |
|---|---|

\*\*\*\*\*

Sec. 30-813 – Applicability.

- (a). This division shall apply to all development for which a complete application for site plan review is required pursuant to Section 30-215**(b)** of this chapter.
  
- (b) No land which abuts U.S. 1, S.R. 905 or Old Highway, or has a boundary between two different zoning districts, shall hereafter be developed unless a scenic corridor, bufferyard or street tree is provided in accordance with the requirements of this division.
  
- (c) Parcels of land containing existing development and nonconforming landscaping, scenic corridors, bufferyards or street trees shall be brought into compliance as a condition of development permits issued for accessory structures, increases in impervious area, change in use, or substantial improvement pursuant to the following criteria:
  - (1) Development of principal structures or accessory structure(s) greater than 200 square feet shall require any nonconforming landscaping to be brought into compliance with this division. The maximum landscaping that can be established shall be installed, given the existing buildings and required drives, as determined by the director of planning and development services.
  
  - (2) The director of planning and development services may allow up to 50 percent of the required vegetation to be located outside of the landscape area on the property in order to reach the minimum vegetation standard. If all the required vegetation cannot be located on-site as determined by the director of planning and development services, then the applicant shall provide the required landscape material for off-site mitigation pursuant to article VII, division 4 of this chapter.
  
  - (3) If the width available is less than 50 percent of the minimum width required for a zoning district bufferyard, then a minimum six-foot solid fence shall be located on the inner side of the bufferyard.

- (4) Existing development shall not require meeting the native species ratio set forth in this division, if mature non-invasive vegetation exists on the parcel sufficient to meet the standards of this division.

(d). A landscape plan meeting the criteria set forth in Section 30-827 shall accompany all site plans required pursuant to Section 30-215(b).

(~~e~~) Landscaping required by this division or this chapter shall be shown on the submitted site plan when a landscape plan is not required.

\*\*\*\*\*

Sec. 30-821. - Materials and installation criteria for required landscaping.

- (a) The arrangement of plant material shall be determined by the developer consistent with this division, unless otherwise required in this chapter.
- (b) Plant material shall be healthy and free of disease, and shall be installed with sufficient organic material to ensure survival.
- (c) Plant species identified as a Category I or II invasive exotic species shall not be planted.
- (d) Plants shall be of the following minimum sizes: Canopy trees shall have a minimum of three inches dbh or eight feet in height. Understory trees shall be a minimum of six feet in height. Shrubs shall be a minimum of three feet in height. The director of planning and development services may reduce the height requirement 50 percent for rare native plant species.
- (e) Growth of plant material at maturity shall be considered prior to planting, where future conflicts such as views, signs, overhead and underground utilities, lighting, fire access, drainage and traffic circulation might arise.
- (f) No one species of tree shall exceed 50 percent of the minimum number of trees required. Neither existing trees nor trees in excess of the minimum number required shall be subject to this limitation.
- (g) Seventy-five percent of the plant material used to satisfy landscaping requirements shall be native species.
- (h) All berms installed pursuant to this division or to retain stormwater shall be planted with ground cover, shrubs or sod. Berms provided to meet buffer provisions shall be planted with a continuous hedge.
- (i) All shade trees installed within six feet of public infrastructure shall utilize a root barrier system, as approved by the village operations director.
- (j) Owners of properties that require a Class D or greater bufferyard shall file a bond with the director of planning and development services in the amount of ten percent of the value of the plant material. If the plant material survives one year the bond shall be returned to the owner.

(k). Spacing. Trees shall be installed in accordance with the following spacing requirements:

(1) Canopy trees shall be located a minimum of ten (10) feet away from structures and fifteen (15) feet from other canopy trees.

(2) Understory trees shall be located a minimum of five (5) feet away from structures, and ten (10) feet from other trees.

(3) Palms shall be located a minimum of three (3) feet from structures and three (3) feet from other palms and ten (10) feet from other trees.

(4) Trees and palms which are in excess of the minimum number required may be spaced closer to each other.

(5) Trees shall be planted no closer to an impervious area than half of the minimum size of the required planting area for the particular tree species (in accordance with item (7) below).

(6) Where a conflict in spacing or canopy spread occurs between required trees and existing offsite or onsite trees, the requirements of this section may be modified as determined by the director of planning.

(7) Each tree shall have pervious area surrounding it sufficient to support the species, as determined by the planning department. Minimum planting areas are as follows:

(a) *Canopy tree.* Two hundred twenty-five (225) square feet with fifteen (15) feet the smallest dimension, except when used in parking area peninsulas/islands.

(b) *Understory tree.* Ninety (90) square feet with eight (8) feet the smallest dimension. (c) *Small tree.* Sixty-four (64) square feet with eight (8) feet the smallest dimension.

(d) *Single-stem palms with typical DBH at maturity of (12) inches or greater.* Twenty-five (25) square feet with five (5) feet the smallest dimension.

(e) *Clustering palms/palms with typical DBH at maturity of less than twelve (12) inches.* Nine (9) square feet with three (3) feet the smallest dimension.

#### (1) *Plant Materials.*

(1) *Quality.* Plant materials used in accordance with the provisions of this section of the code shall conform to the standards for Florida Number One, or better, as provided for in the most current edition of "Grades and Standards for Nursery Plants," parts I and II, State of Florida Department of Agriculture and Consumer Services. Sod shall be clear and visibly free of weed, pests and diseases. Sod pieces shall be neatly mowed. Damage and breakage shall not occur when pieces are picked up by one end.

(2) *Plant ball sizes.* Ball sizes on all plant material shall conform to or exceed the minimum standards as noted in the most current edition of "American Standards for Nursery Stock," prepared by the American Association of Nurserymen.

(3) Use of site specific plant material. Plants used in the landscape design pursuant to this section of the code shall be to the greatest extent appropriate to the soil and other environmental conditions in which they are to be planted.

(4) Shrubs and hedges. When used as a hedge, shrubs shall be full to base, planted and maintained so as to form a continuous, unbroken solid, visible screen within a maximum of one (1) year after time of planting.

(m) Finished grades of landscape areas. Finished grade of landscape areas shall be at or below the grade of adjacent VUA or public sidewalks, except for mounding or other surface aesthetics. Grade shall be designed to receive roof and surface runoff and to assist irrigation of plantings and then any overflow routed as necessary underground. Mounding or other surface aesthetics shall not inhibit or defeat intended rainwater capture, retention or percolation from a VUA.

(n) Stabilization. All trees and palms shall be securely guyed, braced, or staked at the time of planting until established. The use of nails, wire, rope, or other methods which damage the tree or palm are prohibited. Trees and palms that remain upright at the time of planting without the aid of stabilization materials are exempt from this requirement. All stabilization materials shall be removed after a maximum period of one (1) year from the date of CO. All plants shall be installed with the top of the root ball even with the soil grade.

\*\*\*\*\*

**Section 3. Establishing Section 30-827 “Landscape Plans Required.”** Chapter 30

“Land Development Regulations” Article V “Schedule of District Use and Development Standards”, Division 6 entitled “Landscaping Standards” of the Code are hereby amended to establish Section 30-827 “Landscape Plans Required” and reads as follows:

Sec. 30-827. – Landscape plans required.

A landscape plan shall be submitted with the site plan for consideration by the planning department. The landscape plan shall be signed and sealed by a Florida registered landscape architect unless otherwise waived by the director of planning and development services. The landscape plan shall conform to the guidance provided in the Islamorada Landscape Manual and shall at a minimum contain the following:

(a) Minimum scale equivalent to the site plan.

(b) Existing trees with a unique number assigned to each tree.

(c) A tree survey table with the following information listed by tree number corresponding to the numbered existing trees on the plan view:

- (1) Common and scientific species name;
- (2) Diameter at breast height
- (3) Tree condition;
- (4) Proposed disposition (remain, relocate or remove);
- (5) Dollar value of specimen trees calculated in accordance with section 30-1615.

(d) Existing trees and shrubs and site improvements on abutting properties within ten (10) feet of the property lines. This information may be obtained from aerial photographs and approximate locations based on field visits.

(e) The location and outline of proposed buildings and site improvements including landscaping, paving, utilities, rights-of-way and final elevations. Proposed landscape trees and shrubs should be shown according to approximate size after five (5) years of growth following installation.

(f) Existing site improvements to remain including buildings, paving, utility rights-of-way and elevations.

(g) A table of data indicating required quantities and provided quantities of proposed plant material.

(h) Plant material listed according to corresponding code requirement, gross and net acreage, number of trees to remain, number of trees to be relocated, number of trees to be removed and square footage of vehicular use areas.

(i) Proposed plant materials by botanical and common names, quantities, sizes, and spacing.

(j) Site lighting locations.

(k) Existing and proposed water bodies, wetlands, swales, and/or retention ponds.

(l) Planting details and planting specifications.

(m) Visual depiction and delineation of the areas on the site attributed towards each applicable requirement of this article.

(n) Such other information that may be required to give a complete understanding of the proposed plan including methods for preserving existing trees to remain, and a graphic rendering of the proposed landscaping.

\*\*\*\*\*

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

intent that this Ordinance shall stand notwithstanding the invalidity of any part.

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

**Section 6. Inclusion in the Code.** It is the intention of the Village Council, and it is hereby ordained that the provisions of this Ordinance shall become a part of the Code; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

**Section 7. Transmittal to the Florida 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 Florida Department of Economic Opportunity ("DEO") for approval pursuant to Sections 380.05(6) and (11), Florida Statutes.

**Section 8. Effective Date.** This Ordinance shall not be effective until approved pursuant to a final order by DEO, pursuant to Chapter 380.05, Florida Statutes; or if the final order is challenged, until the challenge to the order is resolved pursuant to Chapter 120, Florida Statutes.

The foregoing Ordinance was offered by Vice Mayor Mike Forster, who moved for its adoption on first reading. This motion was seconded by Councilman Jim Mooney, 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     | YES    |

**PASSED** on the first reading this 14th day of March, 2019.

The foregoing Ordinance was offered by Councilman Jim Mooney, who moved for its adoption on second reading. The 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     | YES    |

**PASSED AND ADOPTED** on the Second Reading this 8th day of August, 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