

ORDINANCE NO. 15-15

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30 “LAND DEVELOPMENT REGULATIONS”, ARTICLE VII “ENVIRONMENTAL REGULATIONS”, DIVISION 2 “DOCKS AND SHORELINE USES”, SECTION 30-1542 “SHORELINE SETBACK” AND SECTION 30-1546 “BOAT RAMPS” OF THE VILLAGE CODE OF ORDINANCES TO REVISE THE REQUIRED SETBACKS FOR ACCESSORY STRUCTURES LOCATED ALONG SHORELINES WITHIN THE VILLAGE; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE VILLAGE 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 (the “Comprehensive Plan”); and

WHEREAS, in accordance with Section 166.041, *Florida Statutes*, the Village has held duly-noticed public hearings for the proposed adoption of this Ordinance amending the LDRs; and

WHEREAS, on September 16, 2015, the Village Local Planning Agency reviewed this Ordinance in accordance with the requirements of Chapter 163, Florida Statutes; and

WHEREAS, the Village Council finds that the adoption of this Ordinance is in the best interest of the Village and complies with applicable State laws and rules; 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.

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. Zoning Districts. Chapter 30, "Land Development Regulations", Article V "Environmental Regulations", Division 2 "Docks and Shorelines" of the Village Code is hereby amended to read as follows:

Additional text is shown as <u>underlined</u> ;	deleted text is shown as strikethrough
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Sec. 30-1542. Shoreline Setback.

All development within the shoreline setback shall be subject to the following standards and design criteria:

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(4) Accessory uses and structures:

- a. Water-dependant accessory structures and uses may be located within the shoreline setback pursuant to the standards set forth in this division and this chapter. These structures and uses include, but may not be limited to the following: utility pilings, fences, docks, lifts, davits, boat ramps, boat slips, seawalls, riprap, bulkheads, elevated walkways, fish cleaning stations, fish sales, dock master's offices (limited to 150 square feet) and outside dining areas as permitted in article VI, division 9 of this chapter. Open-sided covered boat lifts may be erected only over a cut-in boat slip on manmade canals and may not extend into the adjacent body of water beyond the mouth of the cut-in area, nor extend over any mangroves, submerged seagrasses or hard-bottom communities. The roof and supporting members of a covered boat lift may extend two feet into the shoreline setback around the perimeter of a boat slip. No decks or habitable spaces shall be

constructed on the roof of any covered boat lift. The highest portion of the roof of any covered boat lift shall be no more than 12 feet above grade.

b. Non-water-dependant accessory uses and structures on altered shorelines on canals, basins and channels may include:

1. Accessory uses and structures provided that in no event shall the total, combined area of all structures occupy more than sixty (60%) percent of the upland area of the shoreline setback.
- ~~12.~~ Pools and spas including associated decks, and any screen structures over pools or spas provided that a ten-foot setback from the mean high-water line or landward extent of the mangroves, whichever is further upland, is maintained and a minimum of one canopy tree per 50 feet of rear property line is planted within the setback.
- ~~23.~~ ~~Up to 150 cumulative square feet of s~~Structures limited to elevated decks, pavers or non-enclosed gazebos limited to fifteen (15) feet in height provided that a ten-foot setback from the mean high-water line or landward extent of the mangroves, whichever is further upland, is maintained and a minimum ~~ten-foot-wide Class B bufferyard is installed running along the~~ of one canopy tree per fifty (50) feet of rear property line is planted within the setback.
- ~~34.~~ All other accessory structures shall meet the setback requirements for principal development.

c. Non-water-dependant accessory uses and structures on altered open water shorelines may include:

1. Accessory structures provided that in no event shall the total, combined area of all structures occupy more than thirty (30%) percent of the shoreline setback.
- ~~12.~~ Pools including associated decks provided that a ~~20~~10-foot setback from the mean high-water line or landward extent of the mangroves, whichever is further upland, is maintained and a minimum ten-foot-wide Class B bufferyard is installed running along the rear property line.
- ~~23.~~ ~~Up to 150 cumulative square feet of s~~Structures limited to elevated decks, pavers or non-enclosed gazebos limited to 15 feet in height provided that a ten-foot setback from the mean high-water line or landward extent of the mangroves, whichever is further upland, is maintained and a minimum ten-foot-wide Class B bufferyard is installed running along the rear property line.
- ~~34.~~ All other accessory structures shall meet the setback requirements for principal development.

d. Non-water-dependant accessory uses and structures on unaltered shorelines may include:

1. Accessory uses and structures provided that in no event shall the total, combined area of all structures occupy more than thirty (30%) percent of the shoreline setback.
2. Pools including associated decks provided that a 20-foot setback from the mean high-water line or landward extent of the mangroves, whichever is further

upland, is maintained and a minimum ten-foot-wide Class B bufferyard is installed running along the rear property line.

- ~~13.~~ Up to 150 cumulative square feet of sStructures limited to elevated decks, pervious pavers or non-enclosed gazebos limited to 15 feet in height provided that a 20-foot setback from the mean high-water line or landward extent of the mangroves, whichever is further upland, is maintained and a minimum ten-foot-wide Class B bufferyard is installed running along the rear property line provided.
 - ~~24.~~ Where provisions of division 3 of this article (Sea Turtle Nesting Protection), or division 5 of this article (Wetlands) govern, the more restrictive setback shall apply.
 - ~~35.~~ All other accessory structures shall meet the setback requirements for principal development.
- (5) Boat ramps shall be confined to an existing cleared area wherever possible and shall be located and designed so as not to create a nonconformity. Boat ramps other than public ramps shall not exceed ~~15~~ 20 feet in width. Boat ramps shall be set back a minimum of five feet from side property lines unless reduced by the director in cases where the strict interpretation would result in adverse environmental impacts.
 - (6) Sand and clean screenings used for landscaping purposes on open water shorelines shall not constitute fill and may be placed within the shoreline setback, providing:
 - a. The material maintains a minimum 20 feet from the mean high-water line or the landward extent of mangroves whichever is greater;
 - b. The material does not alter the pre-development grade of the parcel more than six inches and maintains the natural slope of the shoreline. Berm material used for retention of the sand shall not exceed 12 inches in height and not be constructed as a permanent structure;
 - c. Shall incorporate filter cloth landward on the berm;
 - d. The placement of material does not require the removal of native vegetation; and
 - e. The shoreline is not a potential or active turtle nesting area.
 - (7) The launching or removal of all motorized watercraft is limited to lawfully existing dock and ramp facilities.
 - (8) Beach restoration may be permitted providing the project receives permits from all federal and state agencies having jurisdiction prior to submission to the village.
 - (9) No development other than pile-supported docks shall be located within 50 feet of the landward toe of the beach berm which is known to serve as an active or potential turtle nesting area. Where a beach berm cannot be determined, a 100-foot setback from the mean high-water line shall be required pursuant to division 3 of this article.
 - (10) No vessel of any kind shall dock at, moor to, or tie up to shoreline vegetation, including mangroves. Nothing, however, shall prohibit vessels or persons in distress from mooring to,

tying up to, or beaching onto shoreline vegetation, including mangroves, in an emergency situation as may be declared by the mayor.

- (11) Accessory structures, as defined in section 30-32, within the shoreline setback shall be constructed at a foundation height not to exceed 18 inches above existing grade. Screen enclosures over pools within the shoreline setback shall not exceed 15 feet in height.

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Sec. 30-1546. Boat Ramps.

- (a) All boat ramps shall be located and designed so as ~~not~~ to not create a nonconforming setback ~~nonconformity~~ for existing structures from the new ~~MHWL~~-mean high water line (MHWL) created by the ramp.
- (b) All boat ramps shall be confined to shorelines with little or no native vegetation, as determined by the director of planning and development services.
- (c) The width of boat ramps, including side slopes, shall be limited to 20 feet, except that ramps serving commercial uses, public uses or more than three dwelling units may be 35 feet in width.
- (d) All above-water ramp, side slope or wall structures shall be located landward of the original mean high water line (MHWL).
- (e) Construction of a boat ramp shall not involve any filling of surface waters except for the minimum amount needed for the actual boat ramp surface, side slopes, walls or pilings for accessory docks. Walls may not exceed two (2) feet in width.
- (f) Dredging shall be limited to the minimum amount necessary to construct the boat ramp surface and may not exceed 100 cubic yards. No dredging of submerged grass beds or hard bottom communities shall be permitted.
- (g) All boat ramps shall be designed and maintained to control stormwater runoff from the upland property.

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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. **Approval by 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 7. **Effective Date.** This Ordinance shall not be effective until after both thirty (30) days following the date it is filed with the Village Clerk, during which time the Ordinance herein shall be subject to appeal as provided in the Code; and following the thirty (30) days, this Ordinance shall not be effective until either sixty (60) days after its transmittal to DEO or until twenty-one (21) days following the publishing in the Florida Administrative Weekly of a final order approving the Ordinance 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 Councilman Chris Sante, who moved for its adoption on first reading. This motion was seconded by Vice Mayor Deb Gillis, and upon being put to a vote, the vote was as follows:

Mayor Mike Forster	YES
Vice Mayor Deb Gillis	YES
Councilman Jim Mooney	YES
Councilman Chris Sante	YES
Councilman Dennis Ward	NO

PASSED on the first reading this 1st day of October, 2015.

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

Mayor Mike Forster	YES
Vice Mayor Deb Gillis	YES
Councilman Jim Mooney	YES
Councilman Chris Sante	YES
Councilman Dennis Ward	YES

PASSED AND ADOPTED on the second reading this 22 day of October, 2015.



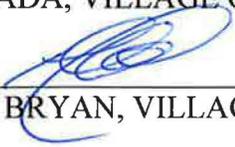
MIKE FORSTER, MAYOR

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