

**ORDINANCE NO. 16-09**

**AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30 "LAND DEVELOPMENT REGULATIONS", ARTICLE II "RULES OF CONSTRUCTION AND DEFINITIONS"; SPECIFICALLY AMENDING ARTICLE V "SCHEDULE OF DISTRICT USE AND DEVELOPMENT STANDARDS", DIVISION 2 "ZONING DISTRICTS", SECTION 30-692 "VILLAGE CENTER (VC) ZONING DISTRICT", SECTION 30-693 "TOURIST COMMERCIAL (TC) ZONING DISTRICT", SECTION 30-694 "COMMERCIAL FISHING (CF) ZONING DISTRICT", SECTION 30-695 "MARINE USE (MR) ZONING DISTRICT", SECTION 30-696 "HIGHWAY COMMERCIAL (HC) ZONING DISTRICT", SECTION 30-697 "NEIGHBORHOOD COMMERCIAL (NC) ZONING DISTRICT", SECTION 30-698 "INDUSTRIAL (I) ZONING DISTRICT", SECTION 30-701 "PUBLIC AND SEMI-PUBLIC SERVICES (PS) ZONING DISTRICT", SECTION 30-702 "RECREATION (R) ZONING DISTRICT" AND SECTION 30-703 "MARICULTURE (M) ZONING DISTRICT" OF THE VILLAGE CODE OF ORDINANCES TO LIMIT THE MAXIMUM PERMITTED GROSS FLOOR AREA OF ANY NONRESIDENTIAL STRUCTURE 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 August 10, 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.**     **Definitions.** Article II, “Rules of Construction and Definitions” of Chapter 30, “Land Development Regulations” of the Village Code is hereby amended to read as follows:

Additional text is shown as <u>underlined</u> ;	deleted text is shown as <del>strikethrough</del>
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**Sec. 30-32. – Specific Definitions.**

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*Educational institution* means any premises or site upon which there is a public or private institution of learning, which conducts regular classes, courses of study, or both, required for accreditation by or membership in the state department of education, the Southern Association of Colleges and ~~Secondary~~ Schools, or the Florida Commission of Independent Schools. The term "educational institution" includes a premises or site upon which there is a day care center, nursery school, pre-kindergarten, elementary school, middle school, or high school; professional institution, or an institution of higher education, including a

community college, junior college, or four-year college or university; libraries, art galleries and museums open to the public; or special institution of learning.

\* \* \* \* \*

*Floor area, nonresidential* means the sum of the gross floor area for nonresidential structures, and all covered, unenclosed areas used for commercial activities including outdoor seating areas, except for walkways, stairways, entryways, parking and loading areas or drive-through canopies. Outdoor storage and display areas, temporary uses, temporary structures, and space occupied by transient residential and institutional-residential principal uses are not nonresidential floor area. Additionally, boat barns legally existing prior to January 1, 2008, shall be considered nonresidential floor area, while those limited to 14,000 square feet and approved after January 1, 2008, shall not be considered nonresidential floor area.

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*Public use* means administrative and cultural buildings, uses, and structures, including buildings, lots and facilities owned, used, or operated by any governmental agency.

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**Section 3.**     **Zoning Districts.** Chapter 30, “Land Development Regulations”, Article V “Schedule of District Use and Development Standards”, Division 2 “Zoning Districts” of the Village Code is hereby amended to read as follows:

Additional text is shown as <u>underlined</u> ;	deleted text is shown as <del>strikethrough</del>
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**Sec. 30-692. – Village Center (VC) zoning district.**

\* \* \* \* \*

(e) *Site development standards.*

- (1) Minimum lot area: Not applicable.
- (2) Maximum building height: 35 feet.
- (3) Maximum developable lot coverage: Not applicable.
- (4) Setbacks:
  - a. Front yard: Minimum 25 feet.
  - b. Side yard: A minimum of five feet on each side for a minimum combined total of 15 feet for both sides.
    - 1. Street side yard: Minimum 10 feet.
    - 2. Interior side yard: Minimum five feet.
  - c. Rear yard: Minimum 20 feet.
  - d. Rear yard on shoreline: See article VII, division 2 of this chapter.
- (5) Floor area: Maximum floor area for principal structures: 0.35 FAR.

(6) Maximum principal building size: The maximum nonresidential floor area for a principal structure shall be 10,000 square feet or the maximum intensity (floor area ratio) allowable pursuant to this section, whichever is less.

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**Sec. 30-693. – Tourist Commercial (TC) zoning district.**

\* \* \* \* \*

*(e) Site development standards.*

- (1) Minimum lot area: Not applicable.
- (2) Maximum building height: 35 feet.
- (3) Maximum developable lot coverage: Not applicable.
- (4) Setbacks:
  - a. Front yard: Minimum 25 feet. Front yard setback may be reduced to the minimum required bufferyard width pursuant to division 6 of this article only for covered unenclosed areas, outdoor seating areas, balconies, roof overhangs, walkways, stairways and entryways.
  - b. Street side yard: Minimum ten feet, or the required bufferyard width pursuant to division 6 of this article, whichever is less.
  - c. Interior side yard: Minimum ten feet.
  - d. Rear yard: Minimum 20 feet.
  - e. Rear yard on shoreline: See article VII, division 2 of this chapter.
- (5) Floor area: Maximum floor area for principal structures: 0.25 FAR or 0.35 FAR with TDRs or with working waterfronts pursuant to article IV, division 17 of this chapter.
- (6) Maximum principal building size: The maximum nonresidential floor area for a principal structure shall be 10,000 square feet or the maximum intensity (floor area ratio) allowable pursuant to this section, whichever is less.

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**Sec. 30-694. – Commercial Fishing (CF) zoning district.**

\* \* \* \* \*

*(e) Site development standards.*

- (1) Minimum lot area: Not applicable.
- (2) Maximum building height: 35 feet.
- (3) Maximum developable lot coverage: Not applicable.
- (4) Setbacks:
  - a. Front yard: Minimum 25 feet.
  - b. Street side yard: A minimum of five feet on each side for a minimum combined total of 15 feet for both sides.
    1. Street side yard: Minimum ten feet.
    2. Interior side yard: Minimum five feet.
  - c. Rear yard: Minimum 20 feet.
  - d. Rear yard on shoreline: See article VII, division 2 of this chapter.

(5) Floor area: Maximum floor area for principal structures: 0.25 FAR or 0.35 FAR with working waterfronts, pursuant to article IV, division 17 of this chapter.

(6) Maximum principal building size: The maximum nonresidential floor area for a principal structure shall be 10,000 square feet or the maximum intensity (floor area ratio) allowable pursuant to this section, whichever is less.

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**Sec. 30-695. – Marine Use (MU) zoning district.**

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*(e) Site development standards.*

(1) Minimum lot area: Not applicable.

(2) Maximum height: 35 feet for any structure or outdoor storage except boat towers, sails, masts, outriggers or other similar features as determined by the director of planning and development services.

(3) Maximum developable lot coverage: Not applicable.

(4) Setbacks:

- a. Front yard: 25 feet. Front yard setback may be reduced to the minimum required bufferyard width pursuant to division 6 of this article only for covered unenclosed areas, outdoor seating areas, balconies, roof overhangs, walkways, stairways and entryways.
- b. Street side yard: Minimum ten feet, or the required bufferyard width pursuant to division 6 of this article, whichever is less.
- c. Interior side yard: Minimum ten feet.
- d. Rear yard: Minimum 20 feet.
- e. Rear yard on shoreline: See article VII, division 2 of this chapter.
- f. Residential uses: For all structures with over 50 percent of the structure designated for dwelling units, the setback shall be 50 feet from all shorelines having a depth of at least four feet MLW.

(5) Floor area: Maximum floor area for principal structures: 0.25 FAR or 0.35 FAR with TDRs or with working waterfronts pursuant to article IV, division 17 of this chapter.

(6) Maximum principal building size: The maximum nonresidential floor area for a principal structure shall be 10,000 square feet or the maximum intensity (floor area ratio) allowable pursuant to this section, whichever is less.

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

\* \* \* \* \*

*(e) Site development standards.*

(1) Minimum lot area: Not applicable.

(2) Maximum building height: 35 feet.

(3) Maximum developable lot coverage: Not applicable.

(4) Setbacks:

- a. Front yard: Minimum 20 feet. Front yard setback may be reduced to the minimum required bufferyard width pursuant to division 6 of this article only for covered unenclosed areas, outdoor seating areas, balconies, roof overhangs, walkways, stairways and entryways.
- b. Street side yard: Minimum ten feet, or the required bufferyard width pursuant to division 6 of this article, whichever is less.
- c. Interior side yard: Minimum five feet.
- d. Rear yard: Minimum 20 feet.
- e. Rear yard on shoreline: See article VII, division 2 of this chapter.

(5) Floor area: Maximum floor area for principal structures: 0.25 FAR or 0.35 FAR with TDRs or with working waterfronts pursuant to article IV, division 17 of this chapter.

(6) Maximum principal building size: The maximum nonresidential floor area for a principal structure shall be 10,000 square feet or the maximum intensity (floor area ratio) allowable pursuant to this section, whichever is less.

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

\* \* \* \* \*

*(e) Site development standards.*

- (1) Minimum lot area: Not applicable.
- (2) Maximum building height: 35 feet.
- (3) Maximum developable lot coverage: Not applicable.
- (4) Setbacks:
  - a. Front yard: Minimum 20 feet. Front yard setback may be reduced to the minimum required bufferyard width pursuant to division 6 of this article only for covered unenclosed areas, outdoor seating areas, balconies, roof overhangs, walkways, stairways and entryways.
  - b. Street side yard: Minimum ten feet, or the required bufferyard width pursuant to division 6 of this article, whichever is less.
  - c. Interior side yard: Minimum five feet.
  - d. Rear yard: Minimum 20 feet.
  - e. Rear yard on shoreline: See article VII, division 2 of this chapter.

(5) Floor area: Maximum floor area for principal structures: 0.25 FAR or 0.35 FAR with TDRs or with working waterfronts pursuant to article IV, division 17 of this chapter.

(6) Maximum principal building size: The maximum nonresidential floor area for a principal structure shall be 10,000 square feet or the maximum intensity (floor area ratio) allowable pursuant to this section, whichever is less.

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**Sec. 30-698. – Industrial (I) zoning district.**

\* \* \* \* \*

*(e) Site development standards.*

- (1) Minimum lot area: Not applicable.
- (2) Maximum building height: 35 feet.

(3) Maximum developable lot coverage: Not applicable.

(4) Setbacks:

- a. Front yard: Minimum 25 feet.
- b. Side yard: A minimum of ten feet on each side.
  - 1. Street side yard: Minimum ten feet.
  - 2. Interior side yard: Minimum ten feet.
- c. Rear yard: Minimum 25 feet.
- d. Rear yard on shoreline: See article VII, division 2 of this chapter.

(5) Floor area: Maximum floor area for principal structures: 0.25 FAR.

(6) Maximum principal building size: The maximum nonresidential floor area for a principal structure shall be 10,000 square feet or the maximum intensity (floor area ratio) allowable pursuant to this section, whichever is less.

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**Sec. 30-701. – Public and semi-public services (PS) zoning district.**

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(e) *Site development standards.*

- (1) Minimum lot area: Not applicable.
- (2) Maximum building height: 35 feet.
- (3) Maximum developable lot coverage: Not applicable.
- (4) Setbacks:
  - a. Front yard: Minimum 25 feet.
  - b. Side yard: A minimum of five feet on each side for a minimum combined total of 15 feet for both sides.
    - 1. Street side yard: Minimum ten feet.
    - 2. Interior side yard: Minimum five feet.
  - c. Rear yard: Minimum 20 feet.
  - d. Rear yard on shoreline: See article VII, division 2 of this chapter

(5) Floor area: Maximum floor area for principal structures: 0.25 FAR or 0.35 FAR with TDRs.

(6) Maximum principal building size: The maximum nonresidential floor area for a principal structure shall be 10,000 square feet or the maximum intensity (floor area ratio) allowable pursuant to this section, whichever is less.

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**Sec. 30-702. – Recreation (R) zoning district.**

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(e) *Site development standards.*

- (1) Minimum lot area: Not applicable.
- (2) Maximum building height: 35 feet.
- (3) Maximum developable lot coverage: Not applicable.
- (4) Setbacks:
  - a. Front yard: Minimum 20 feet.
  - b. Side yard: A minimum of five feet on each side for a minimum combined total of 15 feet for both sides.

- 1. Street side yard: Minimum ten feet.
- 2. Interior side yard: Minimum five feet.
- c. Rear yard: Minimum 20 feet.
- d. Rear yard on shoreline: See article VII, division 2 of this chapter.
- (5) Floor area: Maximum floor area for principal structures: 0.15 FAR.
- (6) Maximum principal building size: The maximum nonresidential floor area for a principal structure shall be 10,000 square feet or the maximum intensity (floor area ratio) allowable pursuant to this section, whichever is less.

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**Sec. 30-703. – Mariculture (M) zoning district.**

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*(e) Site development standards.*

- (1) Minimum lot area: Not applicable.
- (2) Maximum building height: 35 feet.
- (3) Maximum developable lot coverage: Not applicable.
- (4) Setbacks:
  - a. Front yard: Minimum 25 feet.
  - b. Side yard: A minimum of five feet on each side for a minimum combined total of 15 feet for both sides.
    - 1. Street side yard: Minimum 10 feet.
    - 2. Interior side yard: Minimum five feet.
  - c. Rear yard: Minimum 20 feet.
  - d. Rear yard on shoreline: See article VII, division 2 of this chapter.
- (5) Floor area: Maximum floor area for principal structures: 0.25 FAR.
- (6) Maximum principal building size: The maximum nonresidential floor area for a principal structure shall be 10,000 square feet or the maximum intensity (floor area ratio) allowable pursuant to this section, whichever is less.

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**Section 4. 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 5. 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 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 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 7. 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 8. 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 Vice Mayor Deb Gillis, who moved for its adoption on first 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** on the first reading this 1<sup>st</sup> day of October, 2015.

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

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

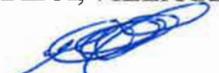
**PASSED AND ADOPTED** on the second reading this 28<sup>th</sup> day of April, 2016.

  
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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