

**ORDINANCE NO. 14-10**

**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 AMENDING PROVISIONS RELATED TO THE ALLOCATION OF NONRESIDENTIAL FLOOR AREA; 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 in order to further deter deterioration of public facility service levels, environmental degradation and potential land use conflicts; and

**WHEREAS**, the BPAS provides for the redevelopment of residential and nonresidential development, as well as 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**, the Local Planning Agency has reviewed this Ordinance in accordance with the requirements of Chapter 163, Florida Statutes and has recommended its adoption; 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. 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 follows<sup>1</sup>:

\* \* \* \* \*

Sec. 30-474(a) *Annual and quarterly building permit allocation.* The allocation of building permits shall be in accordance with the following schedule. ~~Notwithstanding the foregoing, the Village shall provide for an additional 16,486 square feet of nonresidential floor area in 2012.~~ Permits shall be allocated quarterly. Excluding those awarded through the beneficial use or administrative relief processes, no more than one development permit per Program Year may be allocated in a manner which would result in the clearing of high quality hammock.

RESIDENTIAL AND NONRESIDENTIAL SCHEDULE

<b>Year</b>	<b>Residential Dwelling Units</b>			<b>Nonresidential Floor Area</b>
<b>Current Year</b>	<b>Maximum Market Rate</b>	<b>Minimum Affordable Housing</b>	<b>Total</b>	<b>Square Feet</b>
	22	6	28	<del>6,692</del> <u>15,000</u>

\* \* \* \* \*

<sup>1</sup> Additional text is shown as underlined; deleted text is shown as ~~strikethrough~~.

**Section 2.**     **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 3.**     **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 4.**     **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 5.**     **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 6.**     **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 Gillis, who moved its adoption on first reading. This motion was seconded by Councilman Philipson, and upon being put to a vote, the vote was as follows:

Mayor Ted Blackburn	YES
Vice Mayor Deb Gillis	YES
Councilman Mike Forster	YES
Councilman Ken Philipson	YES
Councilman Dave Purdo	YES

PASSED on first reading this 12<sup>th</sup> day of December, 2013.

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

Mayor Ted Blackburn	YES
Vice Mayor Deb Gillis	YES
Councilman Mike Forster	YES
Councilman Ken Philipson	YES
Councilman Dave Purdo	YES

PASSED AND ADOPTED on second reading this 12th day of June, 2014.

  
\_\_\_\_\_  
TED BLACKBURN, 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

**STATE OF FLORIDA  
DEPARTMENT OF ECONOMIC OPPORTUNITY**

In re: A LAND DEVELOPMENT REGULATION  
ADOPTED BY ISLAMORADA, VILLAGE OF  
ISLANDS, FLORIDA, ORDINANCE NO. 14-10

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**FINAL ORDER  
APPROVING ISLAMORADA ORDINANCE NO. 14-10**

The Department of Economic Opportunity (“Department”) hereby issues its Final Order, pursuant to §§ 380.05(6) and 380.0552(9), Florida Statutes, approving land development regulations adopted by Islamorada, Village of Islands, Florida, Ordinance No. 14-10 (the “Ordinance.”)

**FINDINGS OF FACT**

1. The Florida Keys Area is designated by § 380.0552, Florida Statutes, as an area of critical state concern. Islamorada, Village of Islands, is a local government within the Florida Keys Area.
2. The Ordinance was adopted by Islamorada, Village of Islands on June 12, 2014, and rendered to the Department on July 15, 2014. Due to misfiling of the electronic receipt, the Ordinance is now being processed.
3. The Ordinance amends the Islamorada, Village of Islands Code of Ordinance, Chapter 30 (Land Development Regulations), Article 4 (Administrative Procedures), Division 11 (Building Permit Allocation System), Section 30-474 (Building Permit Allocation) This amendment increases the annual allocation for non-residential development from 6,692 square feet to 15,000 square feet

CONCLUSIONS OF LAW

4. The Department is required to approve or reject land development regulations that are adopted by any local government in an area of critical state concern. §§ 380.05(6) Florida Statutes.

5. Islamorada, Village of Islands is a local government within the Florida Keys Area of Critical State Concern. §380.0552, Florida Statutes and Florida Administrative Code Chapter 28-26.

6. “Land development regulations” include local zoning, subdivision, building, and other regulations controlling the development of land. § 380.031(8), Florida Statutes. The regulations adopted by the Ordinance are land development regulations.

7. All land development regulations enacted, amended, or rescinded within an area of critical state concern must be consistent with the principles for guiding development for that area. §§ 380.05(6) and 380.0552(9), Florida Statutes. The Principles for Guiding Development for the Florida Keys Area of Critical State Concern are set forth in § 380.0552(7), Florida Statutes.

8. The Ordinance is consistent with the Islamorada, Village of Islands Comprehensive Plan generally, and specifically with Policy 1-3.1.1, which was amended earlier this year to allow the increased nonresidential development.

9. The Ordinance is consistent with the Principles for Guiding Development in section 380.0552(7), Florida Statutes, as a whole, and is specifically consistent with the following Principles:

(a) Strengthening local government capabilities for managing land use and development so that local government is able to achieve these objectives without continuing the area of critical state concern designation.

(d) To ensure the maximum well-being of the Florida Keys and its citizens through sound economic development.

WHEREFORE, IT IS ORDERED that the Department finds that the Islamorada, Village of Islands No. 14-10 is consistent with the Principles for Guiding Development for the Florida Keys Area of Critical State Concern and is hereby APPROVED.

This Order becomes effective 21 days after publication in the Florida Administrative Register unless a petition is timely filed as described in the Notice of Administrative Rights below.

DONE AND ORDERED in Tallahassee, Florida.



William B. Killingsworth, Director  
Division of Community Development  
Department of Economic Opportunity

NOTICE OF ADMINISTRATIVE RIGHTS

ANY PERSON WHOSE SUBSTANTIAL INTERESTS ARE AFFECTED BY THIS ORDER HAS THE OPPORTUNITY FOR AN ADMINISTRATIVE PROCEEDING PURSUANT TO SECTION 120.569, FLORIDA STATUTES, REGARDING THE AGENCY'S ACTION. DEPENDING UPON WHETHER YOU ALLEGE ANY DISPUTED ISSUE OF MATERIAL FACT IN YOUR PETITION REQUESTING AN ADMINISTRATIVE PROCEEDING, YOU ARE ENTITLED TO EITHER AN INFORMAL PROCEEDING OR A FORMAL HEARING.

IF YOUR PETITION FOR HEARING DOES NOT ALLEGE ANY DISPUTED ISSUE OF MATERIAL FACT CONTAINED IN THE DEPARTMENT'S ACTION, THEN THE ADMINISTRATIVE PROCEEDING WILL BE AN INFORMAL ONE, CONDUCTED PURSUANT TO SECTIONS 120.569 AND 120.57(2) FLORIDA STATUTES, AND CHAPTER 28-106, PARTS I AND III, FLORIDA ADMINISTRATIVE CODE. IN AN INFORMAL ADMINISTRATIVE PROCEEDING, YOU MAY BE REPRESENTED BY COUNSEL OR BY A QUALIFIED REPRESENTATIVE, AND YOU MAY PRESENT WRITTEN OR ORAL EVIDENCE IN OPPOSITION TO THE DEPARTMENT'S ACTION OR REFUSAL TO ACT; OR YOU MAY EXERCISE THE OPTION TO PRESENT A WRITTEN STATEMENT CHALLENGING THE GROUNDS UPON WHICH THE DEPARTMENT HAS CHOSEN TO JUSTIFY ITS ACTION OR INACTION.

IF YOU DISPUTE ANY ISSUE OF MATERIAL FACT STATED IN THE AGENCY ACTION, THEN YOU MAY FILE A PETITION REQUESTING A FORMAL ADMINISTRATIVE HEARING BEFORE AN ADMINISTRATIVE LAW JUDGE OF THE DIVISION OF ADMINISTRATIVE HEARINGS, PURSUANT TO SECTIONS 120.569 AND 120.57(1), FLORIDA STATUTES, AND CHAPTER 28-106, PARTS I AND II, FLORIDA ADMINISTRATIVE CODE. AT A FORMAL ADMINISTRATIVE HEARING, YOU MAY BE REPRESENTED BY COUNSEL OR OTHER QUALIFIED REPRESENTATIVE, AND YOU WILL HAVE THE OPPORTUNITY TO PRESENT EVIDENCE AND ARGUMENT ON ALL THE ISSUES INVOLVED, CONDUCT CROSS-EXAMINATION AND SUBMIT REBUTTAL EVIDENCE, SUBMIT PROPOSED FINDINGS OF FACT AND ORDERS, AND FILE EXCEPTIONS TO ANY RECOMMENDED ORDER.

IF YOU DESIRE EITHER AN INFORMAL PROCEEDING OR A FORMAL HEARING, YOU MUST FILE WITH THE AGENCY CLERK OF THE DEPARTMENT OF ECONOMIC OPPORTUNITY A WRITTEN PLEADING ENTITLED, "PETITION FOR ADMINISTRATIVE PROCEEDINGS" WITHIN 21 CALENDAR DAYS OF RECEIPT OF THIS NOTICE. A PETITION IS FILED WHEN IT IS **RECEIVED** BY:

AGENCY CLERK  
DEPARTMENT OF ECONOMIC OPPORTUNITY  
OFFICE OF THE GENERAL COUNSEL  
107 EAST MADISON STREET, MSC 110  
TALLAHASSEE, FLORIDA 32399-4128  
TELEPHONE: (850) 245-7160  
FAX (850) 921-3230  
Email: [Katie.Zimmer@deo.myflorida.com](mailto:Katie.Zimmer@deo.myflorida.com)

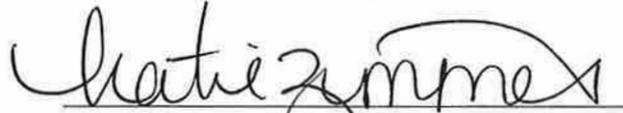
THE PETITION MUST MEET THE FILING REQUIREMENTS IN RULE 28-106.104(2), FLORIDA ADMINISTRATIVE CODE. IF AN INFORMAL PROCEEDING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH RULE 28-106.301, FLORIDA ADMINISTRATIVE CODE. IF A FORMAL HEARING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH RULE 28-106.201(2), FLORIDA ADMINISTRATIVE CODE.

A PERSON WHO HAS FILED A PETITION MAY REQUEST MEDIATION. A REQUEST FOR MEDIATION MUST INCLUDE THE INFORMATION REQUIRED BY RULE 28-106.402, FLORIDA ADMINISTRATIVE CODE. CHOOSING MEDIATION DOES NOT AFFECT THE RIGHT TO AN ADMINISTRATIVE HEARING.

YOU WAIVE THE RIGHT TO AN INFORMAL ADMINISTRATIVE PROCEEDING OR A FORMAL HEARING IF YOU DO NOT FILE A PETITION WITH THE AGENCY CLERK WITHIN 21 DAYS OF PUBLICATION OF THIS FINAL ORDER.

**CERTIFICATE OF FILING AND SERVICE**

I HEREBY CERTIFY that the original of the foregoing Final Order has been filed with the undersigned designated Agency Clerk, and that true and correct copies have been furnished to the following persons by the methods indicated this 17<sup>th</sup> day of September, 2014.



Katie Zimmer, Agency Clerk  
Department of Economic Opportunity  
107 East Madison Street, MSC 110  
Tallahassee, FL 32399-4128

**By U.S. Mail:**

The Honorable Ted Blackburn, Mayor  
Islamorada, Village of Islands Council  
86800 Overseas Highway  
Islamorada, FL 33036

Kelly Toth, Clerk  
Islamorada, Village of Islands  
86800 Overseas Highway  
Islamorada, FL 33036

Cheryl Cioffari  
Director of Planning  
86800 Overseas Highway  
Islamorada, FL 33036