

**ORDINANCE NO. 19-04**

**AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30 “LAND DEVELOPMENT REGULATIONS,” OF THE CODE OF ORDINANCES TO ESTABLISH PROVISIONS FOR NEW AFFORDABLE UNIT ALLOCATIONS; AMENDING ARTICLE II “RULES OF CONSTRUCTION AND DEFINITIONS,” SECTION 30-32 “SPECIFIC DEFINITIONS” AND ARTICLE IV “ADMINISTRATIVE PROCEDURES,” DIVISION 11 “BUILDING PERMIT ALLOCATION SYSTEM” TO CREATE REGULATIONS FOR NEW AFFORDABLE UNIT ALLOCATIONS; PROVIDING FOR SEVERABILITY; 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”) is located within the Florida Keys Area of Critical State Concern (the “FKACSC”) as established pursuant to Chapter 380, Florida Statutes; and

**WHEREAS,** the Local Governments within the FKACSC have adopted state-mandated Comprehensive Plans and Land Development regulations, and

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

**WHEREAS,** in order to support the Village’s workforce by alleviating constraints on affordable housing, the Village will participate in the Workforce-Affordable Housing Initiative, as approved during the June 13, 2018 meeting of the State Administration Commission; and

**WHEREAS**, the Workforce-Affordable Housing Initiative will require any participating new construction or repurposed structures to commit to evacuating renters within the 48 to 24-hour window of evacuation from the Village (the “Early Evacuation units”); and

**WHEREAS**, this Ordinance as set forth herein, provides regulations and criteria governing Early Evacuation workforce-affordable allocations and their distribution from the Building Permit Allocation System (“BPAS”); and

**WHEREAS**, this Ordinance further provides exemptions for individuals living in Early Evacuation units who are all first responders, correction officers, health care professionals or other first-response workers who are required to remain during an emergency, provided that the person claiming exemption under this policy has faithfully certified their status with property management; and

**WHEREAS**, pursuant to Florida Statutes and the Village Code of Ordinances (the “Code”) the Local Planning Agency (LPA) held a public hearing on December 10, 2018 to review the proposed amendments to the LDR’s as set forth herein; and

**WHEREAS**, the Village Council of Islamorada, Village of Islands (the “Village Council”) held the requisite public hearings to review the proposed Ordinance; 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 and are consistent with the Village Comprehensive Plan and the Principles for Guiding Development within 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, correct and incorporated herein by this reference.

**Section 2. Amending Specific Definitions.** Chapter 30 “Land Development Regulations,” Article II “Rules of Construction and Definitions,” Sec 30-32 “Specific Definitions” of the Code is hereby amended by adding the following definitions and reads as follows:

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

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Sec. 30-32. - Specific definitions.

Words as used in this chapter shall have the meanings described below, unless otherwise defined in another article, division, section or paragraph of this chapter:

*Affordable – Early Evacuation Residential Allocation:* An affordable allocation issued under the provisions of Chapter 30, Division 11 of the Village Land Development Regulations.

*Affordable – Early Evacuation Residential Unit:* A deed-restricted affordable unit allocated pursuant to the Village’s distribution of affordable allocations from the Affordable – Early Evacuation Pool as set forth in Chapter 30, Division 11. All Affordable-Early Evacuation residential units shall be:

- a. be multifamily structures;
- b. be rental units;
- c. require, at a minimum, adherence to the latest edition of the Florida Building Code as published by the Florida Building Commission;
- d. not be placed in the V-Zone or within the Coastal Barrier Resource Systems;
- e. require on-site property management;
- f. comply with applicable habitat and other locational criteria and densities for multifamily affordable housing units;
- g. shall not be placed in any habitat defined as mangroves, saltmarsh & buttonwood, tropical hardwood hammock or fresh water wetlands (except for disturbed categories);
- h. incorporate sustainable and resilient design principles into the overall site design;
- i. ensure accessibility to employment centers and amenities;
- j. require deed-restrictions ensuring that:
  - i. the property remains workforce-affordable housing in perpetuity;
  - ii. tenants evacuate during the period in which transient units are required to evacuate;
  - iii. rental agreements contain a separate disclosure requiring renters to acknowledge that failure to adhere to the evacuation requirement could result in severe penalties, including eviction, to the resident;
  - iv. onsite property managers are formally trained in evacuation procedures.

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**Section 3. Establishing Definitions for Affordable – Early Evacuation Residential Allocations and Units.** Chapter 30 “Land Development Regulations,” Article IV “Administrative Procedures,” Division 11 “Building Permit Allocation System” is hereby amended to revise Section 30-472 “Definitions” by adding the following definitions, and reads as follows:

Additional text is shown as underlined;

deleted text is shown as ~~strikethrough~~

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Sec. 30-472. - Definitions.

The words or phrases used herein shall have the meanings prescribed in article II of this chapter, except as otherwise indicated herein:

*Affordable – Early Evacuation Residential Allocation:* An affordable allocation issued under the provisions of Chapter 30, Division 11 of the Village Land Development Regulations.

*Affordable – Early Evacuation Residential Unit:* A deed-restricted affordable unit allocated pursuant to the Village’s distribution of affordable allocations from the Affordable – Early Evacuation Pool as set forth in Chapter 30, Division 11. The following criteria shall apply to all Affordable-Early Evacuation Residential Units:

Affordable-Early Evacuation residential units shall:

- a. be multifamily structures;
- b. be rental units;
- c. require, at a minimum, adherence to the latest edition of the Florida Building Code as published by the Florida Building Commission;
- d. not be placed in the V-Zone or within the Coastal Barrier Resource Systems;
- e. require on-site property management;
- f. comply with applicable habitat and other locational criteria and densities for multifamily affordable housing units;
- g. shall not be placed in any habitat defined as mangroves, saltmarsh & buttonwood, tropical hardwood hammock or fresh water wetlands (except for disturbed categories);
- h. incorporate sustainable and resilient design principles into the overall site design;
- i. ensure accessibility to employment centers and amenities;
- j. require deed-restrictions ensuring that:
  - i. the property remains workforce-affordable housing in perpetuity;

- ii. tenants evacuate during the period in which transient units are required to evacuate;
- iii. rental agreements contain a separate disclosure requiring renters to acknowledge that failure to adhere to the evacuation requirement could result in severe penalties, including eviction, to the resident;
- iv. onsite property managers are formally trained in evacuation procedures.

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**Section 4. Establishing Regulations for Affordable – Early Evacuation**

**Residential Allocations.** Chapter 30 “Land Development Regulations,” Article IV “Administrative Procedures,” Division 11 “Building Permit Allocation System” is hereby amended to revise Section 30-474 “Building Permit Allocation” and reads as follows:

Sec. 30-474. - Building permit allocation.

- (a) *Annual and quarterly building permit allocation.* The allocation of building permits shall be in accordance with the following schedule. 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

Year	Residential Dwelling Units			Nonresidential Floor Area
Current Year	Maximum Market Rate	Minimum Affordable Housing	Total	Square Feet
	22	6	28	2,500

- (b) *Vested development.* Any building permit for residential dwelling units or nonresidential floor area issued by the village to vested development during an allocation period shall be subtracted from the applicable annual allocation for that allocation period.
- (c) *Carryover allocations.* Any nonresidential floor area or affordable residential dwelling units not allocated in one allocation period may be made available for allocation awards during the next allocation period into the same allocation category.

- (d) *Allocation dates.* To be considered for an allocation award, all complete nonresidential and residential applications must be submitted to the department of planning and development services by no later than noon on the specified allocation date.
- (e) *Village council action required.* By December 1 of each year, the village council shall adopt by resolution the total amount of nonresidential floor area and residential dwelling units that may be made available for the next annual allocation, and the quarterly allocations for that year, and the distribution of this allocation between categories, after receiving recommendations from the director. The village council may make available for allocation all or part of the maximum allocation.
- (f) *Affordable-Early Evacuation Pool.* The Village thereby, shall establish a new limited category to be known as the “Affordable-Early Evacuation Pool” which will provide 300 workforce-affordable building permit allocations for the Workforce-Affordable Housing Initiative. These allocations are in addition to the maximum allocations identified in Rules 28-19, Florida Administrative Code. At any time, through a public hearing process as prescribed in Chapter 30, Article IV, Division 11 of the Land Development Regulations, the Village may allocate Early Evacuation Allocations to the cumulative total of the remaining 300 workforce-affordable building permit allocations. The Village shall be responsible for the management, distribution, and enforcement of requirements associated with the Early Evacuation Affordable allocations. The Village of Islamorada shall ensure adherence to these requirements through implementing appropriate regulations.

- (1) Distribution of Workforce-Affordable Housing Allocations. Workforce-affordable housing allocations shall be distributed at any time through adequate public notice and hearing procedures as set forth in Chapter 30 of the Village’s Land Development Regulations and in accordance with the BPAS ranking procedures established in this division.
- (2) Evacuation exemptions. Persons living in workforce-affordable housing who are exempt from evacuation requirements of Village Comprehensive Plan Policy 2-1.2.9 includes all first responders, correction officers, health care professionals, or other first-response workers required to remain during an emergency, provided that the person claiming exemption under this policy has faithfully certified their status with property management.
- (3) ADA Compliance. All workforce-affordable housing developments must demonstrate compliance with all applicable federal standards for accessibility for persons with disabilities.

**Section 5. Establishing Regulations for Affordable – Early Evacuation**

**Residential Units.** Chapter 30 “Land Development Regulations,” Article IV “Administrative

Procedures,” Division 11 “Building Permit Allocation System” is hereby amended to revise Section 30-476 “Building permit allocation evaluation criteria and award” and reads as follows:

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

(f) Affordable-Early Evacuation Pool.

(1) Early Evacuation residential units build under this program shall:

- a. be multifamily structures;
- b. be rental units;
- c. require, at a minimum, adherence to the latest edition of the Florida Building Code as published by the Florida Building Commission;
- d. not be placed in the V-Zone or within the Coastal Barrier Resource Systems;
- e. require on-site property management;
- f. comply with applicable habitat and other locational criteria and densities for multifamily affordable housing units;
- g. shall not be placed in any habitat defined as mangroves, saltmarsh & buttonwood, tropical hardwood hammock or fresh water wetlands (except for disturbed categories);
- h. incorporate sustainable and resilient design principles into the overall site design;
- i. ensure accessibility to employment centers and amenities;
- j. require deed-restrictions ensuring that:
  - i. the property remains workforce-affordable housing in perpetuity;
  - ii. tenants evacuate during the period in which transient units are required to evacuate;
  - iii. rental agreements contain a separate disclosure requiring renters to acknowledge that failure to adhere to the evacuation requirement could result in severe penalties, including eviction, to the resident;
  - iv. onsite property managers are formally trained in evacuation procedures.

(2) Evacuation exemptions. Persons living in workforce-affordable housing who are exempt from evacuation requirements of Comprehensive Plan Policy 2-1.2.9 includes all first responders, correction officers, health care professionals, or other first-response workers required to remain during an emergency, provided that the person claiming exemption under this policy has faithfully certified their status with property management.

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**Section 6. 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 7. 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 8. 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 9. 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 10. 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 Councilman Ken Davis, who moved for its adoption on first 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            YES  
Councilman Jim Mooney                YES

**PASSED** on the first reading this 13<sup>th</sup> day of December, 2018.

The foregoing Ordinance was offered by Mayor Deb Gillis, who moved for its adoption on second 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        YES  
Councilman Jim Mooney               YES

**PASSED AND ADOPTED** on the second reading this 4<sup>th</sup> day of April, 2019.

  
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JOSEPH B. PINDER III, MAYOR<sup>1</sup>

ATTEST:

  
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MARNE MCGRATH, VILLAGE CLERK

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

  
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JOHN J. QUICK, VILLAGE ATTORNEY

<sup>1</sup> / This ordinance is being executed in order to correct scrivener's errors in the original. Since no member of the Village Council at the time of passage remains on Council, it is being signed by the current Village Mayor.