

ORDINANCE NO. 13-21

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30 “LAND DEVELOPMENT REGULATIONS,” ARTICLE IV “ADMINISTRATIVE PROCEDURES,” DIVISION 5 “CONCURRENCY MANAGEMENT SYSTEM” OF THE CODE OF ORDINANCES; 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, on November 19, 2001, the Village Council adopted Ordinance No. 01-19, which established the Concurrency Management System within Chapter 30, Article IV, Division 5 (the “Concurrency Management System”) of the Code of Ordinances (the “Code”) of Islamorada, Village of Islands, Florida (the “Village”); and

WHEREAS, the Concurrency Management System was previously amended by Ordinance No. 06-21; and

WHEREAS, the Village Council desires to adopt a countywide level of service for U.S. 1 not dependent on any single road segment as encouraged by Section 163.3180, Florida Statutes; and

WHEREAS, the Village Local Planning Agency reviewed this Ordinance on January 14, 2013 in accordance with the requirements of Chapter 163, Florida Statutes, and recommended approval to the Village Council; 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; 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.

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. **Concurrency Management System.** Chapter 30 “Land Development Regulations,” Article IV “Administrative Procedures,” Division 5 “Concurrency Management System,” of the Code is hereby amended to read as follows:

Additional text is shown as underlined;

deleted text is shown as ~~striketrough~~

* * * * *

Sec. 30-301. - Intent and purpose.

It is the intent and purpose of this division to establish an ongoing mechanism which ensures that certain public facilities and services needed to support development are available concurrent with the impacts of such development, pursuant to the village comprehensive plan, and F.S. § 163.3180 ~~and F.A.C. 9J-5.0055~~. This division applies to wastewater, potable water, solid waste, transportation (roadways), stormwater and recreation and open space facilities.

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Sec. 30-304. - Levels of service for concurrency facilities.

All development or development of land shall be served by adequate public facilities in accordance with the following standards:

- (1) Transportation / Roadways. Sufficient capacity shall be available on affected roadways to accommodate all existing and approved development at the following level of service:
 - a. U.S. 1 shall have sufficient available capacity to operate at or within five percent of LOS C as measured on an overall countywide annual average daily traffic (AADT) basis at all intersections and roadway segments not dependent on any single roadway segment, using the measured median travel speed from the annual report of public facilities capacity.
 - b. All other roadways for which the village is responsible shall have sufficient available capacity to operate at or above ~~within five percent of~~ LOS D as measured by ~~on an~~

~~annual average daily traffic (AADT) basis~~ peak hour volumes at all intersections ~~and roadway segments, including but not limited to all intersections with U.S. 1.~~

* * * * *

- (3) *Potable water.* Sufficient potable water from an approved and permitted source shall be available to satisfy the projected water needs of the proposed development or use at the levels of service listed below. Approved and permitted sources shall include cisterns, wells, FKAA distribution systems, individual water condensation systems, and any other system which complies with state standards for potable water.

* * * * *

- c. Overall LOS: ~~400~~ 177 gallons per capita per day.
- d. Equivalent residential unit: ~~149~~ 371.7 gallons per day.

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- (4) *Stormwater.*

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- c. Stormwater facilities which directly discharge into Outstanding Florida Waters (OFW) shall provide an additional treatment pursuant to F.A.C. 62-25.025(9). Stormwater facilities ~~must~~ shall be designed so as to not degrade the receiving water body below the minimum conditions necessary to assure the suitability of water for the designated use of its classification as established in F.A.C. ch. 62-302.
- (5) *Wastewater.* Sufficient wastewater treatment capacity shall be available to satisfy the projected needs of the development or use according to the following level of service standards:

- a. ~~On-site systems (BAT) community wastewater collection and treatment systems, in~~
~~mg/l:~~

Biological oxygen demand (BOD)	10 mg/l
Total suspended solids (TSS)	10 mg/l
TN	10 mg/l
TP	1 mg/l

h a. Design flows less than or equal to 100,000 gallons per day (BAT), in mg/l:

Biological oxygen demand (BOD)	10 mg/l
Total suspended solids (TSS)	10 mg/l
TN	10 mg/l
TP	1 mg/l

e b. Design flows greater than 100,000 gallons per day (AWT), in mg/l:

Biological oxygen demand (BOD)	5 mg/l
Total suspended solids (TSS)	5 mg/l
TN	3 mg/l
TP	1 mg/l

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Sec. 30-305. - Review of development orders and permits.

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(b) *Application for development.* As a condition of approval of a development order, all applicants for development shall file an application with the village in the form prescribed by the director of planning and development services, accompanied by a fee to be set by resolution of the village council. The application shall include a written evaluation of the impact of the anticipated development on the levels of service for public facilities and services and demonstrate that public facilities and services are available prior to or concurrent with the impacts of development as follows:

(1) *Potable water, sewer, solid waste and drainage.* For potable water, sewer, solid waste and drainage, the following standards of ~~F.A.C. 9J-5.0055(3)(a)~~ F.S. § 163.3180 shall be met:

* * * * *

(c) *Facilities impact report.*

(1) An applicant shall prepare a facilities impact report which demonstrates that:

* * * * *

f. The necessary facilities and services will be served by a concurrency management system which meets the requirements of ~~F.A.C. 9J-5.0055~~ and F.S. ch. 163; or

* * * * *

Section 3. **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 4. **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 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 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 6. **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 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.

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The foregoing Ordinance was offered by Councilwoman Deb Gillis, who moved for its adoption on first reading. This motion was seconded by Councilman Dave Purdo, and upon being put to a vote, the vote was as follows:

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

PASSED on first reading this 24th day of January, 2013.

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

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

PASSED AND ADOPTED on second reading this 22nd day of August, 2013.

KEN PHILIPSON, MAYOR

ATTEST:

ARIANA S. LAWSON, VILLAGE CLERK

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

VILLAGE ATTORNEY