

ORDINANCE NO. 19-01

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30, LAND DEVELOPMENT REGULATIONS RELATED TO THE MEASUREMENT OF HABITABLE BUILDING HEIGHT OF STRUCTURES WITHIN THE VILLAGE; AMENDING SECTION 30-32 "SPECIFIC DEFINITIONS"; TO SPECIFICALLY AMEND DEFINITIONS RELATED TO HEIGHT MEASUREMENT OF BUILDINGS; 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") has adopted a comprehensive set of Land Development Regulations (the "LDRs") to implement the Village Comprehensive Plan; and

WHEREAS, the Village seeks to allow property owners the ability to build above the FEMA base flood elevations while still maintaining the maximum habitable building height limit of thirty-five (35) feet as established in the Village Charter, and

WHEREAS, the Village desires to amend Chapter 30 "Land Development Regulations" Article II "Rules of Construction and Definitions", Sec. 30-32 Specific Definitions related to the maximum habitable building height limit of 35 feet, and

WHEREAS, the provisions of this Ordinance are consistent with the Village Comprehensive Plan and the Principles for Guiding Development within the Florida Keys Area of Critical State Concern; and

WHEREAS, the Village Council of Islamorada, Village of Islands (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. **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 to read as follows:

Additional text is shown as <u>underlined</u> ;	deleted text is shown as strikethrough
---	---

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:

Base Flood Elevation (BFE): The elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM). [Also defined in Florida Building Code, B, Section 1612.2.]

Building height: The measurement of the vertical distance between one of the following:

- (1) the vertical distance above the crown of road of the adjacent fronting road to the highest point of a structure;
- (2) the vertical distance between the existing average grade and the highest point of a structure, provided however, if the existing average grade is below the crown of road it may be increased no more than three (3) feet from the existing average grade.
- (3) the Design Flood Elevation (DFE) or up to three (3) feet above the DFE and the highest point of a structure located within the Special Flood Hazard Area (SFHA); whichever is higher. This measurement includes mechanical equipment, but excludes chimneys, spires and steeples on structures utilized for institutional and public uses only, radio or television antennas, flagpoles, solar apparatus, and utility poles. However, in no event shall any of the exclusions enumerated above be constructed to

permit any habitable or usable space to exceed the applicable height limitation of 35 feet within all zoning districts. In the case of airport districts, the height limitations therein shall be absolute and the exclusions enumerated above shall not apply.

Center line of road: The line running parallel with the road right-of-way which is half the distance between the extreme edges of the official right-of-way width.

Crown of road: The highest elevation of the roadway surface at a specific cross section.

Datum: The reference surface used to ensure that all elevation records are properly related. The current national datum is the National Geodetic Vertical Datum (NGVD) of 1929, which is expressed in relation to mean sea level, or the North American Vertical Datum (NAVD) of 1988.

Design flood: The greater of either (1) the base flood or (2) the flood associated with the flood hazard area depicted on a community's flood hazard map, or otherwise legally designated.

Design Flood Elevation (DFE): The elevation of the design flood, or the flood protection elevation required by a community, including wave effects, relative the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM). The DFE is the locally adopted regulatory flood elevation pursuant to Chapter 6 Buildings and Building Regulations Article III Floodplain Standards of the Code of Ordinances Islamorada, Village of Islands.

~~*Grade* means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure~~

Grade, average: The mid-point between the highest and lowest ground elevations of the perimeter of a structure. The average grade shall be based on the sum of elevations taken at points where the exterior walls of a structure intersect the natural grade.

Grade, existing: The grade elevation that existed on a site prior to the start of any current or proposed site preparation, grading, construction or development.

Grade, finished: The finished elevation of a site after all fill, land balancing or site preparations have been completed.

Grade, natural: The original elevation that historically existed on a site prior to any site preparation or construction techniques such as fill, landscaping, or berming. If natural grade cannot be determined, existing grade shall be considered.

~~*Height* means the vertical distance between existing average grade and the highest part of any structure, including mechanical equipment, but excluding chimneys, spires and steeples on structures utilized for institutional and public uses only, radio or television antennas, flagpoles, solar apparatus, and utility poles. However, in no event shall any of~~

~~the exclusions enumerated above be construed to permit any habitable or usable space to exceed the applicable height limitations. In the case of airport districts, the height limitations therein shall be absolute and the exclusions enumerated above shall not apply.~~

Special flood hazard area: An area in the floodplain subject to a one-percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V.

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 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 Vice Mayor Mike Forster, who moved for its adoption on first reading. This motion was seconded by Councilman Ken Davis, 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 13th day of December, 2018.

The foregoing Ordinance was offered by Councilwoman Cheryl Meads, who moved for its adoption on second reading. This motion was seconded by Councilman Ken Davis, 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 10th day of January, 2019.



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